## Tort Liability and Governmental Immunities: Balancing Accountability and Protection

2025 LMCIT Safety and Loss Control Workshop Chris Smith, Assistant General Counsel – LMCIT Programs





- The material being provided in this presentation is for your general information, and is not a substitute for legal advice
- Consult your attorney for advice concerning specific situations





- What is governmental immunity?/Why does it exist?
- Types of municipal immunity
- Review court decisions
- Risk management considerations



#### **Tort Liability**

Tort Law

#### What is a tort?

From Latin term "tortum" meaning "wrong"

• A wrongful act or an infringement of a right

(other than under a contract)

- Bodily injury or property damage
- Injured person asks for monetary damages

#### **Tort Liability**

#### Minnesota Statutes, § 466.02

employment or duties."

• "Subject to the limitations of sections 466.01 to 466.15, every municipality is subject to liability for its torts and those of its officers, employees and agents acting within the scope of their

#### Municipal Tort Claims Act Minnesota Statutes, Chapter 466

• 466.01	DEFINITIONS	• 466.09	PAYMENT OF JUDGMENTS
• 466.02	TORT LIABILITY	• 466.101	LAW ENFORCEMENT COSTS
• 466.03	EXCEPTIONS	• 466.11	RELATION TO CHARTERS
• 466.04	MAXIMUM LIABILITY		AND SPECIAL LAWS
• 466.05	NOTICE OF CLAIM	• 466.131	INDEMNIFICATION BY STATE
• 466.06	LIABILITY INSURANCE	• 466.132	INDEMNIFICATION BY STATE
• 466.07	INDEMNIFICATION	• 466.15	CIVIL DAMAGES ACT, APPLICATION
• 466.08	COMPROMISE OF		AFFLICATION

**CLAIMS** 

#### Municipal Tort Caps



#### Minn. Stat. § 466.04

- \$500,000 per person
- \$1,500,000 per occurrence
- State law claims (not federal law claims)



## What is immunity?

#### Sovereign Immunity

- English common law
  - The King can do no wrong
- Historically, sovereign immunity applied
  - Government cannot be sued without its consent
- Sovereign immunity for municipalities lost in 1962
  - · Spanel v. Mounds View School District,
- State waived sovereign immunity in 1976
  - Minn. Laws 1976, Chapter 331



#### **Exceptions to Liability**





Why do cities have immunity?

#### Purpose of Immunity

- Protect government from excessive liability, preserves public funds
- Promotes efficient governance
- Good policy decisions
- Encourages public service
- Historical precedent



#### Lawsuits

- Immunity does not prevent lawsuits
- Party will move for "summary judgment"
- Judge determine if immunity applies
- If no immunity, jury (or judge) determines liability
- May argue multiple defenses





How many statutory immunities are there in Minnesota?

#### Statutory Immunities – Minn. Stat. § 466.03

- Snow and ice
- Discretionary
- Licensing of providers
- Parks and recreation
- Beach or pool equipment
- Unimproved property
- School building security
- Emergency medical dispatch

- GIS data
- Recreational use of school property
- Used public safety equipment
- Surplus equipment donations
- Tax claims
- Welfare benefits
- Some patient care

#### Statutory Immunity Applies to a "Municipality"

- City
- County
- Town
- Public authority
- Public corporation
- Non-profit firefighting corporation

- Special district
- School district
- Joint powers board or organization
- Public library

#### Snow & Ice Immunity

Immune from liability for any "claim based on snow or ice conditions on any highway or public sidewalk that does not abut a publicly owned building or publicly owned parking lot, except when the condition is affirmatively caused by the negligent acts of the municipality."

#### Snow and Ice Immunity Example

# Sofiem V. City of St. Paul



#### **Discretionary Immunity**

- Minn. Stat. § 466.03, subd. 6
- City is immune from liability for:
  - "Any claim based upon the performance or the failure to exercise or perform a discretionary function or duty, whether or not the discretion is abused."



#### Discretionary Immunity

- Planning level or policy-making decisions protected
- Balance public policy objectives
  - Social factors
  - Economic factors
  - Financial factors
  - Political factors
- Document decision in writing



#### Planning-Level Decisions

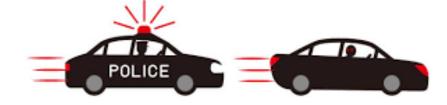
- Not always clear cut
- Almost every decision involves some measure of discretion



#### **Discretionary Acts**

#### Kari v. City of Maplewood

- Kari was struck in a crosswalk by an emergency vehicle
- A discretionary act is one that requires "the exercise of individual judgment in carrying out the official's duties"
- Quintessential discretionary act is a police pursuit/chase because of splitsecond decision-making in an emergency



#### Ministerial Acts

#### Watson v. Metro Transit

• "An official's duty is ministerial when it is absolute, certain and imperative, involving merely execution of a duty

arising from fixed and designated facts."

#### Discretionary Immunity Example

Hennes v.
State of
Minnesota



#### Discretionary Immunity Example

# Gorecki v. Hennepin County



#### Discretionary Immunity Example

Kuntz vs. Minneapolis Park and Recreation Board



#### Park and Recreation Immunity

Minn. Stat. § 466.03, subd. 6e City is immune from liability for:

 "Any claim based upon the construction, operation, or maintenance of any property owned or leased by the municipality that is intended or

permitted to be used as a park, as an open area for recreational purposes, or for the provision of recreational services..."

#### What is a Recreation Area?

- Whether property as a whole was recreational and whether the area at issue facilitated the use of recreational property
- No distinction between natural and artificially improved recreational property



#### Park and Recreation Immunity Exception

"Nothing...limits the liability of a municipality for conduct that would entitle a trespasser to damages against a private person..."



#### Trespasser Standard of Care

- City liable to trespassers if the condition:
  - Is created or maintained by the city;
  - Is likely to cause death or serious bodily harm; and
  - Of such a nature that the city has reason to believe trespassers will not discover it
- City fails to exercise reasonable care to warn trespassers

Anderson v. Independent School District No. 191



Mertz v.
City of Eden
Prairie



Unzen v.
City of
Duluth



Lloyd v.
City of
St. Paul



Fritsche v.
City of
Rochester



#### Common Law Official Immunity

- Protects public officials
- Discretionary duties protected
  - Duty calls for the exercise of judgment or discretion
- Ministerial duties not protected
  - Duty is absolute, certain and imperative, involving merely execution of a specific duty



#### Official Immunity Example

S.W. v. Spring Lake Park School District



#### **Qualified Immunity**

- Federal law doctrine
- Applies in civil rights cases under 42 U.S.C. § 1983
- Shields government officials from liability if "their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known."

#### Qualified Immunity Example

### Vassallo v. Majeski



#### Qualified Immunity Example

Lombardo v.
City of
St. Louis





### Risk Management Considerations

## SAFETY





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