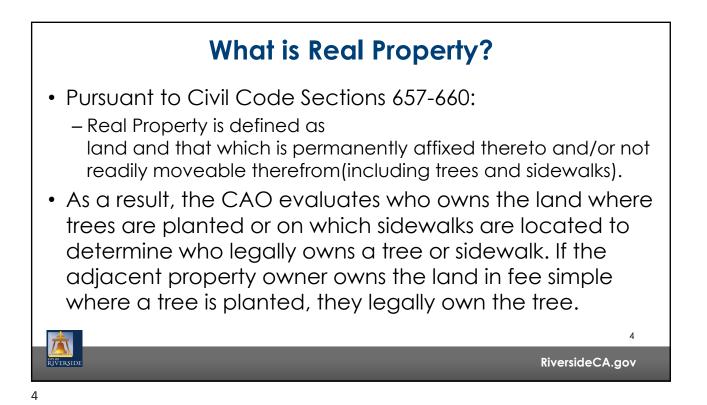


Why is the Property Ownership Crucial in Analyzing Public Entity Liability?

- When Plaintiffs allege the City is responsible for personal injuries or property damage based on a theory of dangerous condition of public property, Plaintiffs have the burden to prove that the City owned (or controlled) the property that caused the harm.
- Because there are several factors and statutory codes the Court uses to determine ownership, it requires a legal analysis.
- If Plaintiffs do not meet their burden of proof, they cannot prevail on their claim against the City.





Easement v. Fee Simple Ownership
 Civil Code Section 801 An Easement or public right-of-way: grants use rights in a particular parcel of land to nonowners of the land. So an easement does not mean legal ownership.
Civil Code Section 829
 Fee ownership: grants the owner of land in fee "the right to the surface and to everything permanently situated be neath or above it."
 If land has not been conveyed in fee simple to the City, there is a <u>presumption</u> that the adjacent property owner owns his land to the center of the street. See Civil Code Ction 831 and Jones v. Deeter (1984) 152 Cal.App.3d 798.
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The RMC Imposes a Duty on Adjacent Property Owners

- The Riverside Municipal Code places the duty to maintain sidewalks, parkways and trees therein on the adjacent property owners.
- RMC Sections 6.14.020 and 13.06.090 makes it unlawful for an adjacent property owner to allow overgrown vegetation or trees and imposes a duty on adjacent property owners to maintain all landscaping adjacent to their property in a nondangerous condition (including watering, trimming and installing root barriers).
- RMC Section <u>13.10.010</u> also requires adjacent property owners to maintain the sidewalk that is adjacent to their property in a safe condition.

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Occasional Maintenance of Area Does Not Establish "Control" for Liability Purposes

- Even if the City voluntarily trims a trees or repairs a sidewalk that is legally owned by the adjacent property owner, Courts have held occasional maintenance does not establish "control" for liability purposes.
 - See Hamilton v. Gage Bowl, Inc. (1992) 6 Cal.App.4th 1706. Se e also, Low v. City of Sacramento (1970) 7 Cal.App.3d 826.

