

**Richmond, California**

# **SIDEWALKS AND STREET EDGES**

**Mayor Tom Butt**



**July 4, 2017**

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## Introduction – the Value of Sidewalks

Sidewalks provide immensely valuable benefits to cities and to property owners, including crime prevention, health, increased property values and increased business.<sup>1</sup>

- Sidewalks provide opportunities for walking, and studies have shown that people with access to sidewalks are more likely to walk and meet the Surgeon General's recommendations for physical activity. Physical inactivity contributes to the incidence of obesity, diabetes, hypertension, heart disease and certain cancers; and it carries a risk burden close to that of smoking.
- Home buyers are willing to pay more for homes in walkable neighborhoods and property values rise fastest in pedestrian friendly areas
- Sidewalks improve access to business and industry for employees relying on public transportation and they improve customer traffic for retail businesses.
- Sidewalks reduce crime risk through increased pedestrian traffic - "more eyes on the street" as promoted by the International Crime Prevention Through Environmental Design Association ([www.cpted.net](http://www.cpted.net))
- Decreased use of cars, saving gas and lowering emissions - 40% of car trips in the U.S. are less than 2 miles, short enough to be accomplished on foot or by bicycle, if the infrastructure supports walking or biking

All of this, of course, depends on the sidewalks being accessible, safe and in good condition, which is often not the case in Richmond.

Sidewalks throughout Richmond suffer cracking and uplift or subsidence resulting in tripping hazards. Vehicles are routinely parked on sidewalks, partially or fully blocking them.

The City of Richmond has no program for inspecting and repairing sidewalks other than a hit or miss complaint-driven process. Even damaged sidewalks that resulted in the City or property owners paying claims for injuries are not getting repaired.

Although the City is installing more curb ramps every year, there are hundreds, maybe thousands, of street crossings without curb ramps or with substandard curb ramps that constitute barriers for people in wheelchairs and for people pushing strollers.

Finally, the parking strip (the area between a sidewalk and the street) is often overgrown with weeds or piled with trash, making the walking experience unpleasant and sometimes dangerous.

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<sup>1</sup> <http://www.healthbydesignonline.org/documents/HbDFSidewalks.pdf>



**Figure 1 - This is East Scenic Avenue near where I live -- a street without sidewalks. Cars and pedestrians have to share the roadway, which has about a 6-foot wide clearance between trees and shrubs on each side of the road.**

## **Who is Responsible for Maintaining Sidewalks in Richmond?**

It will likely come as a surprise to most people that by both California state law and the Richmond Municipal Code, sidewalk maintenance is the responsibility not of the City of Richmond but of the abutting property owner.

Did you know that if the sidewalk in front of your property is damaged and causes an injury, you will probably get sued and could be liable for tens or even hundreds of thousands of dollars? Well, it's true.

The basis for this liability is California Streets and Highways Code Section 5600-5610, as follows:

5600. As used in this chapter "sidewalk" includes a park or parking strip maintained in the area between the property line and the street line and also includes curbing, bulkheads, retaining walls or other works for the protection of any sidewalk or of any such park or parking strip.'

5610. The owners of lots or portions of lots fronting on any portion of a public street or place when that street or place is improved or if and when the area between the property line of the adjacent property and the street line is maintained as a park or parking strip, shall maintain any sidewalk in such condition that the sidewalk will not endanger persons or property and maintain it in a condition which will not interfere with the public convenience in the use of those works or areas save and except as to those conditions created or maintained in, upon, along, or in connection with such sidewalk by any person

other than the owner, under and by virtue of any permit or right granted to him by law or by the city authorities in charge thereof, and such persons shall be under a like duty in relation thereto.

To eliminate any possible confusion about whether or not the state law applied to Richmond, the Richmond City Council in 2000, adopted Ordinance 12.36.025 (12.36.025), which essentially duplicated state law and clarified that the abutting property owner is not only responsible for repair but also for injuries caused by damaged sidewalks.:

Property owner responsibility to repair and maintain sidewalk

- a) The owner of a parcel of real property which fronts on any portion of a sidewalk between the property line of the parcel and the street line, including the parking strip and the curb, is responsible for the repair and maintenance of the sidewalk and shall pay the cost and expense of repair and maintain said sidewalk area whether or not the City has notified the owner of the need for such repairs or maintenance or has performed similar repairs or maintenance in the past.
- b) The owner of a parcel of real property is under a duty to members of the general public, including but not limited to users of the sidewalk, to keep the portion of any sidewalk described in subsection (a) in a safe condition.
- c) The failure of the owner to fulfill the duties imposed by subsections (a) and (b), or the performance of such duties and obligations by the owner in a negligent manner, shall constitute negligence. An owner shall be liable to any member of the general public injured on or by a sidewalk area if the owner's negligence hereunder is a proximate cause of the injury. The City shall not be liable for an injury caused by the negligence of an owner. (Ord. No. 14-00, N.S., §1, 5-9-2000)

The City of Richmond website (<http://www.ci.richmond.ca.us/faq.aspx?qid=353>) also provides a simple answer to the question, "Who is responsible for repairing the sidewalk in front of my house?"

