

Risk Alert: Sidewalks and Walkway Liability Issues

Risk Alert
June 2017

www.ciaw.us

Questions?

If you have any questions regarding this risk alert, please contact your local broker, or your Clear Risk Solutions Risk Manager directly at 800.407.2027.

The average cost of a slip, trip, or fall claim is approximately \$5,300.00. However, damages in excess of \$300,000 are not uncommon. It is important for municipalities to understand the potential liability when it comes to falls associated with sidewalks, parking lots, and walkways in order to reduce these claims.

Decades ago, municipalities in Washington State began adopting ordinances that assigned liability to owners of abutting or adjacent property for injuries caused by sidewalks or walkways that were poorly designed or maintained or in need of repair or replacement. This was an important step to shifting financial responsibility for maintaining sidewalks to the appropriate property owner. However, the Washington State Supreme Court has made it clear that the municipality retains the ultimate responsibility for ensuring that sidewalks are safe for use. This requires municipalities to ensure that landowners are complying with ordinances and enforce compliance when necessary. Clear ordinance language and vigilant enforcement are critical in order for municipalities to defend themselves against claims due to sidewalk and walkway injuries.

Liability assigned to municipalities is frequently associated with sidewalk projects that incorporate trees and plants. Keep in mind the root systems cause sidewalks to heave and crack, creating hazards that courts assume are, or should be, known to the municipality. Even in private construction projects, if the municipality requires property owners to include trees and other plants, the courts may assign some liability to the municipality for related injuries.

There are many lessons to be learned from case law and litigation, but knowing what you can or cannot enforce via ordinance or law regarding liability assignment of paths of travel within the community is equally important.

Reduce your risk:

1. Consult with your legal counsel to ensure your ordinances are up to date. The Municipal Research Service Center has several model ordinances governing streets, sidewalks, and alleyways.
2. If your ordinances assign responsibility for maintenance and repair of walkways to adjacent or abutting property owners, remember that it is still your responsibility to notify property owners of needed repairs or maintenance once you are aware of them. Documentation of these efforts is critical.
3. Remember to follow your own ordinances and to repair, maintain, or replace public pathways as soon as possible when problems develop.
4. Consider applying for grants that assist in the repair and maintenance of aging sidewalks within your control.

For more information please follow this link to an article entitled "Nuts and Bolts of Sidewalk Liability" written by and presented by Rocco N. Teppiedi and Alan Taylor in October 2009. <http://www.wsama.org/wsamaproc/2009f/534-6.pdf>

Clear Risk Solutions risk managers are available to assist in reviewing your policies and procedures or facilities to identify potential hazards and make recommendations on how to repair or mitigate damages.

Administered by:

