

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2001-002724

08/22/2003

HONORABLE PETER C. REINSTEIN

CLERK OF THE COURT
M. Sahli
Deputy

FILED: 08/25/2003

ROBERT NELSON, et al.

ELLIOT G WOLFE

v.

GRAYHAWK PROPERTIES LLC, et al.

JOSEPH B SWAN

MICHAEL A LUDWIG

MINUTE ENTRY

The Court has reviewed Defendants' Motion for Summary Judgment, Plaintiffs' Response and the Reply. The Court has also reviewed Plaintiffs' Cross-Motion for Summary Judgment, Defendants' Response, and the Reply. Based upon the Court's review, the Court makes the following findings and rulings.

This case arose out of an accident that occurred on March 27, 1999, at the intersection of East Thompson Peak Parkway and North 76th Street in Scottsdale, Arizona. The Plaintiff was injured when his motorcycle, which was traveling west on Thompson Peak Parkway, collided with a vehicle traveling through the intersection from the south. At the time of the accident, traffic approaching the intersection from the north and south on 76th Street was controlled by stop signs.

Defendants Grayhawk were involved in the development and construction of the above intersection. This included the landscaping in the median. The Plaintiffs contend that the landscaping plan was inappropriate for the intersection and contributed to the accident that injured Mr. Nelson.

In 1997, Defendants Grayhawk dedicated the subject intersection to the City of Scottsdale. The Defendants maintain that upon dedication of the intersection to the City, the City was totally responsible for the intersection.

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Plaintiffs argue that Grayhawk had a non-delegable duty to construct the roadway and intersection in a safe manner, and the fact that the roadway was dedicated to the City two years prior to the accident does not immunize the Defendants from liability.

The question before the Court is whether as a matter of law, Grayhawk owed a duty to maintain the intersection in a reasonably safe condition.

Both parties rely on Wiggs v. City of Phoenix, 198 Ariz. 367 (2000) to support their positions. In Wiggs, the court found that the City of Phoenix had a non-delegable duty to maintain its highways in a reasonably safe condition

The Court believes that both parties have briefed the issue at bar comprehensively. However, the Court agrees with Grayhawk's analysis of the issue in this case, as set forth in Grayhawk's Reply dated July 21, 2003.

Accordingly, the Court finds that given the underlying facts of the case, Grayhawk did not, as a matter of law, have a duty to maintain the intersection. Accordingly,

IT IS ORDERED granting Grayhawk's Motion for Summary Judgment on all claims.