Homeowners are responsible for the maintenance of the sidewalk, curb, and gutter. Please contact the Engineering Department at 510-307-8091 for more information about the necessary permits and license requirements for repairing concrete.

Not maintaining a sidewalk is deemed a public nuisance by the Richmond Municipal Code:

9.22.090 - Nuisances specified.

It is declared a public nuisance for any person owning, leasing, occupying or having charge or possession of any premises in this City to maintain such premises or to permit such premises to be maintained in such a manner that any one or more of the conditions or activities described in the following subsections are found to exist:

(1) Generally.

(D) Any parking lot, driveway, *sidewalk* or path which is cracked or has potholes or other breaks in the surface which poses a risk or harm to the public



Figure 2 - Sidewalk at a City park in Richmond. With no abutting private property owner, the City has full responsibility for this

The City of Richmond has no sidewalk inspection program, so the burden of inspecting sidewalks for actionable trip hazards also falls on the property owner.

What if a street tree planted by the City causes a trip hazard? It's murky. The City has no written policy for such an occurrence, but as a matter of custom and practice, the City has sometimes absorbed the cost of both claims and repair. But because there is no inspection program, the City has no risk management effort in place. If a person is injured, the City pays up – or not. The City may cross complain against the abutting property owner – or not.

No matter how much a property owner might protest this responsibility as unfair, it's not going to change unless the California Legislature changes it. A City cannot relieve a property owner of the obligation to repair a sidewalk, but some cities assume or share the cost of repair as well as the cost of any claims relating to trip and fall injuries.

The ambiguity of Richmond's ordinances and practices is poor public policy, as is the lack of any effective risk management program relating to sidewalks.

The initial reaction of most, if not all, property owners is "let the City pay for it." Property owners will argue that they (typically) did not build the sidewalk, that they cannot control who uses it, that it benefits everyone, and that they expect the taxes they pay to take care of sidewalks. The arguments by property owners are even more strident when it comes to damage caused by street trees.

There is, however, another side to this. The City simply can't afford to repair all the damaged sidewalks. The City of Richmond has approximately 420 miles of sidewalks. If the City were to assume both the cost of sidewalk repair and the full liability for injuries caused by damaged

sidewalks, the cost would be staggering. In 2006, Oakland completed a comprehensive sidewalk condition survey ([oakland sidewalks fact sheet - City of Oakland](#)) and found that 32% of damage resulted from street trees, while the rest, amounting to an average of \$54,545 per mile of street, remained the responsibility of property owners. With 420 miles of sidewalk, the equivalent cost for Richmond property owners to repair sidewalk damage not caused by street trees, would be over \$22 million. The Oakland study did not provide the cost of repairing the 32% of sidewalks damaged by street trees, but one could imagine it might be at least twice that of non-street tree damage. In Richmond, that might be over \$44 million.

Arguably, the City of Richmond cannot afford \$60 million in sidewalk repairs, which leaves us between a rock and a hard place. Being proactive in inspecting sidewalks and forcing property owners to pay for repairs is a political hot potato. Nat Bates made it a cornerstone of his successful campaign for City Council in 2000. The fact that it was a state law was a detail that Bates glossed over. All the voters heard was that every candidate but Nat Bates was going to make property owners pay for injuries caused by damaged sidewalks.

**How they voted:**

**Vice Mayor Nat Bates**  
voted to protect home  
owners and voted  
against the Sidewalk  
Ordinance.

**Councilman Tom Butt**  
Voted against home  
owners and voted for  
Sidewalk Ordinance.

On April 11, 2000 the Richmond City Council passed the Sidewalk Liability Transfer Ordinance, transferring liability from the City to the home owners for injuries on City maintained sidewalks.

Copies of Ordinance 14-00 NS may be obtained through the City Clerk's Office - 620-6513.

**Elect Nat Bates for Richmond Mayor - Proven Leadership**

Nat Bates for Mayor Committee, 1101 Silverbell Dr., Richmond, CA 94803 PFFC #1231279

