

Please please on next council agenda that you
September 20, 2005
Roger Wright

When the city accepts an easement from a property owner the city accepts the duty enjoined for maintaining said easement in a serviceable condition for the use the easement was called into existence for.

These are some of the facts:

1. No use that blocks or obstructs the easement can be allowed on the easement. Rodriguez v. Los Angeles 171 Cal. App, 761
2. Failure to maintain unimproved sidewalks in a safe condition creates dollar liability on the city such as it did in San Diego.
3. Refusal to prevent or remove the blockage of sidewalks by illegally constructed obstructions creates city liability if someone is injured or killed.

51 Cal. 2d 127 at page 129 states:

- (1) "The rule is that an abutting landowner may be held liable for the dangerous condition of portions of the public sidewalk which have been altered or constructed for the benefit of his property and which serve a use independent of and apart from the ordinary and accustomed use for which sidewalks are designed";
- (2) "The duty to maintain portions of a sidewalk which have *130 been altered for the benefit of the property runs with the land, and a property owner cannot avoid liability on the ground that condition was created by or at the request of his predecessors in title";
- (3a) (3) "The city is under duty to keep sidewalks in safe condition, it is directly liable to pedestrians for failing to correct a dangerous condition of which it had notice, and it is not relieved of its responsibility in this regard merely because the condition was created or maintained by a property owner who might also be liable to pedestrians for injuries resulting therefrom";
- (4) (4) "With regard to persons who are injured by such a condition, the city and the landowner are joint or concurrent tort feasons; each is directly liable for his wrong and each may be held liable for the entire damages suffered." (Emphasis added; Peters v. City & County of San Francisco, 41 Cal. 2d 419, 423, 429 [260 P.2d 5551, and cases there cited.]



The Hermosa Beach City Council is on notice for and is doing what to correct said situations? Is the due care mandated being exercised at all? How much is the insurance

limit per occurrence that covers the taxpayers of Hermosa Beach for a Santa Monica Farmer's Market disaster on the Hermosa Beach City Plaza?

When any injury occurs on an easement that the city is renting an adjacent property owner to use for the accomplishing of his own business, (as the plaza is used), is the city a wrong-doer as listed in *San Francisco v Ho Sing* 51 Cal. 2nd 127 at page 134?

In 4 Dillon, Municipal Corporations, fifth addition, section 1728, page 3032, it is said: If a municipal corporation be held liable for damages sustained in consequence of the unsafe condition of the sidewalks or streets, it has a remedy over against the person by whose wrongful act or conduct the sidewalk or street was rendered unsafe, unless the corporation was itself a wrong-doer, as between itself and the author of the nuisance.

4. Sidewalk is defined as the side area reserved for pedestrian travel.

The city council needs to protect itself from liability as well as the city by removing structures from the sides of streets that are used by pedestrians for pedestrian travel. The city council must understand that the present policy that calls for a 3 to 4 foot wide sidewalk that leaves power poles, light poles, and fire hydrants blocking sidewalks to the point a baby stroller must use vehicle traffic lanes to pass creates liability on the city and its officers.

When Jack Wood told me the city was going to cover the parkway and move the utilities under the streets I asked if the fire hydrants were going to be underground as they would block the sidewalk for baby strollers when the parkway becomes the sidewalk. He said once the cities policy of paving the parkways started the city would start the underground program. That would be done by assessing the property owners instead of the utility company. The cost of the utility grids would be paid by the property owner instead of the utility companies paying the cost of all the new equipment the utility company will own.

In 1960 it was said the water company needed to increase much of the city's water mains from 2" to 6" and 8" to provide better fire protection. There was a lot of talk of a citywide assessment for the upgrade. Valentine brought forth the fact that the city could take over the water companies' duty in Hermosa Beach for the purpose of maintaining sufficient fire suppression services. When the water company heard of the city's interest in taking over the water service the water company installed all new lines at no cost to Hermosa Beach.

Also a number of years ago it was believed that the electrical service was under structured and the power grid needed to be upgraded. I believe an upgrade was started at no cost to the city or its residents when the power lines were underground from 2nd Street and Beach Drive south to the city limit.

Back to the sidewalks being blocked because the city council's program of paving parkways and allowing people to build in the parkways that has obstructed sidewalks to pedestrians (baby strollers) which is the very use the city accepted the easement to be used for.

Is the city creating liability by allowing private parties to place structures in the easement for pedestrians to injure themselves on such as in Venice where the City of Los Angeles got tagged big time.

In *Rodriquez v. Los Angeles* 171 Cal. App. 761 the city allowed a property owner to keep a fence on the easement encompassing part of the easement (sidewalk) for the property owners own use. Some ice plant grew through the fence onto the improved sidewalk. Rodriquez stepped on the ice plant growing through the fence he slipped injuring himself and the city of Los Angeles paid.

Are the council members creating personal liability for their selves as well as the taxpayers in this self-insured city by failing to perform the duty enjoined? That duty being to keep the sidewalks clear of obstruction for pedestrian travel. Is the city council continuing to fail to exercise due care by allowing the following 3 situations to continue?

1. Continuing to fail to exercise the required due care to keep sidewalks clear for pedestrians
2. Mandating sidewalks to be built with pedestrian obstruction therein or thereon by mandating paved sidewalks only be 4' 6" behind curb face of pavement.
3. Mandating sidewalks that were constructed with obstructions therein and thereon to continue to exist in a manner that force pedestrians (baby strollers) to use vehicle lanes is nothing other than a design for financial ruin for the city as well as its officers.

Victor v. Hedces 77 Cal. App. 4th 299, A ruling that states the City of Hermosa Beach has responsibility for safe sidewalks and streets. This is a big case that took place in Hermosa Beach.

A handwritten signature in black ink, appearing to read "Roger C. [unclear]". The signature is written in a cursive style and is positioned in the lower right quadrant of the page.