

Manager/Supervisor Risk Management

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A twice weekly e-mail training for YCPARMIA members

TOPIC: DANGEROUS CONDITION OF PUBLIC PROPERTY

A trip and fall on a sidewalk. A tree limb falls on a parked car. A tree limb obstructs a stop sign resulting in a collision. All of these are accidents that might have been caused by a “dangerous condition of public property.” Section 835 of the California Government Code provides the basis for what amounts to premises liability against a public entity. Dangerous condition claims are probably the most common type of liability claim made against YCPARMIA members.

The GC lays out the elements that must be proven to establish liability:

- The public property was in a dangerous condition at the time of the injury;
- The injury to the claimant was proximately caused by the dangerous condition;
- The kind of injury that occurred was reasonably foreseeable as a consequence of the dangerous condition;
- Either:
 - The dangerous condition was created by a public employee’s negligent or wrongful act within their scope of employment, or
 - The entity had actual or constructive notice of the condition for a sufficient time before the injury occurred to have taken reasonable measures to prevent the injury.

When reviewing the elements it is obvious that the meaning of the term “dangerous condition” is essential to understanding the elements. The GC defines a dangerous condition as “a condition of property that creates a substantial (as distinguished from a minor, trivial, or insignificant) risk of injury when such property or adjacent property is used with due care in a manner in which it is reasonably foreseeable to be used.”

All of the elements must be satisfied to create liability and allow the claimant to recover resulting damages. If the entity can defeat any one of these elements there is no liability. To avoid or defend these claims it is not really important for the supervisor to memorize or understand all of the elements. It is enough that certain crucial elements be recognized – the ones that are most commonly used to defend dangerous condition claims.

Over the next few topics we will take a quick look at the definition and elements from a defense perspective, and then will move to a more detailed look at the “notice” element.

Next topic: Dangerous Condition – a closer look at the definition.