

NOTICE OF A DANGEROUS CONDITION

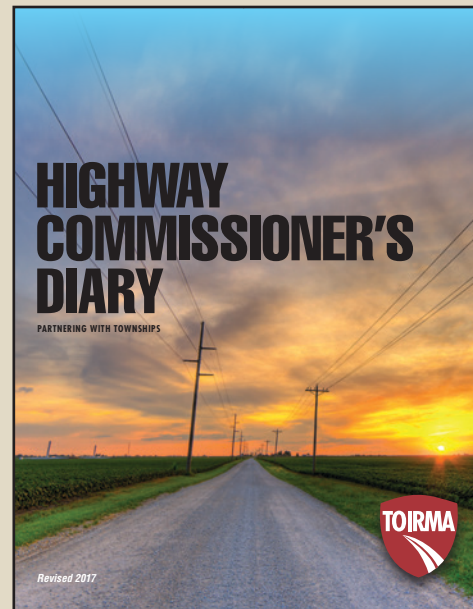
When an individual is injured by a dangerous condition under township control or on township property, liability for injuries suffered by the individual might hinge on whether the township had notice of the dangerous condition. A plaintiff cannot recover under the Tort Immunity Act unless it is proven that the township had actual or constructive notice of the dangerous condition.

Actual notice of a dangerous condition is direct knowledge of the condition. For example, if a highway commissioner observes a pot hole, rut, or other defect while driving a particular roadway, then the township has actual notice of the defect. Or, if a sheriff's deputy or citizen reports a dangerous condition to the township, then actual notice of the condition is established.

Constructive notice is different. Constructive notice occurs where the township has no actual knowledge of the dangerous condition, but the township should have known of the condition because of the circumstances of the condition. Constructive notice is present where the dangerous condition exists for such a length of time or is so plainly visible that public authorities should have been aware of its existence. A township might be found to have constructive notice of a dangerous condition where a plaintiff can prove either that the condition existed for a period of weeks or months without remedy, or that a defect was sufficiently obvious (by its size, location or nature) to warrant immediate attention. A township can defeat any suggestion of constructive notice by demonstrating that it had a reasonable inspection system in place and still did not discover the alleged dangerous condition.

It is important for townships to have reasonable inspection procedures to monitor for dangerous conditions, to be aware of areas that may create potential dangerous condition, and to be responsive to citizen complaints about potential dangerous conditions.

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TOIRMA has provided Highway Commissioner's Diaries since 1993.

The Highway Commissioner's Diary was implemented to help reduce the likelihood and cost of claims by documenting weather conditions, inspections, road work, etc. If you would like a copy of the current Highway Commissioner's Diary, please call or e-mail **Danielle Smith at (217) 444-1204 or dsmith@ccmsi.com**.

