Residential Homeowner Escapes Liability For Public Sidewalk Trip And Fall

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In the November 26, 2018 unpublished opinion of Reinhardt v. Gornowski (A-1395-17T3), the Appellate Division explored a residential homeowner's potential for liability following the existence of a dangerous condition on an abutting public sidewalk. In January 2014, William Reinhardt and Robert Gornowski were next door neighbors. Mr. Reinhardt, while walking his dog, sustained facial injuries when he tripped and fell on a raised slab of the public sidewalk in front of Mr. Gornowski's home. The sidewalk slab was elevated due to a tree root growing beneath it from a tree located on Mr. Gornowski's property.

Mr. Reinhardt filed suit for bodily injuries against Mr. Gornowski. The evidence adduced during the course of discovery revealed Mr. Reinhardt admitted to planting trees in other locations on his property, but not to planting the offending tree. The parties had a prior contentious relationship. Mr. Gronowski was previously aware of the dangerous sidewalk condition and he repaired it after this incident. Mr. Gronowski was also issued a citation for failing to maintain the sidewalk in violation of a town ordinance.

Summary judgment was granted in favor of Mr. Gornowski by the trial court at the close of discovery for which this appeal followed. In affirming the trial court's order, the appellate panel relied, in large part, upon the seminal opinion of Luchejko v. City of Hoboken, 207 N.J. 191 (2001). The Luchejko opinion distinguished the duty of care between commercial and residential property owners vis-à-vis abutting public sidewalks. In relevant part, Luchejko held that residential homeowners are not liable for injuries on abutting public sidewalks unless they create or exacerbate the dangerous sidewalk condition. Moreover, proof of the dangerous condition alone is not sufficient to establish liability nor does a municipal ordinance requiring residential property owners to maintain their sidewalk create a tort duty of care.

Applying the facts of this case to Luchejko, the appellate panel found that Mr. Reinhard could not establish liability against Mr. Gornowski. Mr. Gornowski was a residential homeowner. There was no evidence to suggest that he planted the subject tree and/or that he installed, repaired, or maintained the sidewalk. The municipal ordinance violation and subsequent sidewalk repair did not create liability as a matter of law. The appellate panel emphasized the mere fact the neighbors had ill-will towards one another would not lead a jury to sufficiently infer Mr. Gornowski was liable in order to overcome summary judgment.