



Worth Noting

Conservation Legal Briefs

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Easement Holder Enjoys Same RULWA Immunity as Landowner*

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The Legal Intelligencer*

An easement holder who opens land in its possession to the public for recreational uses is entitled to the same immunity protections under the Recreational Use of Land and Water Act as a landowner is, the state Supreme Court has ruled.

The Recreational Use of Land and Water Act, or RULWA, bars civil liability against owners of unimproved land who open the tract for public recreational use without charging an admission fee. The statute does not explicitly state that an easement holder is considered an owner of land, instead defining "owner" as "the possessor of a fee interest, a tenant, lessee, occupant or person in control of the premises."

In *Stanton v. Lackawanna Energy Ltd.*, the high court found that the Pennsylvania Power and Light Co. could be considered an occupant or person in control of a land tract on which it held a 70-foot wide easement.

Such a holding is supported by the

definition of a "possessor of land" in the *Restatement (Second) of Torts*, Justice Ronald D. Castille wrote in the court's unanimous opinion.

"In matters involving possessor liability for injuries upon the land, this court has determined that an owner of an easement is generally considered a possessor of property and is required to maintain its easement," Castille wrote. "Accordingly, this court has held that an easement holder is subject to the same liability as any other possessor of the premises."

To deny PP&L immunity protections would also undermine the purpose of the RULWA, which is to encourage owners to open land for recreational uses, Castille said.

"If an easement holder exercises sufficient control to be subject to liability as a possessor, he must also be afforded the protections that the RULWA provides to occupants and persons in control of the land," Castille wrote.

The decision affirmed a Superior Court ruling last year ordering summary judgment in PP&L's favor in a negligence lawsuit.

The case arose from a motorbike accident in July 1994. Ten-year-old Benjamin Stanton was thrown off the bike after nearly colliding with a swinging-arm gate PP&L had erected within an easement it held on open land in Lackawanna County for maintaining electric power transmission towers, according to the opinion. ■

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