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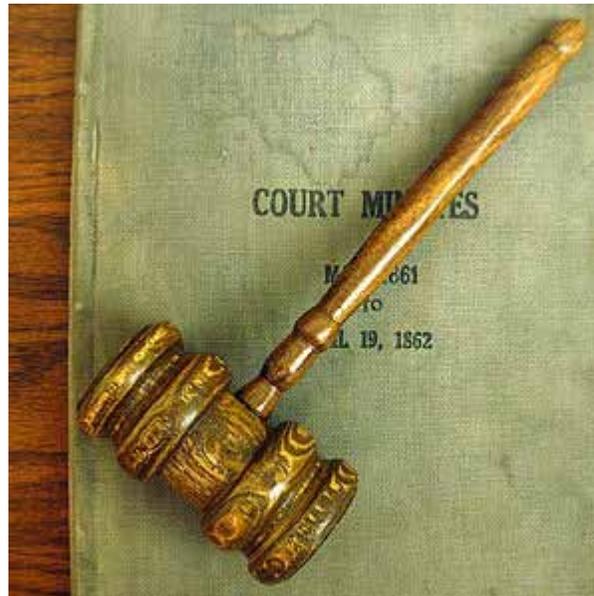
Personal Injury

Motor Vehicle Accidents

Wrongful Death

# Illinois Court Holds Private Landowner Is Not Liable for Plaintiff's Injuries

9/9/2010



In *Gilmore v. Powers*, No. 1-09-1478, the First District Appellate Court of Illinois, Sixth Division, addressed the issue of whether a private landowner owner or the City of Evanston was liable for maintenance of a walkway that straddled the city-owned parkway in front of the defendants' house.

In this case, the plaintiff was the co-owner of a moving company hired by the defendants to move furniture into their new home. The plaintiff was injured while moving the defendant's belongings into their home when she tripped and fell on a stone walkway that was located between the curb of the street and the sidewalk. The sidewalk was admittedly owned by the City of Evanston.

In reaching its decision, the court first noted the general principle of law that, while private landowners owe a duty of care to provide a reasonably safe means of ingress and egress from their property, they generally owe no duty to ensure that a public sidewalk or parkway abutting that property is in a safe condition.



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The court then acknowledged that if abutting landowners assume control of a public sidewalk or parkway for their own purposes, they may be held responsible for the condition of a public sidewalk or parkway.

However, the court concluded that in the case at hand, there was no evidence that the defendants took any actions that would show that they were using the parkway for their own purposes. They didn't use it as their sole means of ingress and egress to their property, nor did they block it in any way that might prevent the public from using it. Likewise, the court determined that the defendants' maintenance and use of the walkway didn't make them liable for its upkeep since "(a)ppropriation does not occur merely because a landowner uses the walkway more than the public at large."

Accordingly, after analyzing a number of City ordinances and concluding that the ordinances which might have created a duty on the part of the defendants were inapplicable, the court held that "no duty existed requiring defendants to maintain the walkway at issue in a safe condition as a matter of law."

Howard Ankin of Ankin Law Office LLC ([www.ankinlaw.com](http://www.ankinlaw.com)) handles [workers' compensation](#) and [personal injury cases](#). Mr. Ankin can be reached at (312) 346-8780 and [howard@ankinlaw.com](mailto:howard@ankinlaw.com).