

Sidewalk risks - keeping the conversation going

By Kayla Countryman

Many of you attended Senior Claims Adjuster Jessica Dedman and Senior Risk Management Representative Drew Brien's March training on sidewalk-related risks - a critical topic given the 84% surge in claims and rising settlement amounts. Below is a summary of key points and actionable steps to recap and continue the conversation.

Shared Responsibility for Sidewalk Safety

While municipalities have a legal duty to ensure sidewalks are reasonably safe, local ordinances often delegate maintenance to abutting property owners. It is important to understand this does not fully transfer liability away from cities. Municipalities retain responsibility to address hazards, even after notifying property owners.

For example, one member's proactive program identifies hazards and notifies property owners, which is a great first step. However, they must still follow up to confirm repairs are made. If the property owner fails to act, the city should intervene to fix the hazard. The city may consider amending code to allow for billing the homeowner for the cost of the fix if they fail to do so.

Constructive Notice and Proactive Measures

Lack of formal complaints does not always shield cities from liability. If a hazard exists long enough to be visible (e.g., via Google Maps history), courts may deem the city "should have known," especially since routine city work (street sweeping, etc.) brings crews near sidewalks regularly. Remind staff to stay vigilant and alert other departments when they see issues in the city.

Practical Action Items

While large-scale inspection programs may be cost-prohibitive, a few simple steps can mitigate risk:

1. **Mark hazards immediately** with bright spray paint when identified.
2. **Notify the adjacent homeowner** if your city code makes them responsible and keep evidence that you did so.
3. **Document and schedule repairs** systematically. This creates evidence of due diligence and shifts some contributory negligence to pedestrians who ignore clearly marked hazards, potentially reducing settlement exposure.

Let's continue prioritizing these manageable, high-impact practices to address this growing and costly claim trend. Keep a look out for WCIA's next "Splash of Risk" training on drafting and utilizing effective liability waivers on May 20!