

APPELLATE DIVISION OF THE SUPREME COURT OF THE STATE OF NEW YORK, SECOND JUDICIAL DEPARTMENT

Strazza v. City of New York

2025 NY Slip Op 07425 (App. Div. 2025) · No. 2024-05208 · Decided December 31, 2025

SUMMARY

The Appellate Division, Second Department, dismissed Shefa Land Corp.'s appeal from the portion of an order granting the City of New York summary judgment because Shefa was not aggrieved by that portion. The court affirmed the order insofar as reviewed, holding that Shefa failed to establish it did not cause a curb defect through a special use, while the City established a lack of prior written notice and no applicable exception.

CASE DETAILS

COURT	Appellate Division of the Supreme Court of the State of New York, Second Judicial Department
WRITING FOR THE COURT	Angela G. Iannacci, J.P.; Lara J. Genovesi; Paul Wooten; Laurence L. Love
JURISDICTION	Supreme Court of the State of New York, Appellate Division, Second Judicial Department
DECIDED	December 31, 2025
DOCKET	2024-05208
DISPOSITION	other
PROCEDURAL POSTURE	Shefa Land Corp. appealed from an order denying its motion for summary judgment dismissing the personal-injury complaint and cross-claims against it, while granting the City of New York's motion for summary judgment dismissing the claims and cross-claims against the City.
STANDARD OF REVIEW	Summary judgment is reviewed to determine whether the movant established entitlement to judgment as a matter of law; once a prima facie showing is made, the burden shifts to the opposing party to raise a triable issue of fact. An appellate party must also be aggrieved by the challenged portion of the order to obtain review.
PRECEDENTIAL VALUE	Published intermediate appellate opinion

PARTIES

Shefa Land Corp. v. Michael Strazza, City of New York

TOPICS

premises liability

municipal liability

summary judgment

personal injury

appellate procedure

PRACTICE AREAS

premises liability

municipal liability

personal injury

civil procedure

QUESTIONS PRESENTED

1. Whether Shefa Land Corp. was entitled to summary judgment because the property was an owner-occupied two-family residence and the defect was located on the curb rather than the sidewalk.
2. Whether Shefa established prima facie that it did not cause the curb defect through a special use of the area as a driveway.
3. Whether Shefa could challenge the dismissal of Strazza's claims against the City when Shefa was not aggrieved by that portion of the order.
4. Whether the City was entitled to summary judgment on Shefa's cross-claims based on the absence of prior written notice and the failure to establish an exception to the prior-written-notice requirement.

HOLDINGS

1. Shefa was not entitled to summary judgment because, although it established that liability did not shift to it under Administrative Code § 7-210(b) for an owner-occupied two-family residence and a defect located on the curb, it failed to establish prima facie that it did not cause the defect through its special use of the area as a driveway.
2. The appeal from the portion of the order dismissing Strazza's complaint against the City was dismissed because Shefa was not aggrieved by that portion of the order.
3. The City was entitled to summary judgment dismissing Shefa's cross-claims because it established that it lacked prior written notice of the defective condition and the opposing parties failed to raise a triable issue of fact showing either recognized exception: affirmative creation of the defect through negligent municipal work or a special use resulting in a special benefit.

KEY QUOTATIONS

*“Prior written notice of a defective condition is a condition precedent to maintain an action against a municipality where, as here, there is a local law requiring such notice” (*2)*

*“The affirmative negligence exception is limited to work done by a municipality that immediately results in the existence of a dangerous condition” (*2)*

FACTUAL BACKGROUND

Michael Strazza allegedly tripped and fell on a cracked and broken portion of a drop curb adjacent to property owned by Shefa Land Corp. The property was a two-family residence that was owner-occupied and used exclusively for residential purposes, and the allegedly defective condition was located on the curb rather than the sidewalk. Shefa asserted that liability did not shift to it under Administrative Code § 7-210(b), but the curb area was allegedly used as a driveway. The City established that it lacked prior written notice of the defect, and no evidence showed that the City immediately created the defect through negligent work or made a special use of the area resulting in a special benefit.

PROCEDURAL HISTORY

Michael Strazza sued Shefa Land Corp. and the City of New York after allegedly tripping on a cracked and broken portion of a drop curb. After discovery, both defendants moved for summary judgment. The Supreme Court, Kings County, denied Shefa's motion and granted the City's motion. The Appellate Division dismissed the portion of Shefa's appeal concerning the dismissal of Strazza's claims against the City because Shefa was not aggrieved, and affirmed the order insofar as reviewed.

DISPOSITION

other

CASES CITED

- *Mixon v. TBV, Inc.*, 76 A.D.3d 144 (2d Dep't 2010)
- *Koronkevich v. Dembitzer*, 147 A.D.3d 916 (2d Dep't 2017)
- *Alleyne v. City of New York*, 89 A.D.3d 970 (2d Dep't 2011)
- *Bisono v. Quinn*, 125 A.D.3d 704 (2d Dep't 2015)
- *Winegrad v. New York University Medical Center*, 64 N.Y.2d 851 (1985)
- *Callaghan v. County of Nassau*, 236 A.D.3d 725 (2d Dep't 2024)
- *Schiller v. Town of Ramapo*, 202 A.D.3d 1022 (2d Dep't 2022)
- *Sanchez v. County of Nassau*, 222 A.D.3d 685 (2d Dep't 2023)
- *Smith v. City of New York*, 210 A.D.3d 53 (2d Dep't 2022)
- *Wilson v. Incorporated Village of Freeport*, 212 A.D.3d 870 (2d Dep't 2022)