

Landlord's Liability For Accidents At The Property

A recent case from Texas illustrates the potential liability to a landlord for accidents at properties. *Pipgras v. Hart* involved a four-year old child who suffered severe head injuries when a car hit a brick column at an apartment complex where the child lived and a portion of the brick column fell on the child. The columns were placed at the edge of a sidewalk which was next to the apartment building parking lot and cars parked perpendicular to the sidewalk facing towards the columns. The parking spaces contained concrete wheel stops so as to stop vehicles from striking the columns. Unfortunately, an unlicensed driver of a vehicle lost control of her vehicle and went over the wheel stop and rammed the column that resulted in the column breaking into three pieces and one of the pieces fell on the child's head. The child and his parents brought suit against the owner of the apartment complex, the property management company and the owner and driver of the vehicle that struck the column. At trial, the jury found the owner to be five percent at fault, the property management firm to be twenty percent at fault, and the owner of the vehicle and driver to be seventy-five percent at fault.

The owner and property management company appealed the verdict of the jury claiming that they owed no duty to the child because the injury was unforeseeable and there was no showing that they were negligent. The child's attorney countered by calling witnesses including contractors, architects, and engineers who testified that the columns had been hit by vehicles before and had either been knocked down or damaged so that the column had to be rebuilt. There was further testimony that the columns were apparently dangerous because of the way they were constructed and their proximity to the parking area. There was additional testimony that the wheel stops were not specifically designed so as to prevent this accident and if vertical steel posts had been installed this accident could have been avoided.

Additionally, photographs of the columns showed numerous defects in the columns that should have resulted in the owner and/or property manager realizing that the columns were disintegrating.

The Court in considering this evidence presented to the jury found that it was legally and factually sufficient to find that the owner and management company could have foreseen the risk of injury caused by these columns and their failure to take any action to correct the condition of the columns was negligent. The court then went on to discuss the damages aspect of this case. The child had suffered from a skull fracture and his mother testified as to emotional problems and personality changes that he was experiencing after the accident. She testified that he had bad dreams, became forgetful, suffered from headaches and had weaknesses on one side of his body. In addition, his treating doctors testified that there was a possibility that he may suffer seizures in the future due to the injuries he sustained and that it could cause further brain injury. The Court found it appropriate to consider the potential loss of earning capacity for the child due to the injuries he sustained as well as the possibility of future medical expenses given the complications that he could endure in the future. Given this evidence on damages, the Court approved the jury's award of \$117,000.00 in damages to the child's parents and \$1,100,000.00 in damages to the child.

While this case establishes legal precedent in the state of Texas, it is also instructive to those in the multi-family industry in Arizona. The question of negligence is not simply a question of an

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existing dangerous condition which may be in obvious need of repair, but it can include less obvious conditions which if not corrected may cause foreseeable injury to persons at the property. This case underscores the importance of all property management firms to take corrective actions to those conditions that may potentially cause harm.

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