



No liability for condo drowning- video surveillance

By Denise Lash on February 24, 2011

CAI Law Reporter recently reported a case decision from Ohio, dealing with whether a condominium association assumed liability for a pool drowning because of the installation of video surveillance cameras in the pool area.

Laila Nader was a 73 year old resident in a large high rise building located in Cuyahoga County, Ohio. She used the indoor pool daily and was an experienced swimmer. The pool was regularly and properly maintained by the condominium association.

In the summer of 2007, Nader's body was discovered by another resident approximately two hours after she had drowned.

Nader's estate brought a claim against the association for wrongful death. The association's position was that Nader had used the pool every day for 20 years without any incident, she was an experienced swimmer and various signs were posted in the pool area stating, "No lifeguard on duty – Swim at your own risk."



The estate's position was that the association had informed residents that the pool was monitored by video surveillance cameras and that Nader relied on this monitoring when swimming alone.

The trial court agreed with the position of the association finding that the surveillance cameras were not installed for the protection of swimmers safety but for the purposes of security.

The appeals court confirmed that owners of land do not have a duty to warn invitees of open and obvious dangers on the property because the nature of the hazard itself serves as a warning. The estate argued that the association took on the legal duty to protect Nader when it informed the residents that the pool was monitored.

The court found in favour of the association based on the following:

- no evidence to support that the association assumed a duty to protect Nader by installing the surveillance cameras
- no evidence to support that Nader reasonably relied on the cameras as protection.
- If Nader believed that the cameras were there to protect her from dangers of swimming in the pool, that would have been negated by the warning signs posted around the pool area.



- Ohio law does not require lifeguards to be employed at pools that are smaller than 2000 square feet and therefore, there was no requirement that the association employ lifeguards.

This is an important decision in that it raises issues once again about the use of cameras in common areas and the difficulty boards and management face when weighing the interests of their owners in determining the level of security required in the building. What is enough and how far does one go to ensure the safety of their residents? What about the concern raised by residents about their privacy? One thing to note that is essential is to have appropriate signage in prominent places in areas such as the pool, whirlpool and fitness rooms. If video surveillance cameras are used for those areas, residents should be informed about the purpose of those cameras so that they have a true understanding of what they are used for and do not have a false sense of security.

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