Figure 3 - Campaign Mailer from 2000 Richmond election

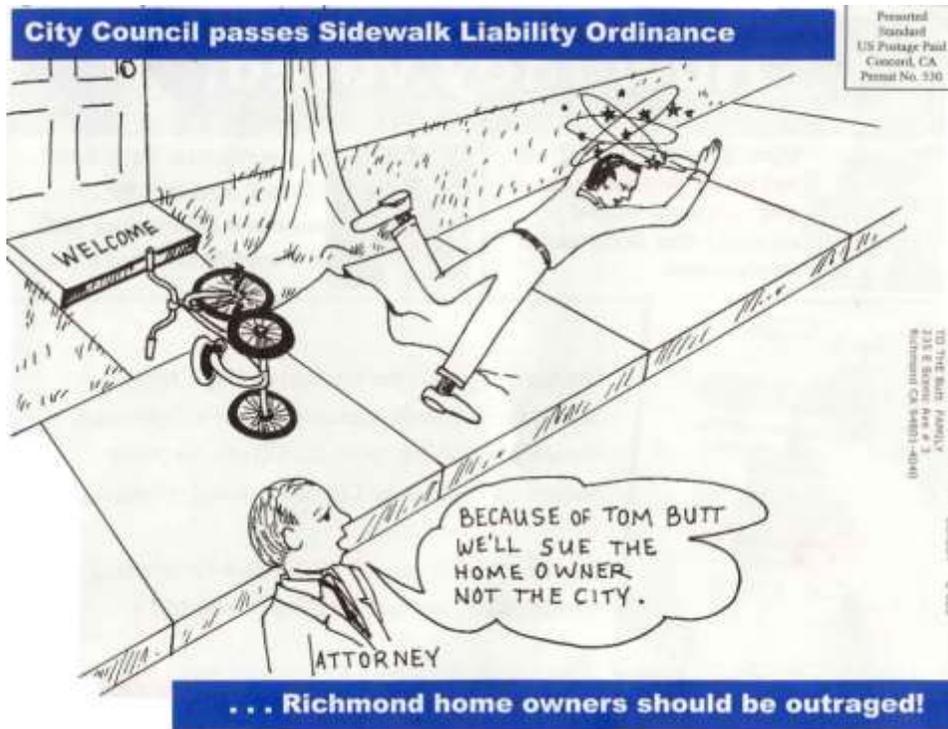
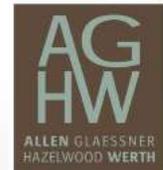
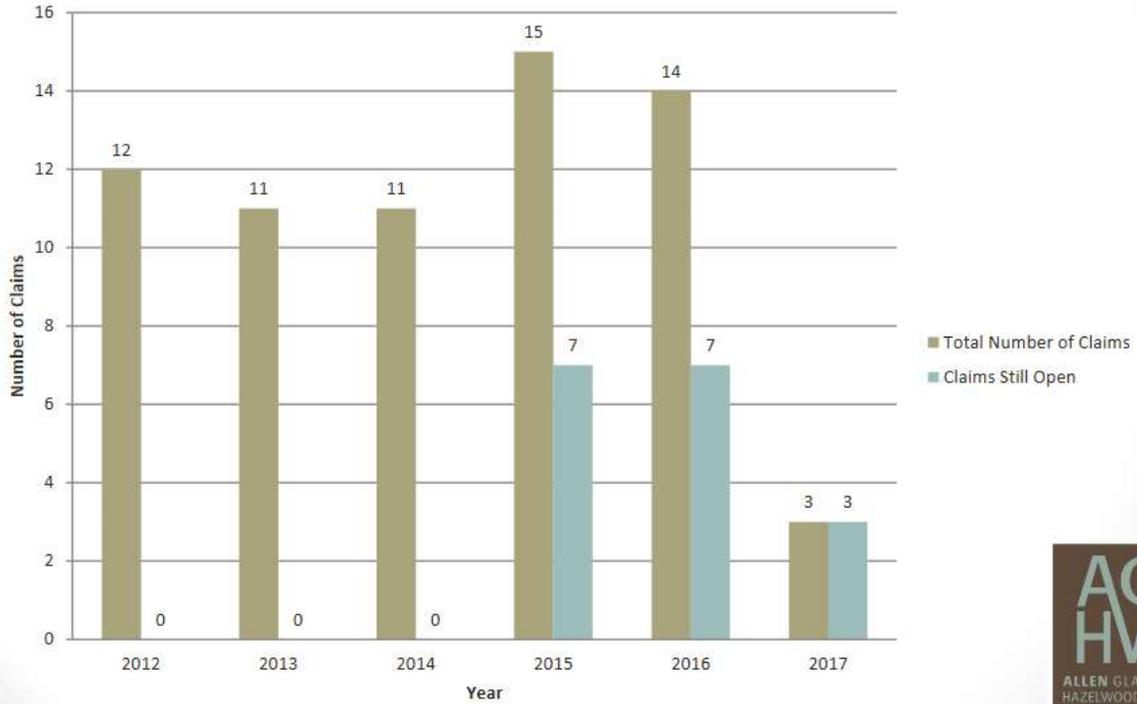


Figure 4 - Campaign mailer from 2000 Richmond election

In the last five years, the City of Richmond has typically been the recipient of about a dozen claims a year for sidewalk trip and fall injuries and paid out around \$10,000 in claims annually but incurred far larger legal costs, reaching more than \$80,000 in 2015, and the number of claims is trending upward.

