

Gordon Certain

From: Sally Flocks [sally@peds.org]
Sent: Monday, February 22, 2010 12:54 PM
To: 'Gordon Certain'
Cc: 'Kim Kahwach'
Subject: Court decisions about liability for sidewalk hazards

Gordon,

The GA Court of Appeals decisions in *Rischack v. City of Perry* (1996) and in *Combs v. Atlanta Auto Auction* (2007) explain that the abutting property owner has a duty to keep premises and approaches safe for invitees.

The *Rischack* decision cites OCGA 51-3-1, which states "Where an owner or occupier of land, by express or implied invitation, induces or leads others to come upon his premises for any lawful purpose, he is liable in damages to such persons for injuries caused by his failure to exercise ordinary care in keeping the premises and approaches safe."

The *Combs* decision defines approaches as "the last few steps taken by invitees, as opposed to 'mere pedestrians' as they enter or exit the premises." The decision also states: "Also important is whether the alleged approach, although part of a public way, is used primarily or exclusively by those attempting to access the landowner's premises (i.e., whether the approach is used primarily by invitees of the landowner as opposed to the public at large). . . . Additionally, we consider what kinds of rights the property owner has in the public way, including whether he has appropriated it for his own benefit, using it for some purpose other than a public way."

These decisions suggest that a property owner would only be liable for sidewalk hazards if they were in (or within a few feet of) the sidewalk area of the driveway or where a walkway to the house crossed the sidewalk.

Sally Flocks

From: Sally Flocks [mailto:sally@peds.org]
Sent: Friday, February 12, 2010 1:51 PM
To: 'Gordon Certain'
Cc: 'Kim Kahwach'
Subject: RE: BCN Attendees - who's missing?

Mary Carole Cooney, an attorney who serves on our board of directors, mentioned the cases to me. I don't have a hard copy or links at this time. They were not specifically about the City of Atlanta. But since Atlanta is bound by the same state constitution, the decisions are relevant here. I'll send you links if Mary Carole is able to provide them.

Sally Flocks
President & CEO, PEDS
57 Forsyth Street, Suite 222-G
Atlanta, GA 30303

404-522-3666
sally@peds.org

404-522-3686
www.peds.org

PLEASE NOTE: My new email address is sally@peds.org.



making metro Atlanta walkable, step by step

From: Gordon Certain [mailto:gcertain@comcast.net]
Sent: Friday, February 12, 2010 11:22 AM
To: Sally Flocks
Cc: 'Kim Kahwach'
Subject: RE: BCN Attendees - who's missing?

Sally,

Good to see you again last night. Thanks for your informative comments.

Can you send us the info on the sidewalk decision?

Thanks,

Gordon

From: Kim Kahwach [mailto:kajensen@bellsouth.net]
Sent: Friday, February 12, 2010 10:52 AM
To: Gordon Certain
Subject: Re: BCN Attendees - who's missing?

Gordon,

I was hoping we could follow up with Sally Flocks and see if we can get a copy of that case with the city whereby property owners were found not to have liability for sidewalks. My neighborhood really needs to see that.

Great presentation last night! I think you taught our GA Tech student a few things!

K

On Feb 12, 2010, at 10:47 AM, Gordon Certain wrote:

Kim,

Those are good. Thanks.

Gordon

From: Kim Kahwach [<mailto:kajensen@bellsouth.net>]

Sent: Friday, February 12, 2010 5:34 AM

To: Gordon Certain

Subject: Re: BCN Attendees - who's missing?

Jeremy Ellis showed up for part of the meeting? Did you want to put Comm. Hunter on the list?

K

On Feb 11, 2010, at 11:47 PM, Gordon Certain wrote:

Jim and Kim,

I have attached the sign-in sheet. Please let me know who I am missing – I think there is at least one missing.

Gordon

<2010-02-11 BCN Attendees.pdf>