

City Is Not Liable in Inverse Condemnation for Damages Caused by a Fallen Street Tree

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RWG lawyers have prevailed for the City of Pasadena in an important, first of its kind, inverse condemnation case. In a **published decision** issued yesterday, the California Court of Appeal held the City was not liable for extensive damage to a home that occurred when a street tree was blown down during a hurricane-force windstorm in 2011. The City's appeal followed the trial of an inverse condemnation action in which the homeowner's insurer, Mercury, had prevailed against the City, claiming the City was liable because the street tree was a "work of public improvement."

Mercury's insureds' residence was extensively damaged when a 100 foot tall street tree fell on their house during a windstorm in which wind speeds reached over 100 m.p.h. There was no evidence who planted the street tree originally, although the City had maintained it and other nearby street trees during the course of its urban forest maintenance. The trial court found that the street tree was a "work of public improvement," and held the City liable for \$800,000 in damages, plus \$329,170 attorneys' fees and costs.

In a lengthy opinion, the Court of Appeal reversed and ordered the trial court to enter judgment in the City's favor. The decision rests upon the Court's single conclusion that the street tree that fell was not a work of public improvement because "there was no evidence it was planted as part of a planned project or design serving a public purpose or use." Important for all cities, the court further concluded that "the City's tree maintenance plan . . . does not subject the City to liability for an inverse condemnation claim because no evidence was presented that the plan was deficient."

The case is a significant victory for the City, with potentially far-reaching benefit for other public entities that maintain extensive street tree inventories and urban forests. The case demonstrates the importance of establishing and following street tree maintenance programs, and keeping detailed records of that work.

RWG attorneys Robert C. Ceccon, Saskia Asamura, T. Peter Pierce, and Stephanie Cao represented the City of Pasadena.

For more information on City liability and inverse condemnation issues, contact **Robert C. Ceccon**.