

What you need to know for storm season

by Gordy Van

After an incredible summer, fall has arrived and with it come the storm-related issues we confront on an annual basis. The claims department sees a variety of claims ranging from damage from trees and branches to water damage to property.

Regarding tree damage, we frequently see the assertion that because it is the city's tree, the city is therefore liable for any resulting damage. We have had tree damage claims ranging in severity from vehicle damage, to roof damage and even injuries and fatalities to pedestrians struck by trees or debris. According to the case of *Lewis v. Krussell 101Wn.App.178*, an owner or occupier of land located in or adjacent to an urban or residential area and on which trees are growing does not have a duty to take corrective action to protect adjacent land from the danger of falling trees absent actual or constructive knowledge that the trees are defective or that an alteration to a natural condition on the land creates a hazard to the adjacent property. The key here is notice. If the city has knowledge of a dangerous or diseased tree, the dangerous condition must be corrected within a reasonable amount of time, or liability may attach. Department comments addressing the condition of the tree prior to the loss, and whether the city had any knowledge of a defective or dangerous condition assist us in our investigation. Photos are also very helpful.

Every year we see water damage claims resulting from clogged catch basins. When leaves begin falling, catch basins may become clogged, especially following a windstorm that causes a greater than normal amount of leaves to fall. If the city reasonably inspects and maintains catch basins, we have a good defense to claims that result following a clogged catch basin claim. Keeping records of inspections and maintenance is crucial to defending against storm water claims. If the city has knowledge of a catch basin that frequently clogs, it is a good idea to place it on a more frequent inspection schedule. As is the case with dangerous trees, if the city has knowledge of a clogged storm water drain, it must clear it within a reasonable time or liability may attach.

We also see claims resulting from storm water systems that are simply overwhelmed by the increased rainfall that may accompany a storm. The city is not liable for insufficient capacity if the storm water system is properly designed, constructed and maintained. Once again, the city does have the duty to maintain the system to ensure it is performing as designed, so maintenance records are extremely important. If the city has knowledge of flooding to properties, please let us know as soon as possible so that we can assign an adjuster to investigate. Photos and rainfall measurements are also very helpful.

Although it is unfortunate when citizens sustain storm related damage through no fault of their own, the city is not liable for acts of nature over which they have no control. Here's to hoping this storm season is a mild one!