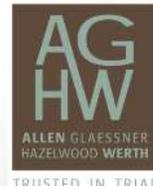
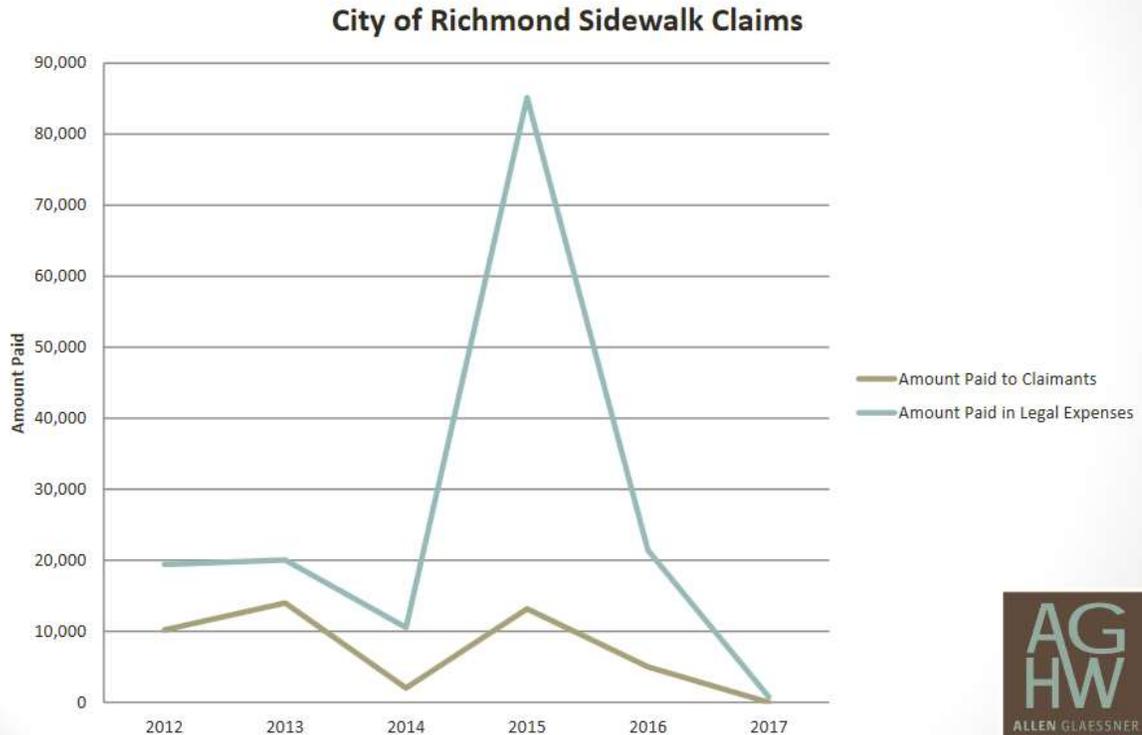
This does not include the cost of settlements from private property owners' insurance companies, which could easily exceed the City's costs.

### City of Richmond Sidewalk Claims



From presentation at Richmond City Council meeting July 27, 2017  
(<http://sireweb.ci.richmond.ca.us/sirepub/cache/2/ok5kh4vfqxzyaallzpxrzc0/49874706302017075837482.PDF>)

# Statistics



From presentation at Richmond City Council meeting July 27, 2017

<http://sireweb.ci.richmond.ca.us/sirepub/cache/2/ok5kh4vfqxzyaallzpxrzb0/49874706302017075837482.PDF>

The real question is whether the City of Richmond wants to try to manage the risk exposure from sidewalk-related injuries, and if so, how should it be paid for?

A City of Sacramento survey ([Audit of the City's Sidewalk Repair Process - City of Sacramento](#)) and the League of California Cities found that “pursuant to the authority of section 5610, the majority of cities in California have passed ordinances imposing the obligation for sidewalk repair on adjacent property owners.”

Some municipal governments have taken responsibility for sidewalk repair or share it with property owners, but it has not gone well. Cities are unable keep up with the demand, and the unfunded backlog grows exponentially. Politically, there is no going back. The Sacramento report notes:

Our survey found that local governments who take responsibility for sidewalk repairs have some of the largest repair budgets and backlogs. For example, the Los Angeles Times reported that the City of Los Angeles, who pays for all sidewalk repairs, recently increased its budget for sidewalk work to more than \$20 million, and currently has an estimated \$1.5 billion liability for unrepaired sidewalks<sup>3</sup>. Further, the County of Sacramento, who also accepts responsibility for sidewalk repairs, budgets approximately \$400,000 annually, yet estimates \$40 million in unrepaired sidewalks costs. The City of Long Beach budgets approximately \$3 million per year for sidewalk repairs, yet it still has a 12-year repair backlog. Without a significant increase in funding, these local governments' outstanding number of sidewalk repairs will likely continue to grow.

Once a local government assumes responsibility for sidewalk repairs, it is very difficult to reverse the decision. For example, the City of Los Angeles (Los Angeles) originally assumed responsibility in the 1970s when federal funding was available to repair sidewalks. After the federal funding ran out, Los Angeles attempted to reinstate property owner responsibility for sidewalk repairs; however, property owners objected and Los Angeles retained responsibility. More recently, in the fall of 2013 the City of Rancho Cordova (Rancho Cordova) attempted to change its practice of paying for sidewalk repairs and assign responsibility to property owners. At the City Council meeting where the change in policy was to be heard, Rancho Cordova experienced the largest number of public comments in its history. Citizens were frustrated with the proposed changes and pushed back. In the end, the City Council decided not to change Rancho Cordova's practice

Already, the City of Richmond is spending approximately \$345,000 per year for sidewalk repair, related to damage from street trees, and that is only a fraction of the repairs actually required. There are existing tip and fall hazards caused by street trees where claims have been made or even settled that are unrepaired – waiting for the next injury and resulting lawsuit.

