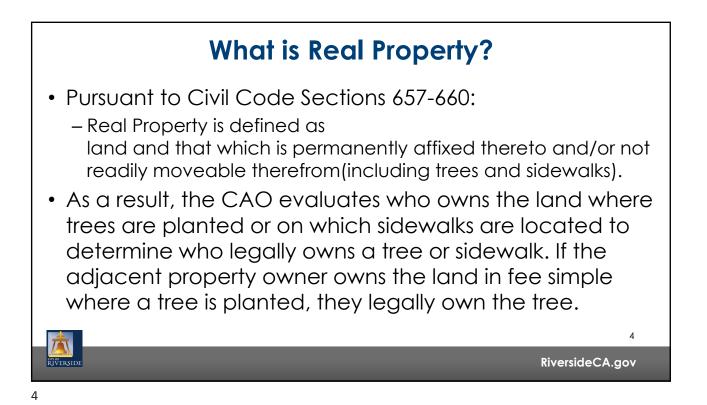


## Why is the Property Ownership Crucial in Analyzing Public Entity Liability?

- 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
<ul> <li>Civil Code Section 801         <ul> <li>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.</li> </ul> </li> </ul>
Civil Code Section 829
<ul> <li>Fee ownership: grants the owner of land in fee</li> <li>"the right to the surface and to everything permanently situated be neath or above it."</li> </ul>
<ul> <li>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</li> <li>Ction 831 and Jones v. Deeter (1984) 152 Cal.App.3d 798.</li> </ul>
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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.

