

Bond Case Briefs

Municipal Finance Law Since 1971

IMMUNITY - TEXAS

Lund v. Giaugue

Court of Appeals of Texas, Fort Worth - October 31, 2013 - S.W.3d - 2013 WL 5834398

Parents, whose biological children were subjected to “sexually reactive behaviors” by potentially adoptable children placed in their home, sued adoption workers for Department of Family and Protective Services (DFPS), in their individual capacity, alleging negligence and gross negligence. Workers filed motion to dismiss, asserting defense of governmental immunity. The District Court denied workers’ motions, and they appealed.

The Court of Appeals held that the statutory extension of governmental immunity to acts of individual government employees acting within scope of their employment did not violate Open Courts provision of the Texas Constitution.

Texas Tort Claims Act extends governmental immunity to acts of individual governmental employees acting within the scope of their employment.

Open Courts provision in Texas Constitution prohibits arbitrary or unreasonable legislative action that abrogates well-established, common-law remedies. It ensures that citizens bringing common-law causes of action will not unreasonably be denied the right to redress in the courts.

To establish that legislation violates a litigant’s rights under the Open Courts provision, the litigant must show that (1) the statute restricts a well-recognized, common-law cause of action (the well-recognized prong) and (2) the restriction is unreasonable or arbitrary when balanced against the Act’s purpose (the balance prong).

Balance prong considers whether the legislature’s action was arbitrary or unreasonable by deciding (1) whether a substitute remedy was provided or (2) whether the legislative action was a reasonable exercise of the legislature’s police power in the interest of the general welfare.

Statutory extension of governmental immunity to acts of individual government employees acting within the scope of their employment was not arbitrary or capricious and, thus, did not violate Open Courts provision, even though the governmental entity’s liability was not expanded under the Act. Legislation was a reasonable exercise of the legislature’s police power to achieve the societal goal of limiting claims against individual governmental employees.