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Information Maryland Local Governments Need to Know

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Recreational Use Statute Immunity: Does It Apply to Local Governments?

Recreational Use Statute Immunity: Does It Apply to Local Governments?

The Maryland Supreme Court recently issued an opinion in *Mayor and City Council of Baltimore v. Jamie Wallace*, addressing the application of the Recreational Use Statute and whether the statutory immunity it provides extends to local governments.

Key Takeaway:

In most cases, **local governments are not immune** from liability for streets, sidewalks, trails, paths, walkways, and other public thoroughfares—even if they are used recreationally—under the Recreational Use Statute.

What Is the Recreational Use Statute?

The Recreational Use Statute modifies common law principles of premises liability by granting protections to landowners who make their property available to the public for recreational purposes, among other uses. It is codified in Sections 5-1101 through 5-1109 of the Natural Resources Article.

See Md. Code Ann., Nat. Res. (“NR”) §§ 5-1101–1109.

What Does Maryland Law Say About Local Governments’ Responsibility for Public Walkways?

Under Maryland law, local governments have a duty to keep public streets and sidewalks reasonably safe for lawful users. To establish liability, a plaintiff must show that the local government had **actual or constructive notice** of a hazardous condition.

There are **very limited circumstances** where local governments may assert immunity related to public walkways. These include walkways located entirely within the boundaries of a park, swimming pool, or similar recreational facility, where the maintenance responsibility is considered purely governmental. If the walkway does **not connect to or serve as part of a public thoroughfare**, the government may argue that immunity applies.



What the New Opinion Clarifies

Before this Maryland Supreme Court ruling, some local governments believed they could invoke the Recreational Use Statute for areas available for recreational use. However, the Court has now expressly stated that:

“The Recreational Use Statute does not protect local governments from common law liability when the government has made property available for transportation purposes as part of its public infrastructure, even when a permitted use within that transportation infrastructure—such as biking—also constitutes a recreational activity.”

— *Mayor and City Council of Baltimore v. Jamie Wallace*, at pp. 20–21

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