

Bond Case Briefs

Municipal Finance Law Since 1971

MUNICIPAL LIABILITY - NEW YORK

Vega v. 103 Thayer Street, LLC

Supreme Court, Appellate Division, First Department, New York - April 2, 2013 - N.Y.S.2d - 2013 N.Y. Slip Op. 02169

Appeals court finds that ambiguous symbol on city DOT map raised a triable issue of fact as to whether the city had prior written notice of pedestrian hazard.

Pedestrian who allegedly tripped and fell as result of hole in pedestrian ramp brought personal injury action against city.

The city moved for summary judgment on the ground that plaintiff could not prove prior written notice to the city as required under the administrative code because the Big Apple map received by the Department of Transportation on the date of the accident did not indicate the specific marking (a circle) for a “hole or other hazardous depression” at the location of the accident.

The trial court granted the city’s motion for summary judgment dismissing the complaint. Plaintiff appealed.

The appeals court reversed on the ground that the city failed to make a prima facie showing of entitlement to judgment as a matter of law because the markings on the Big Apple map it submitted were ambiguous, thus raising an issue of fact as to whether it had prior written notice of the alleged defect.