



## OVERVIEW OF LEGAL OWNERSHIP ANALYSIS FOR SIDEWALKS & TREES

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### Claims Process

- When the City is served with a claim, the CAO investigates in conjunction with the involved department to determine if the claim should be paid.
- The involved department gathers all facts and documents that are relevant to the dispute while the CAO evaluates all applicable defenses.



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## 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.



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## What is Real Property?

- Pursuant to Civil Code Sections 657-660:
  - Real Property is defined as land and that which is permanently affixed thereto and/or not readily moveable therefrom(including trees and sidewalks).
- As a result, the CAO evaluates who owns the land where trees are planted or on which sidewalks are located to determine who legally owns a tree or sidewalk. If the adjacent property owner owns the land in fee simple where a tree is planted, they legally own the tree.



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## 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 beneath or above it.”
- If land has not been conveyed in fee simple to the City, there is a presumption that the adjacent property owner owns his land to the center of the street. See Civil Code Section 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 non-dangerous condition (including watering, trimming and installing root barriers).
- RMC Section 13.10.010 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. See also, *Low v. City of Sacramento* (1970) 7 Cal.App.3d 826.



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