



Court Rules $\frac{3}{4}$ Inch Defect is De Minimis

By: Tom Soule, Querrey & Harrow, Ltd.

On September 1, 2021, the DuPage County Circuit Court rejected claims made against the Village of Woodridge by a resident who tripped on a sidewalk hazard in June 2019. The resident specifically tripped on a “grade separation” between slabs of concrete, with a $\frac{3}{4}$ ” difference in height between the two concrete blocks. The Court held that, under provisions of the Local Governmental and Governmental Employees Tort Immunity Act (745 ILCS 10/1-101 *et seq.*), a municipality is not liable for injuries on its property unless it had “actual or constructive notice” of a dangerous condition; the Court found that Woodridge did not have such notice in this case, as the Court found that the resident did not produce enough evidence showing how long the sidewalk defect existed, and thus could not show that Woodridge should have found out about the defect before her accident. The Court also found that the crack was “*de minimis*,” which under relevant law means that sidewalk defects smaller than 2” in height generally are not considered legally actionable. As was held by *St. Martin v. First Hospitality Group Inc.* (2014 IL App (2d) 130505, ¶¶13), “although a municipality has a duty to keep its property in a reasonably safe condition, it has no duty to repair *de minimis* defects in its sidewalks.... [because] municipalities would suffer an unreasonable economic burden were they required to keep their sidewalks in perfect condition all the time.” Finally, the Court held that the defect the Woodridge resident tripped over was “open and obvious,” such that she should have noticed it. The Court specifically found that the resident admitted “that she was looking at houses in the neighborhood and that had she been looking down, she would have seen the level change” in the sidewalk slabs. The Court found that this case was similar to *Foy v. LaGrange* (2020 IL App (1st) 191340, ¶¶22-25), where another pedestrian who was not looking where he was walking tripped over a defect which, by that pedestrian’s admission, would have been seen by him had he been paying attention to where he was walking. The final judgment of the Circuit Court in Woodridge’s favor is subject to a possible appeal. Brandon Lemley and Tom Soule, of Querrey & Harrow Ltd., represented Woodridge on behalf of IRMA.