Supreme Court of the State of New York
Appellate Division: Second Judicial Department

D18583
C/kmg

_____AD3d_____ Submitted - February 13, 2008

REINALDO E. RIVERA, J.P.
ROBERT A. LIFSON
HOWARD MILLER
EDWARD D. CARNI
RANDALL T. ENG, JJ.

2007-04431 DECISION & ORDER

Arnold Lasky, appellant, v
Maureen J. Daly, et al., respondents.

(Index No. 22791/05)

Weingrad & Weingrad, LLP, New York, N.Y. (Penny Shemtob of counsel), for appellant.

John P. Humphreys, New York, N.Y. (Evy L. Kazansky of counsel), for respondents.

In an action to recover damages for personal injuries, the plaintiff appeals from an order of the Supreme Court, Kings County (Johnson, J.), dated April 12, 2007, which granted the defendants' motion for summary judgment dismissing the complaint.

ORDERED that the order is affirmed, with costs.

A landowner has a duty to maintain his or her premises in a reasonably safe manner (*see Basso v Miller*, 40 NY2d 233; *Rao-Boyle v Alperstein*, 44 AD3d 1022; *Espinoza v Hemar Supermarket, Inc*., 43 AD3d 855). However, he or she has no duty to protect or warn against an open and obvious condition, which is not inherently dangerous as a matter of law (*see Rao-Boyle v Alperstein*, 44 AD3d 1022; *Espinoza v Hemar Supermarket, Inc*., 43 AD3d 855; *Cupo v Karfunkel*, 1 AD3d 48). Here, the defendants made a prima facie showing of their entitlement to summary judgment by submitting evidence demonstrating that the condition complained of was open and obvious, known to the plaintiff, and not inherently dangerous (*see Rao-Boyle v Alperstein*, 44 AD3d 1022; *Espinoza v Hemar Supermarket, Inc*., 43 AD3d 855; *Morgan v TJX Cos., Inc*., 38 AD3d 508;

Hecht v 281 Scarsdale Corp., 3 AD3d 551; *Sorce v Great Oak Mar.,* 282 AD2d 598). In opposition, the plaintiff failed to raise a triable issue of fact. Accordingly, the defendants' motion for summary judgment dismissing the complaint was properly granted.

RIVERA, J.P., LIFSON, MILLER, CARNI and ENG, JJ., concur.

ENTER:

James Edward Pelzer
Clerk of the Court