

SHORT FORM ORDER

SCAN

**SUPREME COURT - STATE OF NEW YORK
COUNTY OF NASSAU**

Present:

HON. BERNARD F. McCAFFREY

Justice

TRIAL/IAS, PART 1
NASSAU COUNTY

JOHN LAURO & CHRISTINE LAURO,

INDEX NO. 9942/01

Plaintiffs,

MOTION SUBMISSION
DATE: 5/22/02

-against-

MOTION NO. 2

INCORPORATED VILLAGE OF FREEPORT,
TOWN OF HEMPSTEAD, THE COUNTY OF
NASSAU,

Defendants.

Defendant Town of Hempstead's application, pursuant to CPLR §3212 for an award of summary judgment dismissing plaintiffs' complaint and any cross-claims against defendant Town of Hempstead is determined as hereinafter provided.

Plaintiffs commenced this action to recover damages for injuries allegedly sustained as a result of John Lauro's fall May 2, 2000, on the tennis courts at Cow Meadow Park in Freeport, New York. Plaintiff alleges the Town of Hempstead and other named defendants negligently owned and maintained the tennis courts at Cow Meadow Park.

Defendant Town of Hempstead moves for summary judgment on the grounds that it does not and did not own, operate, maintain, manage or supervise Cow Meadow Park, or the tennis courts located therein, on or prior to the date of the alleged injury.

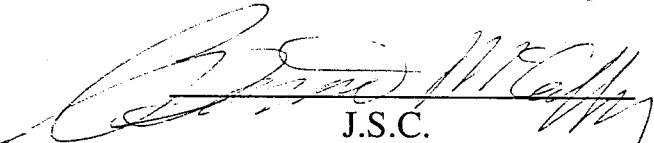
Defendant Town submitted a sworn affidavit of Raymond R. Rhoden, Deputy Commissioner for the Town of Hempstead's Department of Parks and Recreation. Mr. Rhoden has stated official Town records confirm the Town did not own, control, operate, maintain, supervise, manage or perform any affirmative acts with respect to Cow Meadow Park on or prior to the date of plaintiff's injury.

The Court finds the Town's uncontradicted proof to be conclusive on the issue. If the site of the accident is not within the jurisdiction, ownership or control of the Town, the Town cannot be held liable for any alleged negligence in the maintenance or repair of said property which allegedly contributed to plaintiffs' injuries.

Plaintiffs have not submitted any proof to substantiate their claim against defendant Town or contradict the Town's sworn affidavits. The property ownership records plaintiffs seek to obtain are readily available to the public in the Office of the Nassau County Clerk. Additionally, the Plaintiffs' right to access public records directly is protected by the N.Y.S. Public Officers Law, Article Six §84-90, which is more commonly known as the Freedom of Information Law.

Accordingly, Defendant Town of Hempstead's motion pursuant to CPLR §3212 for an award of summary judgment and the dismissal of plaintiffs' complaint and any cross-claims against defendant Town is granted. Movant is directed to serve a copy of this order upon all parties.

Dated: **JUN 21 2002**


J.S.C.