In addition, the City is paying approximately \$470,000 annually for Americans with Disabilities Act (ADA) curb ramp installations as required from a lawsuit settlement several years ago, and this will continue indefinitely.

## Street Trees and Sidewalks

The City of Richmond has an unwritten practice of absorbing the cost for repair of sidewalks damaged by street trees, but that neither guarantees a street tree-damaged sidewalk will be repaired or that the property owner will be relieved of liability. Here is what the California League of Cities has to say ([http://www.cacities.org/Resources-Documents/Member-Engagement/Professional-Departments/City-Attorneys/Library/2014/Spring-Conf/5-2014-Spring-Gerald-Hicks-But-Its-Your-Sidewalk\\_S.aspx](http://www.cacities.org/Resources-Documents/Member-Engagement/Professional-Departments/City-Attorneys/Library/2014/Spring-Conf/5-2014-Spring-Gerald-Hicks-But-Its-Your-Sidewalk_S.aspx)):

Though there is a great deal of visceral appeal to the argument that an adjacent property owner should not bear responsibility to repair a sidewalk caused by a tree in the right of way when the property owner has no control over the tree's roots, the statutory language and the reported cases do not support this position.

Initially, it should be noted that section 5610 makes no distinction as to the cause of a damaged sidewalk in imposing a mandatory repair obligation on the adjacent property owner. Though not expressly addressing the issue, *Jones v. Deeter*(1984)152 Cal.App.3d 798, supports the proposition that the adjacent property owner is responsible where damage is caused by a tree located in the right-of-way. In *Jones*, the plaintiff was injured when she tripped on a break in the sidewalk caused by a Magnolia tree located in the "parkway."

The plaintiff brought suit against both the property owner and the city. The plaintiff appealed a judgment for the property owner. The Court, in affirming the judgment, held that while the property owner had a duty of repair, even though the sidewalk had been damaged by a tree in the right-of-way (parkway), liability could not be imposed against the property owner on this basis. "Under section 5610 the abutting owner bears the duty to repair defects in the sidewalk, regardless of whether he has created these defects. It was felt, however, that it would be unfair for such an owner to be held liable to travelers

injured as a result of sidewalk defects which were not of the owner's making." (Id. at 827, italics added.)

Thus, the case highlights the absolute nature of the repair obligation (even when caused by trees located in the right-of-way) by contrasting it with the absence of any liability exposure unless the defect is caused by the owner.

Putting aside the legal arguments, not all of the equities for imposing the cost of repair on adjacent property owners where damage is caused by a tree in the right of way are on the side of the property owner. While property owners may argue that they have no control over the direction of tree roots; neither does the city. In addition, city trees typically provide great benefits to homeowners and for many the presence of large trees is a factor in the purchase of their home. The trees are aesthetically pleasing and provide shade which cools the home and helps keep other vegetation alive. They also enhance the monetary value of the home. While obtaining these benefits, the homeowners do not incur the costs of maintaining the trees (such as watering, trimming or fertilizing) or suffer the potential of liability for injuries caused by the tree itself (falling limbs; low hanging branches; branches obscuring traffic signs or lights, etc.).

And...

Nine years after the passage of the predecessor to section 5610, the First Appellate District decided *Schaefer v. Lenahan* (1944)63 Cal.App. 2d 324 . Florence Schaeffer stepped in a hole in the sidewalk in front of property owned by J.W. Lenahan. Lenahan was notified by the City and County of San Francisco to repair the sidewalk but did not do so. The common law rule was that, in the absence of statute, the owner or occupant of premises abutting a public street had no duty to repair the sidewalk and consequently, no liability to those injured as a result of a defective sidewalk. Schaefer argued that the predecessor to section 5610 (as it existed in 1944) imposed a duty of repair and a violation of that duty gave rise to a cause of action for those injured by a defective sidewalk. The court rejected the argument, finding that the "obvious purpose of the statute was to provide a means of reimbursing the city for the cost of the repairs. To impose a wholly new duty upon the property owner in favor of third persons would require clear and unambiguous language." (Id. at p. 332.) The limitation on liability to third parties for a defective sidewalk is commonly referred to as the "Sidewalk Accident Decisions Doctrine." (*Contreras v. Anderson*(1997) 59 Cal.App.4th188, 195 fn.6.) As noted by Lenahan, a liability obligation may be imposed on property owners by "clear and ambiguous language." An ordinance with such language was approved by the Court in *Gonzales v. San Jose*(2004) 125 Cal.App.4th1127. The San Jose ordinance approved by Gonzales provides that if an abutting property owner fails to maintain a sidewalk in a non-dangerous condition and any person suffers injuries as a result, the property owner is responsible to the person for the resulting damage and injury. (*Gonzales, supra*, 125 Cal.App.4th at p.1134 citing San Jose Municipal Code §§ 14.16.220 and 14.16.2205.) However, it is important to note the limits of sidewalk liability ordinances. Because municipal liability for torts is a matter of statewide concern, such liability "may not be regulated by local ordinances inconsistent with state law as established by the Tort Claims Act." (*City of Ontario v. Superior Court*(1993) 12 Cal.App.4th894, 899-900 citing *Societa per Azioni de Navigazione Italia v. City of Los Angeles* (1982)31 Cal.3d 446, 463.)This precludes a city from absolving itself of liability but does allow concurrent liability of adjacent property owners. Sidewalk liability ordinances "provide[] an additional level of responsibility for the maintenance of safe sidewalks on the owners whose property is adjacent to and abuts the sidewalk." (*Gonzales, supra* at 1139.) "These owners are often in the best position to quickly identify and address potentially dangerous conditions that might occur on the sidewalks, as opposed to [the city]." (Id.) Moreover, as the Gonzales court noted, in order to fully protect its citizens, a city would have to have sidewalk inspectors circulating the city, day and night. (Id.)

