

QUESTION 3 THE ANSWER TO THIS QUESTION SHOULD GO IN BLUEBOOK I

Diligent Developments, Inc. (D & D) is a non-profit organization that builds and donates public parks. D & D purchased a piece of property, Blackacre, in the City of York, Michigan for the purpose of constructing a park complete with a playground and athletic fields. D & D posted "No Trespassing" signs along the border of Blackacre and mailed a notice to abutting landowners informing them that Blackacre was not open to the public. Occasionally neighborhood children would enter the property to play in the fields, but each time they were discovered, a D & D employee escorted them off the property.

In order to develop the site, D & D had to install a drainage system which required a significant amount of digging and produced several large piles of dirt. Due to financing delays, D & D did not work on or visit the site for a four-day period beginning on a Thursday. On the Friday that D & D was not at the site, Curious Chris, a 12-year-old boy living in a house abutting Blackacre, noticed the large dirt piles and went out to play on them with two other boys from the neighborhood. Chris and the other boys decided to dig holes in the dirt piles large enough for them to sit inside. Chris' mother, Absent Amber, saw the boys playing on the dirt piles, but did not stop them because she did not believe that their digging was dangerous. The next day, Chris and the other boys continued playing on the dirt piles. Unfortunately, one of the holes collapsed while Chris was inside it. The other boys ran for help, and Amber called 911. Chris suffered several serious injuries due to the weight of the dirt collapsing on him.

Amber, as next friend of Chris, has filed a lawsuit against D & D seeking recovery of damages on two theories: (1) premises liability and (2) creating and maintaining an attractive nuisance. **You are an associate at the law firm of Downs, Rivers & Diamond, which has been retained to defend D & D. Assess the merits of Amber's case. Explain your answer.**

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