

Bond Case Briefs

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Sunrise Resort Association, Inc. v. Cheboygan County Road Commission

Supreme Court of Michigan - July 24, 2023 - N.W.2d - 2023 WL 4713823

Real property owners brought action against county road commission arising from damage to their properties allegedly caused by an overflow and backup of a storm water drainage system, seeking monetary damages under the sewage-disposal-system-event exception to governmental immunity and injunctive relief to abate the ongoing trespass or nuisance.

The Circuit Court granted commission's motion for summary disposition. Owners appealed, and the Court of Appeals reversed and remanded. The Supreme Court granted leave to appeal.

The Supreme Court held that:

- Claim under the sewage-disposal-system-event exception to immunity was timely, and
- County commission had immunity from common law trespass-nuisance claim.

Sewage overflow or backup was a distinct event which occurred within three years of filing complaint, and thus property owners' complaint against county road commission under the sewage-disposal-system-event exception to immunity under the Government Tort Liability Act (GTLA) was timely, even if other overflow or backup events also had occurred more than three years before the complaint.

County road commission had immunity under the sewage-disposal-system-event (SDSE) exception to Government Tort Liability Act (GTLA) from landowners' common law trespass-nuisance claim arising from overflow or backup of a sewage disposal system, and thus landowners were prohibited from seeking injunctive relief in connection with that claim.