Ohio Supreme Court Confirms That Placement of Non-Defective Equipment Is Not a "Physical Defect" Under R.C. 2744.02(B)(4)

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Steigerwald v. Berea, Slip Opinion No. 2026-Ohio-2554 (decided July 8, 2026)

In a decision issued on July 8, the Supreme Court of Ohio held that a political subdivision's decision to place a piece of equipment that has no tangible imperfection, and that functions exactly as intended, in a particular location does not create a "physical defect" within the meaning of R.C. 2744.02(B)(4). The Court reversed the Eighth District Court of Appeals and directed entry of summary judgment in favor of the City of Berea and the Berea Recreation Center on statutory immunity grounds. The decision clarifies and strengths a longstanding defense for Ohio political subdivisions. It confirms, together with the Court's recent decision in *Hoskins v. Cleveland*, 2026-Ohio-1225, that the "physical defect" exception to immunity contemplates tangible flaws in property such as damage, deterioration, or defects in equipment, but not discretionary decisions about how and where sound equipment is used or placed.

Background

Joan Steigerwald, a regular participant in a seniors' swimming class at the Berea Recreation Center, tripped over the legs of a newly installed bench in the women's locker room in April 2018. She sustained serious injuries and, tragically, died twelve days later. Her estate sued the City and the recreation center for wrongful death and negligence, alleging that Berea negligently or recklessly purchased a bench whose horizontal base legs extended roughly 5.75 inches beyond the bench seat and placed it in a narrow, confined locker-room space, creating a tripping hazard.

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Berea moved for summary judgment based on political-subdivision immunity under R.C. Chapter 2744. Operating an indoor recreation center is a governmental function, so Berea was immune unless an exception in R.C. 2744.02(B) applied. The estate relied on the exception in R.C. 2744.02(B)(4), which removes immunity for injury or death caused by employee negligence that occurs within or on the grounds of, and is due to "physical defects" within or on the grounds of, buildings used in connection with a governmental function.

The trial court granted summary judgment to Berea. The Eighth District reversed, concluding that a genuine issue of material fact existed as to whether the bench's extended legs, as placed in the small locker room, could constitute a physical defect. The Supreme Court accepted Berea's appeal.

The Court's Decision

Writing for the majority, Justice Megan Shanahan applied the plain and ordinary meaning of the undefined statutory term and held that a "physical defect" is "a tangible imperfection that impairs the function of an object." That definition can encompass design flaws, damage, or deterioration in the property itself. It does not, however, encompass an employee's discretionary decision to use or place otherwise functional equipment in a particular way or location.

The record showed that Berea's recreation director selected the bench after evaluating more than a dozen models, choosing one that was antimicrobial, movable, suited to damp locker-room conditions, and compatible with the center's cleaning equipment. The bench was not broken, unstable, or physically flawed. In fact, it functioned exactly as designed. The estate's theory rested entirely on the decision to put that particular model in a confined space. The Supreme Court held that a hazardous condition is not the same thing as a physical defect: "An object may present a risk of injury and yet remain free of physical defect." The statutory phrase "within or on the grounds of" merely identifies where a defect must be located, not what actually constitutes a defect.

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The Court grounded its reasoning in *Hoskins v. Cleveland*, decided earlier this year, in which a lifeguard's decision to use a folding chair rather than an elevated lifeguard chair was held not to be a physical defect because the danger arose from how sound equipment was used, not from any flaw in the equipment. The Court also rejected the estate's reliance on the lead opinion in *Doe v. Greenville City Schools*, 2022-Ohio-4618, which had suggested the absence of a fire extinguisher could be a physical defect, because that opinion did not command a majority and states no binding rule of law.

Justice Jennifer Brunner dissented. In her view, the statute ties the physical defect to a location ("within or on the grounds of" a building), so the negligent placement of a functioning object can itself create a defect on the premises. She pointed to appellate decisions holding that negligently designed kitchen areas, unmarked orchestra pits, and negligently set-up bleachers could be physical defects despite the absence of any inherent flaw, and to record evidence that the recreation center had received at least a dozen complaints about the bench's legs, including reports of trips and stubbed toes, in the weeks before Mrs. Steigerwald's fall. The majority's holding now substantially undercuts that line of appellate authority.

Why This Matters for Political Subdivisions

Steigerwald is the second decision this term, after *Hoskins*, to give the "physical defect" exception a narrow, text-based construction. Together, the two cases draw a clear line: R.C. 2744.02(B)(4) exposes a political subdivision to liability for tangible imperfections in its buildings and equipment: things that are broken, damaged, deteriorated, or defectively designed. It does not extend that same liability for judgment calls about the selection, deployment, arrangement, or placement of equipment that works as intended. Plaintiffs can no longer convert a premises-layout or equipment-placement theory into a (B)(4) claim simply by labeling the resulting condition a "defect." This should meaningfully strengthen dispositive motions in premises-liability suits arising at recreation centers, schools, community buildings, parks facilities, and other property used for governmental functions.

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Practical Guidance

- **Raise immunity early and move for summary judgment, if not an earlier motion under Civil Rule 12.** Where the plaintiff's theory attacks a decision about where or how sound equipment was used, rather than a tangible flaw in the property itself, *Steigerwald* and *Hoskins* now provide controlling authority for judgment as a matter of law. Remember that an order denying immunity is a final, immediately appealable order under R.C. 2744.02(C).
- **Build the record that equipment was sound and functioning.** Berea's success rested in part on deposition testimony explaining the deliberate, criteria-based selection of the bench and establishing that it was not broken, unstable, or malfunctioning. Documenting procurement rationales, inspections, and maintenance makes it far easier to show that an object had no tangible imperfection.
- **Maintenance still matters, as immunity turned on the bench being sound.** The Court expressly acknowledged that damage, deterioration, and design flaws in the object itself remain physical defects. A cracked bench, a broken stair tread, a failed handrail, or deteriorated flooring may still support a (B)(4) claim. Continue routine inspection, repair, and replacement programs, and document them.
- **Do not treat the decision as a license to ignore known hazards.** This case involved a fatality preceded by a dozen complaints about the very condition at issue. Even where immunity ultimately bars recovery, ignored complaints generate litigation, reputational harm, loss of good will, and risk under other theories. Establish and follow a process for logging, escalating, and responding to patron complaints about facility conditions, and be able to show what was done in response.
- **Mind the governmental/proprietary line.** The (B)(4) exception applies to buildings used for governmental functions. Injuries connected to proprietary functions, such as municipal utilities, are governed by the broader negligence

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exception in R.C. 2744.02(B)(2), where *Steigerwald*'s physical-defect analysis will not shield the subdivision. Classify the function at issue before assessing exposure.

- **Expect plaintiffs to reframe their theories.** Anticipate arguments recasting placement decisions as defects in the design or construction of the space itself (for example, inadequate clearances, lighting, or markings built into the premises), or attempts to plead around immunity through the defenses and exceptions in R.C. 2744.03. Early, precise framing of the plaintiff's theory (decision versus tangible flaw) will often determine the outcome.

The Bottom Line

The Ohio Supreme Court has confirmed that the "physical defect" exception to political-subdivision immunity means what it says: there must be a tangible imperfection in the property that impairs its function. Decisions about selecting and placing equipment that works as intended remain protected discretionary conduct. Political subdivisions should cite *Steigerwald* in pending and future premises cases built on placement or layout theories, while continuing the inspection, maintenance, and complaint-response practices that both prevent injuries and preserve the factual record on which immunity depends.

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