***Issakhani v. Shadow Glen Homeowners Assn., Inc*. (2021) 63 Cal.App.5th 917**
A landowner's common law duty of care does not encompass a duty to provide onsite parking for invitees in order to protect them from traffic accidents occurring off site.

FACTS/PROCEDURE

On the night of June 10, 2014, Anaeis Issakhani ("Plaintiff") was struck by a car while jaywalking across a five-lane road to visit a friend living at the Shadow Glen condominium complex. Unable to find a visitor parking space in the complex's onsite lot, she parked across the street and was struck by a car while crossing back over to Shadow Glen, several hundred feet outside of the marked crosswalk.

On June 10, 2016, Plaintiff sued the Shadow Glen Homeowner's Association, Inc. ("Association"), the owner of the condominium complex at the time. Plaintiff asserted claims for premises liability and negligence, alleging the Association's failure to maintain the number of guest parking spaces mandated by a 1976 city ordinance created a foreseeable risk of harm for the complex's guests. The trial court granted the Association's motion for summary judgment, and plaintiff appealed.

HOLDING/DISCUSSION

The Court of Appeal for the Second District **affirmed**. A duty of care exists when one person has a legal obligation to prevent harm to another person, such that breach of that obligation can give rise to liability. Here, the appeal presented the question: *Does a landowner owe a duty of care to invitees to provide adequate onsite parking, either under common law principles or by virtue of a 1978 rezoning ordinance* that conditioned the parcel's rezoning on the maintenance of a specific number of guest parking spaces? The Court concluded the answer to both questions was "no."

"Whether a duty of care exists is not a matter of plucking some immutable truth from the ether," but rather a determination that the "sum total" of public policy considerations should lead the law to such a finding. (*Issakhani v. Shadow Glen* (2021) 63 Cal.App.5th.) Here, the Court considers a possible common law-based duty and a statute-based duty. In *Vasilenko v. Grace Family Church* (2017) 3 Cal.5th 1077, the Supreme Court held that "a landowner who does no more than site and maintain a parking lot that requires invitees to cross a public street to reach the landowner's premises does not owe a duty to protect those invitees from the obvious dangers of the public street." (*Id*. at p. 1092.) Therefore, *Vasilenko* forecloses imposing a duty on landowners to provide parking for invitees. In examining the *Rowland* factors, both the foreseeability and public policy-related factors counsel against imposing a duty upon landowners. Here, the connection between the Association's conduct and the injury suffered is "attenuated," rather than close. Plaintiff selected where to park, and to jaywalk at night, not the Association. Furthermore, imposing a duty to provide adequate onsite parking to accommodate all invitees would not necessarily be effective in preventing future harm. Therefore, the Court determines no common law-based duty exists.

"Duty of care can also be grounded in—and hence 'borrowed' from—the public policy embodied in a legislatively enacted statute or ordinance." (*Elsner v. Uveges* (2004) 34 Cal.4th 915, 917.) Here, the Court rejects Plaintiff's argument that the Association owed her a duty of care by virtue of the guest parking conditions set forth in ordinance No. 151,411. The ordinance is parcel-specific and was adopted as the final step of an administrative procedure. Additionally, the ordinance's condition of a certain number of guest parking spaces was aimed to preserve the "aesthetic character" of the surrounding neighborhood—not at protecting invitees from traffic accidents. Therefore, the ordinance was incapable of providing a basis to establish a duty of care.

A landowner's common law duty of care does not encompass a duty to provide onsite parking for invitees in order to protect them from traffic accidents occurring off site as they travel to the premises. Furthermore, **because a city ordinance that conditioned rezoning of the property on providing a specific number of guest parking spaces embodied no general public policy, it could not be used as a fulcrum to create a duty of care.** Thus, the trial court did not err, and summary judgement was appropriate.