



Bickmore Risk Services

May 18, 2011

Ms. Penelope Leach
City of Albany
1000 San Pablo Avenue
Albany, CA 94706

Subject: Dartmouth Tot Lot – Potential Liability Risks

Dear Ms. Leach:

This is to confirm our recent telephone conversations regarding potential liability risks associated with the Dartmouth Tot Lot, a mini park located at Dartmouth Street and Talbot Avenue. The park is described on the City of Albany website as a mini park designed for tots, with a play structure, picnic table and fun recycling wall. In addition to the website photograph, you have provided twelve additional photographs for our review and comment on potential liability risks. From a risk control standpoint, I have the following observations:

Playground Surfacing

The tot lot is primarily sand (loose-fill surfacing) with a concrete sidewalk on the lot perimeter and rubber tiles in the landing area of some equipment. The sand on the rubber surface creates a slip and fall hazard (see attached photos). The city is considering removing most of the loose-fill sand surfacing and replacing it with a unitary surfacing material such as rubber mats or tiles. This would control the slip and fall exposure, as well as allow the city to conform to ADA accessibility guidelines per ADA consultant recommendations.

In addition, playground surfacing under equipment is one of the most important considerations in the prevention of head injuries from falls from play structures. The Consumer Product Safety Commission, Public Playground Safety Handbook, provides recommendations concerning playground surfacing and the critical height rating requirements. In Section 2.4.2 of the handbook,

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Selecting a Surfacing Material, it is recommended that loose-fill surfacing (e.g. sand) be avoided for playgrounds intended for toddlers.

Based on the liability concerns outlined, it would be prudent to replace as much of the sand as possible in areas adjacent to rubber walkways and play structures.

Community Toy Recycling

Local residents have established the park as a community toy recycling venue. The photographs provided show various toys brought to the park where they remain until a neighbor wishes to bring the toy home for their own use. This creates a potential liability exposure for the city for the following reasons:

- Damaged or broken toys may cause injury to a child at the park
- Toys brought to the park may not be appropriate for the toddler age group
- Toys may remain unclaimed and deteriorate over time on the park premises

It is recommended that the community toy recycling efforts be redirected to a more appropriate venue, such as an existing community recycling event, to control this exposure.

Please feel free to contact me if there are additional questions or concerns regarding potential liability exposures related to the Dartmouth Tot Lot.

Sincerely,

Carol M. Barake
BCJPIA Risk Control Manager
Bickmore Risk Services