From the above League of California Cities article, it appears that the courts support the property owner's obligation to maintain but, absent an ordinance like Richmond's that specifically places liability on the property owner, are not inclined to hold the property owner liable if damage by a tree root causes an injury. On the other hand, if an injured party sues both the property owner and the City, don't be surprised if the City cross complains against the property owner, requiring the property owner to hire an attorney and inform its insurance carrier. And don't be surprised if the insurance carrier decides to settle rather than fight. The property owner loses its deductible and maybe its insurance carrier. And, likely as not, the condition that caused the injury will never be repaired unless the property owner does it.



Figure 5 - This uplift of a little over an inch caused by a tree root resulted in a lawsuit that was settled by the abutting property owner's insurance company for \$80,000. The City of Richmond offered to contribute nothing.

There is also a strong case for making property owner's assume or share in the cost of damage related to street trees. Multiple studies show that street trees add substantial dollar value to private property. The City plants them at no cost to the property owner and provides some level of maintenance, such as pruning. The property owner gets a \$15,000 to \$20,000 bump in property values because street trees ([http://www.walkable.org/download/22\\_benefits.pdf](http://www.walkable.org/download/22_benefits.pdf)):

- Make the neighborhood more attractive
- Slow down traffic and make streets safer
- Reduce crime
- Improve business
- Reduce the need for drainage infrastructure
- Provide shade and protection from rain and wind
- Reduce pollution and improve air quality
- Lower temperatures

- Reduce blood pressure

A U.S. Forest Service sponsored study indicates that in California, there is a \$5.82 benefit returned for every \$1 spent on street trees (<https://www.treesearch.fs.fed.us/pubs/50951>), and that healthy, mature trees add an average of 10 percent to a property's value (<http://smartgrowth.org/value-street-trees/>).

## What about the Area between the Sidewalk and the Curb – and the Curb Itself?

According to court cases supporting the state law, the property owner has responsibility for all of it.

In *Jones v. Deeter* (1984) 152 Cal.App.3d 798, The Jones court defined “parkway” as the area “between the sidewalk and the public street.” Streets and Highways Code section 5600 defines “sidewalk” to include “a park or parking strip maintained in the area between the property line and the street line and also includes curbing, bulkheads, retaining walls or other works for the protection of any sidewalk or of any such park or parking strip.” This portion of the right of way is also sometimes referred to as a “mow strip.”

Does “maintenance” include weeding, mowing or planting in the parking strip? How about litter abatement? Or is it limited to maintaining it “in a safe condition?” Although unwritten, Code Enforcement in Richmond has a policy of holding “...property owners responsible for maintaining their planter strips. Overgrowth, blight and illegal dumping are all addressed.”



Figure 6 - Not an uncommon sight in Richmond is a pile of cast off furnishings and trash on a sidewalk and the parking strip.

Unfortunately, like sidewalk damage, there is no programmed inspection, so any enforcement is dependent solely on complaints.

We could clean up the City's image considerably and save a lot of money by holding abutting property owners responsible for:

- Mowing and weeding parking strips
- Repairing damaged curbs
- Removing litter from sidewalks and parking strips

## **Defective or Narrowed Sidewalks under the ADA and California Disability Access Laws**

Totally aside from trip and fall issues involving sidewalks, there are legal requirements for usable sidewalk width.

The California Building Code requires a new sidewalk to be minimum 48 inches wide but does not apply to existing sidewalks. Clear widths can be reduced to 36" if the 48" requirement creates a hazard, upon approval of the enforcing agency. On the other hand, The Americans with Disabilities Act (ADA) requires that walkways be a minimum of 36 inches wide.

The League of California Cities report addresses the ADA issue:

In 2002, in *Barden v. City of Sacramento* (9th Cir. 2002) 292 F.3d 1073, the Ninth Circuit, relying in large part on statutory and regulatory interpretation by the United States Department of Justice, determined that sidewalks constituted "programs" under the ADA. While the matter was pending in the United States Supreme Court on a writ of certiorari, the parties settled the case and conveyed this information to the Court. Certiorari was subsequently denied leaving the Ninth Circuit opinion intact. The legal effect of the decision was that because maintaining sidewalks was a "program" under the ADA and its implementing regulations, sidewalks needed to be made maintained to be immediately accessible.

