

SIDEWALK REPAIR ISSUES
SONC Government Affairs Committee
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In Los Angeles, it is estimated that approximately 40 percent of the sidewalk network (or roughly 4,600 miles) requires repair which could cost upwards of \$1.5 billion. Up to 90% of the damage may be caused by roots from trees planted in the public parkway by the City or developers. Since 1974 the City has assumed responsibility for repairing sidewalk damage caused by tree roots but has failed to keep pace with the necessary repairs. Currently, the City Council is reviewing various proposals that would shift responsibility for all sidewalk repairs back to property owners and add the requirement to effect repairs before a property could be sold (“Point of Sale”). In most cases, however, property owners have not planted the offending trees and are not permitted to remove them or prune their roots to prevent sidewalk damage.

BACKGROUND

The State of California Improvement Act of 1911 provides cities the authority to require property owners to effect repairs to sidewalks abutting their property (California Streets and Highways Code.). Should the property owner fail to effect such repairs, the City is authorized to make the repairs and assess the property owner for the cost.

In 1973, Federal funds became available to make sidewalk repairs at no cost to the property owner and the City amended the Los Angeles Municipal Code (Section 62.104, Ordinance No. 146.040 effective July 3, 1974) to exempt homeowners from the responsibility for sidewalk repairs *caused by tree root damage* and placed responsibility for these repairs with the City's Department of Public Works.

By 1976, Federal funds were exhausted and from 1976 through 1979, no funds were provided for City sidewalk repair. In 1980, the City initiated a pilot program to reinstate the 1911 Act sidewalk repair policy, but the program was halted due to opposition from property owners having to pay for repairs to sidewalks that had been neglected by the City. In 1998, Council placed Proposition JJ on the ballot which would have provided a bond for \$550 million over 20 years for construction of ADA mandated curb ramps as well as the repair of City sidewalks. The ballot measure was defeated by the voters and it was not until Fiscal Year (FY) 1999-2000 that the Mayor and Council allocated the first funding for permanent sidewalk repairs in nearly 25 years.

City funding was provided to the BOSS for sidewalk repair ranging from 26 to 98 miles per year. However it is estimated that as much as 4,600 miles of the City's sidewalks required some repair costing upwards of \$1.5 billion. In 2005, the City initiated a voluntary 50/50 Program in which the property owner and the City could equally share the cost of sidewalk repairs. Although the Program had been a success, it, alone, could not begin to address the backlog of damaged sidewalks. Funding for the 50/50 Program was eliminated in 2010. While the BOSS has experimented with less costly sidewalk rehabilitation methods to help mitigate the problem, such as grinding and sawcutting, ramping, meandering and narrowing around tree roots, the magnitude of the problem has

not been reduced. Additionally, because of the hazards posed by these broken sidewalks, the City pays out approximately \$2 to \$4 million per year in injury settlements.

A Council Motion (Parks-Smith) was introduced in September of 2005, instructing BSS to develop recommendations for implementing a point-of-sale plan for fixing sidewalks, whereby damaged sidewalks would be required to be certified as safe before escrow closed on a property transaction; effectively shifting the cost of repairs due to tree root damage back to individual property owners. The Council and its committees debated various proposals but failed to reach a consensus for definitive action.

Momentum was re-ignited with the adopted City Budget for fiscal year 09-10, which called for the implementation of a point-of-sale program. Subsequently, the City Attorney submitted a draft Ordinance which would repeal the tree root growth exception, effectively eliminating City responsibility for repair of curbs, driveways and sidewalks damaged by any cause, including tree root growth, and requiring adjoining property owners to commence the work of repair of sidewalks within ninety (90) days of a Notice to Repair.

Recently, the Bureau of Street Services acknowledged that they have not been able to locate any back up information to validate the sidewalk damage and repair cost estimates that have been cited throughout the review process. In addition, there is no qualitative information available with regard to specific types and respective quantities of substandard conditions. BOSS has, therefore, recommended conducting a detailed survey to evaluate and catalogue all City sidewalks and parkways for condition, proximity, causes of damage and physical description prior to Council action. This comprehensive survey is estimated to take approximately three years to complete. The cost estimate for conducting the survey is expected to be completed within the next 90 days but could cost as much as \$10 million.

PROPOSALS

Over the past seven years, various proposals have been suggested to deal with the City's sidewalk repair problem, including the aforementioned point-of-sale program. A number of those proposals are briefly listed below.

1. Citywide Bond

A Citywide bond would create an indebtedness to fund the sidewalk repairs (bond development costs must be absorbed by the City). However, repayment of the bond and interest would require raising taxes or cutting funds from other areas of the budget. The bond would need 2/3 voter approval. The bond development phase would take at least one year.

2. Assessment District(s)

Property owners within the City can form an assessment district to repair their sidewalks. These districts do not require contiguous properties and the districts can be of any size. However, should property owners vote and fail to approve the assessment; the City is at risk for the considerable time, effort and expenses expended to propose the district. Besides the assessment district formation costs, the ongoing administrative costs are approximately 20% of the assessment amount. The Bureau of Engineering has resources

to process only a few small districts each year so the formation of a large Assessment District or a large number of smaller Assessment Districts would require significant additional resources to develop and bring forward for a public vote and, if approved, require more resources to administer the Program over an extended period. After a staff and/or consultant team is fully on board, it is expected to take one year to produce an Assessment District proposal ready for a vote.

3. Point of Service

When utility service is requested, the property owner must first obtain verification from BSS that the sidewalk is compliant. If repairs are needed, the property owner must complete them and obtain the verification prior to the utility activating the service. BOSS will require staffing to administer and perform the verifications. The pace of sidewalk improvements may be slow and inconsistent since it is directly related to the rate utilities are constructed or activated.

4. Point of Permit

When a permit with a valuation of \$20,000 or more (or other established threshold) is sought, the property owner must first obtain verification from BOSS that the sidewalk is compliant. If repairs are needed, the property owner must complete them and obtain the verification prior to having the permit closed. BSS would require staffing to administer and perform the verifications. The Department of Building and Safety may also require additional resources for this option to be implemented. The pace of sidewalk improvements may be slow and inconsistent since it is directly related to the rate permits are sought.

5. Repeal the Limited Exception and Enforce 1911 Act through Citations

Adopt the City Attorney's proposed ordinance repealing the exception for tree root damage and shift responsibility for all sidewalk repairs back to property owners. BOSS investigators would inspect sidewalks and cite property owners, directing that repairs be started within ninety days. The policy could be enforced citywide, only along major streets and in business districts, only when a complaint is made, only where a claim or lawsuit is filed, etc. With any enforcement model, the City would need to identify how it would address property owners who fail to comply with the citation as well as how to aid property owners with a financial hardship.

6. Some Combination of Above Proposals

The above proposals could be implement in combination with each other or in combination with an expanded 50/50 Program.

For further information and documentation, see the Council files on this issue at <http://cityclerk.lacity.org/lacityclerkconnect/index.cfm?fa=ccfi.viewrecord&cfnumber=05-1853> (CF: 05-1853) and <http://cityclerk.lacity.org/lacityclerkconnect/index.cfm?fa=ccfi.viewrecord&cfnumber=05-1853-S1> (CF: 05-1853-S1).