

Bond Case Briefs

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Mauldin v. Youngstown Water, Department

Court of Appeals of Ohio, Seventh District, Mahoning County - December 5, 2019 - N.E.3d - 2019 WL 6713412 - 2019 -Ohio- 5065

Homeowner brought action against city water department, mayor, and water commissioner in their respective capacities, alleging that department negligently or recklessly performed function of turning off water to homeowner's house which caused flooding.

City filed motion for summary judgment, arguing that homeowner's action was barred by the statute of limitations, which the Court of Common Pleas granted. Homeowner appealed.

The Court of Appeals held that:

- Two-year special statute of limitations applied to homeowner's action against city water department, mayor, and water commissioner, and
- Issue of negligence and political subdivision immunity did not create a genuine issue of material fact.

Two-year special statute of limitations for actions against political subdivisions for injuries to property, rather than residual provision of four-year general statute of limitations for injuries not enumerated in statute, applied to homeowner's action against city water department, mayor, and water commissioner for flooding caused to her house after department's allegedly negligent failure to properly turn off water to homeowner's house; special statute explicitly required actions against political subdivisions be brought within two years or any applicable shorter period, additional statute required all civil actions be commenced within periods prescribed in special and general statutes, and amendments to special statute did not manifest an intent that the residual provision would prevail over special statute.

Issue of whether city water department, mayor, and water commissioner were entitled to political subdivision immunity for department's allegedly negligent performance of allegedly proprietary function of turning water off at homeowner's house was rendered moot by two-year special statute of limitations for actions against political subdivisions, and, thus, did not create a genuine issue of material fact as to preclude summary judgment against homeowner in her action seeking damages for flooding caused to her house after department's allegedly negligent action.