According to the United States Solicitor General, interpreted the holding and the Title II regulations to "require only that the City's system of public sidewalks – when viewed "in its entirety" – be generally accessible to and usable by individuals with disabilities.

"Subsequent to the Barden decision, federal agencies, particularly the United States Access Board (the entity charged with creating public right of way guidelines) has taken the position in numerous publications, that sidewalks are "facilities."

This is also the conclusion reached by the Fifth Circuit in *Frame v. Arlington*, 657 F.3d 215 (5th Cir. 2011 – cert denied 2012). The drift from sidewalks as "programs" to sidewalks as "facilities" is notable. Under the ADA, "programs" must be made immediately accessible; conversely, "facilities" are subject to a new construction/alteration standard – in essence meaning that only newly constructed or altered sidewalks must be made "accessible." This is also the framework adopted by the ADA draft Public Right of Way Guidelines. Though cities within the Ninth Circuit remain subject to the Barden decision, the Frame decision, as well as the position taken by federal agencies, may form the basis for a reexamination of the Barden decision. Of course, it is important to recognize that California law has required that new constructed sidewalks, whether constructed using private or public funds, have been required to be

accessible since 1971. (Government Code section 4450 and Health and Safety Code section 19956.5). Presumably, this has somewhat softened the impact of the 2003 Barden holding.

The City of Richmond continues to pay approximately \$470,000 to add or improve curb ramps pursuant to an ADA lawsuit settlement several years ago.

## Vehicles Blocking Sidewalks

While some sidewalks in Richmond are constrained in width by utility poles or sign poles, or exceed the ADA maximum cross slope because of driveway cuts, the most common restriction is due to vehicles parked in such a way as to block or partially block a sidewalk. This is not only a hazard as well as an inconvenience to people in wheelchairs, it also affects people using strollers and can force pedestrians to divert to the street just to get by.

Like street trees, sidewalks add considerable value to private property and make a community healthier. The AARP lists some of the benefits of sidewalks

(<http://www.aarp.org/content/dam/aarp/livable-communities/documents-2014/Livability%20Fact%20Sheets/Sidewalks-Fact-Sheet.pdf>):

1. Eight in 10 Americans prefer being in a community that offers sidewalks and good places to walk. Six in 10 prefer a neighborhood that features a mix of houses, shops and services within an easy walk versus a neighborhood that requires a car for every errand.
2. People who live in neighborhoods with sidewalks are 47 percent more likely than residents of areas without sidewalks to be active at least 39 minutes a day.
3. Sidewalks play a vital role in community life. As conduits for pedestrian movement and access, they enhance connectivity and promote walking. As public spaces, sidewalks are the front steps to the community, activating streets socially and economically. Safe, accessible, well-maintained sidewalks are a fundamental community investment that enhances public health and maximizes social capital.
4. Sidewalks increase foot traffic in retail centers, delivering the customers that local shops and restaurants need in order to thrive. Retail properties with a Walk Score ranking of 80 out of 100 were valued 54 percent higher than those with a Walk Score of 20 and had an increase in net operating income of 42 percent.
5. Interest in sidewalks is so keen that they've become a factor in home prices. For example, in a scenario where two houses are nearly identical, the one with a five-foot-wide sidewalk and two street trees not only sells for \$4,000 to \$34,000 more but it also sells in less time.
6. A well-constructed sidewalk for a typical 50-foot-wide residential property might cost a builder \$2,000, but it can return 15 times that investment in resale value. According to a 2009 CEOs for Cities report, even a one-point increase in a community's Walk Score could increase home values by \$700 to \$3,000.

But if you can't use a sidewalk, those benefits fail to accrue. Parking vehicles on sidewalks in Richmond is endemic, and although it is a violation of the law, it is rarely, if ever, enforced.



Figure 7 - Cars parked in such a way as to totally block a sidewalk.



Figure 8 - Cars blocking sidewalks



Figure 9 - Car blocking sidewalk



Figure 10 - A common practice in Richmond is parking cars with two wheels in the street and two wheels over the curb, often blocking sidewalks.

The following Richmond Municipal Code sections address parking on sidewalks, parking strips and front yards:

14.32.040 - Riding or driving on *sidewalk* or parkway.

No person shall ride, drive, propel or cause to be propelled any vehicle across or upon any *sidewalk* or parkway except over permanently constructed driveways and excepting when it is necessary for any temporary purpose to drive a loaded vehicle across a *sidewalk* or parkway; provided further, that said *sidewalk* or parkway area be

substantially protected by wooden planks at least two inches thick, and written permission be previously obtained from the Director of Public Works. Such wooden planks shall not be permitted to remain upon such *sidewalk* or parkway area during the hours from six p.m. to six a.m.



