



A customized archway designed by Jason Stier made entirely of recycled parts including bicycle and skateboard parts and a discarded utility pole. All labor was donated, including the design, welding, painting, and masonry work. Two local foundations sponsored a customized metal and concrete "Freighter" sculpture. This one-of-a-kind component and artwork helps to establish our park as a destination site.

#### PROGRAMMING


Programming and providing special events help to sustain the park and generate continued public support. A grand opening and skate-bike competition was held on June 19, 2010. The Recreation Department sponsors an annual Fall Grind Event. Competitions include events for skateboards, bikes, in-line skates, and scooters. Free Flow, Best Trick, and S.K.A.T.E. events are popular. Local skateboarders and bikers are recruited as volunteers to help with events and judging.

On June 18, 2011, with the help of local sponsors, we were included on the Adrenaline Game Alliance Nation Summer Tour. Our Summer Jam Event was a state qualifier for the Meijer State Games and allowed us to showcase our park and local talent.

Our skatepark provides a great place to ride. For non-skaters, it's a place to go and watch the action. A skatepark often provides the first opportunity most people have to see skateboarding live. It makes skateboarding much more real and fosters a greater appreciation for it.

#### RECOGNITIONS

Our Skate-Bike Park won the 2011 Facility Design award from the Michigan Recreation and Park Association (MRPA). This award is presented to MRPA agency members in honor of outstanding landscape, facility/architectural and park design. In addition, the Rotary Club of St. Clair awarded St. Clair Recreation Director, Trice Hawkins, and students Jordan Huffman and Walker Child with its 2011 Merit Award; and Rotarian Douglas Murphy received the Citizen/Rotarian of the Year.

Community, design, and incorporating cultural arts made our park a success. 

*Trice Hawkins is the recreation director for the city of St. Clair. You may reach her at 810-329-7121 x215 or phawkins@cityofstclair.com.*



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#### Legal Spotlight

A column by Sue Jeffers

### Is a utility tractor used as a festival shuttle a motor vehicle?

#### FACTS:

Sterling Heights used a Gator utility tractor as a trailer shuttle to transport festivalgoers visiting the city's festival in its downtown. The streets were closed off, and people would use the shuttle to get from the parking area to the festival area via public roads that had been closed to public traffic for the festival. Richard Yousif, a minor, fell off the passenger trailer and was injured when the driver allegedly turned too sharply. The city was sued for the injuries sustained by Yousif.

The lawsuit was based on the assertion that the Gator utility tractor is a motor vehicle under the motor vehicle exception to governmental immunity, MCL 691.1405. The city argued that the utility tractor was not a motor vehicle and that governmental immunity should apply.

The statute upon which liability for a municipality is based states:

Governmental agencies shall be liable for bodily injury and property damage resulting from the negligent operation by any officer, agent, or employee of the governmental agency, of a motor vehicle of which the governmental agency is owner...

There have been previous Michigan court cases which have defined what is and what is not a motor vehicle. In *Stanton v Battle Creek*, the Michigan Supreme Court held that a forklift was not a motor vehicle since it was a piece of industrial equipment and was "not similar to an automobile, truck, or bus."

After *Stanton*, subsequent court of appeals' decisions held that a broom tractor, a tractor mower, and a hydraulic grader were all motor vehicles, resulting in liability for the governmental agency.

But, in *Overall v Howard*, the Michigan Supreme Court reversed a decision of the court of appeals which had held that a golf cart was a motor vehicle. The Supreme Court held that a golf cart driven by an athletic trainer at a football game was not a motor vehicle for reasons stated by the dissenting opinion in the court of appeals' decision. (The dissent had claimed that the golf cart more clearly resembled the *Stanton* forklift which was determined not to be a motor vehicle than other types of conveyances which had been determined to be motor vehicles.)


#### QUESTION:

**Is a Gator utility tractor a motor vehicle for purposes of governmental liability?**

**Answer according to the trial court:**

Yes. The utility tractor is a motor vehicle.

**Answer according to the court of appeals:**

Yes. The utility tractor is a motor vehicle primarily because it was being used as a means of transportation. "It was transporting passengers from one location to another, just like a shuttle bus." Although the utility tractor was not designed for use on public roadways and cannot travel at speeds comparable to other vehicles, the court noted that it was being driven and operated in a way identical to that of a car, bus, or truck and not that of a piece of equipment. 

*Yousif v City of Sterling Heights*, No. 288302 (2009) (unpublished)

This column highlights a recent judicial decision or Michigan Municipal League Legal Defense Fund case that impacts municipalities. The information in this column should not be considered a legal opinion or to constitute legal advice.

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