

State of New York Court of Appeals

MEMORANDUM

This memorandum is uncorrected and subject to revision before publication in the New York Reports.

No. 111 SSM 16
City of New York,
Appellant,
v.
Tri-Rail Construction, Inc. et al.,
Respondents.

Submitted by Aaron M. Bloom, for appellant.
Submitted by Connor W. Fallon, for respondents.

MEMORANDUM:

The order of the Appellate Division should be reversed, with costs, and defendants' motion to dismiss the complaint denied.

The City has the general capacity to sue for the negligent destruction of its property (see General City Law § 20 [1]; New York City Charter § 394 [c]). Moreover, the provisions upon which defendants rely do not abrogate the City’s claim for damage to its property (see generally Assured Guar. [UK] Ltd. v J.P. Morgan Inv. Mgt. Inc., 18 NY3d 341, 351 [2011]). Defendants have not established that the City lacks a cognizable common law claim.

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On review of submissions pursuant to section 500.11 of the Rules, order reversed, with costs, and defendants’ motion to dismiss the complaint denied, in a memorandum. Chief Judge DiFiore and Judges Rivera, Stein, Fahey, Garcia, Wilson and Feinman concur.

Decided October 17, 2019