Figure 11 - Businesses such as body shops that provide automobile service are particularly prone to parking customers' cars on the adjacent streets, often blocking sidewalks or partially on parking strips.

#### 12.36.161 - *Parking strip.*

It is unlawful to place loose rock, decorative stones or pebbles, bark, asphalt or any other surfacing not specified hereafter in any strip of land used and maintained for *parking between any property line and street*. It is lawful to pave with concrete, brick, or exposed aggregate concrete in such a *parking strip* by first obtaining a permit from the director of public works.

In any of the above-mentioned situations, the director of public works may require that planting areas be left in the *parking strip* for the planting of street trees and may require the planting of such trees as a condition of such permit.

#### 12.36.160 - Removal of obstructions.

Every owner of real property in the City of Richmond shall keep the entire width of the sidewalks in front of such property from curb to lot line, free and clear of all weeds, rubbish, debris, or other obstructions, excepting obstructions permitted by law, which from any cause whatever shall have accumulated or may accumulate upon the sidewalk above the established grade of the same.

The director of public works may order the weeds, rubbish, debris, obstructions or materials to be removed within two weeks after written notice is given, and in the event

same is not removed within the time prescribed by the director of public works, the director of public works may cause the same to be removed and the cost of the same shall be a lien on the property.

7.76.230 - Yard and access requirements.

The following yard and access requirements apply to all lots:

(a) Yard Requirements, General. Each lot shall have a front yard of not less than ten feet and a side and rear yard of not less than three feet. The front yard so required shall not be used for vehicle *parking*, except such portion thereof as is devoted to an accessway. There shall be a minimum distance of fifteen feet between mobilehomes.

(b) Access. When used for access to a *parking* facility, a side yard shall be wide enough for a ten-foot-wide unobstructed accessway. All such accessways shall be paved with portland cement or asphaltic concrete.

## Best Practices

On June 27, 2017, the Richmond City Council received a presentation on the City of Richmond Sidewalk Inspection and Repair Program<sup>2</sup> from Mark Hazelwood and Kimberly Chin from the law firm Allen Glaessner Hazelwood Werth (AGHW), who concluded with a recommendation for best practices for sidewalk inspection and maintenance:<sup>3</sup>

- Develop a written policy and adopt policy
- Develop an inspection procedure/schedule
- Prioritize repair and replacement
- Provide notice to owners and follow up
- Develop cost - recovery mechanisms
- Respond to resident hazard reports
- Document completion of repairs

## Conclusion

Safe, clean and accessible sidewalks are both a valuable amenity and a functional necessity. The City of Richmond has both an economic self-interest interest and a duty to maintain its sidewalks.

State law provides an effective but unpopular funding mechanism for sidewalk repair. There will be pressure from property owners not to utilize it, but the City has no other source of revenue to implement an effective maintenance program.

Perhaps the most direct method of funding City-wide inspections would be a fee assessed to each parcel. However, it would probably be wildly unpopular.

Consider the following to soften the impact:

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<sup>2</sup> <http://sireweb.ci.richmond.ca.us/sirepub/cache/2/5fluciaerg01o4rr3b1izhbo/49874707022017054637595.PDF>

<sup>3</sup> <http://sireweb.ci.richmond.ca.us/sirepub/cache/2/5fluciaerg01o4rr3b1izhbo/49874707022017054637595.PDF>

- Provide a waiver for low income homeowners where the City pays the cost from a revolving fund that is replenished on sale of the property.
- Instead of the City paying the entire cost of street tree damaged sidewalks, split the cost with the property owner.
- SB-1 funds can be used for sidewalks. This is a new revenue source that will not take money from existing programs.

In addition to the best practice listed above, consider the following:

- Require inspection and repair of sidewalks on sale of any property, similar to the requirement for inspection and repair of a sewer lateral.
- Require inspection and repair of sidewalks abutting a rental property any time there is a change in tenants. If the property is subject to rent control, presumably the owner can recover and amortize the costs through increased rent.
- Set up a City web page dedicated to all things related to sidewalks, parking strips and curbs.
- Provide a list of local contractors who can make sidewalk repairs. They can also handle any permits.
- Provide free permits for owner-initiated sidewalk repairs.
- Provide an alternative to owner-initiated sidewalk repairs whereby the City will aggregate requests by owners for repairs and engage a contractor to make multiple repairs, thus taking advantage of economies of scale.
- Prepare a comprehensive guide describing in detail the City's sidewalk maintenance program.<sup>4</sup>
- Prepare a guide for repairing sidewalks with damage caused by tree roots so that the repair will not endanger the tree.
- Implement a public information program to be disseminated by KCRT, social media, newsletters and brochures informing property owners about the value of sidewalks and street trees and the City's maintenance program.

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<sup>4</sup> The City of Portland has a comprehensive sidewalk repair guide that includes procedures related to three roots -- <https://www.portlandoregon.gov/transportation/article/443054>. Other guides include <http://www.pottstowntrees.org/pdf/2014-4-19-Trees-and-sidewalks.pdf> and <https://www.bartlett.com/resources/Sidewalk-Repair-Near-Trees.pdf>.