

# **Bond Case Briefs**

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## **IMMUNITY - COLORADO**

### **Martinez v. CSG Redevelopment Partners LLLP**

**Colorado Court of Appeals, Division V - June 20, 2019 - P.3d - 2019 WL 2528770 - 2019 COA 91**

Low-income-housing tenant who slipped and fell on the walkway leading to his apartment brought action against the partnership that managed and owned the apartment building, alleging premises liability and negligence.

The District Court granted partnership's motion to dismiss. Tenant appealed.

The Court of Appeals held that:

- Partnership was instrumentality of public entity entitled to governmental immunity;
- As a matter of first impression, low-income-housing apartment building was not "public building open for public business," and thus "public building" exception to governmental immunity did not apply; and
- The apartment building was not located in recreation area, and thus recreation area waiver of governmental immunity did not apply.

Private partnership that owned and managed low-income-housing apartment building was an "instrumentality" of a public entity, the public housing authority, and thus was entitled to governmental immunity in tenant's lawsuit alleging he was injured by a slip and fall at the building, although private investor had 99.989% ownership interest in the partnership; partnership was formed to take advantage of the federal Low-Income Housing Tax Credit (LIHTC) program, investor did not have any control or management of the partnership, partnership's affairs were exclusively directed by public housing authority which also oversaw maintenance and repair of building, and partnership was created to serve public purpose of providing low-income housing.

Low-income-housing apartment building where tenant lived was not "public building open for public business," and thus public building exception to governmental immunity did not apply and partnership that owned and operated the building as an instrumentality of the public housing authority had governmental immunity in tenant's lawsuit alleging he was injured by a slip and fall on an icy walkway at the building; only residents and staff had key cards to enter the building, no public events took place on the premises, no public business was conducted there, and residents were prohibited by their lease agreements from allowing anyone they did not know into the building.

Low-income-housing apartment building where tenant lived was not located in a "recreation area," and thus "recreation area" waiver of governmental immunity did not apply and partnership that owned and operated the building as an instrumentality of the public housing authority had governmental immunity in tenant's lawsuit alleging he was injured by a slip and fall on an icy walkway leading to the building; building was low-income housing facility, not a park, and, although it included an area with picnic tables and grills, those amenities were for private use by residents and their guests only.

