



City Council Memorandum

City of Arts & Innovation

TO: HONORABLE MAYOR AND CITY COUNCIL DATE: OCTOBER 10, 2023
FROM: CITY ATTORNEY WARDS: ALL
SUBJECT: TREE & SIDEWALK PROPERTY OWNERSHIP

ISSUE:

To provide information related to private and public ownership of trees and sidewalks that are the subject of claims and/or lawsuits.

RECOMMENDATION:

That the City Council receive and file a presentation related to private and public ownership of trees and sidewalks that are the subject of claims and/or lawsuits.

DISCUSSION:

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. The City Attorney's Office is committed to vigorously defending the City.

Whether the City has ownership or control over a piece of property is a question that has to be litigated on a case-by-case basis. The burden of proof rests on the plaintiff to establish that the City owns or controls trees or sidewalks involved in litigation.

STRATEGIC PLAN ALIGNMENT: The proper analysis of ownership of sidewalks and trees supports all priorities of the City of Riverside's Envision Riverside 2025 Strategic Plan.

This item aligns with each of the five Cross-Cutting Threads as follows:

1. **Community Trust** – Riverside is transparent and makes decisions based on sound analysis of the law. Proper analysis of ownership of sidewalks and trees supports and aids the making of such decisions.

2. **Equity** – Proper analysis of ownership of sidewalks and trees benefits the entire community by ensuring that risks and liability are properly allocated under the law.
3. **Fiscal Responsibility** – Proper analysis of ownership of sidewalks and trees ensures that risks and liability are properly allocated under the law.
4. **Innovation** – Proper analysis of ownership of sidewalks and trees ensures that such efforts comply with all aspects of the law.
5. **Sustainability & Resiliency** – Proper analysis of ownership of sidewalks and trees ensures that the City is able to maintain its status as a “City of Trees” while limiting risk and liability.

FISCAL IMPACT:

There is no fiscal impact associated with this report.

Prepared by: Phaedra A. Norton, City Attorney

Certified as to

availability of funds: Edward Enriquez, Chief Financial Officer/City Treasurer

Attachments: Presentation