

§ 5610. Duty of property owners: Liability for conditions created by grantees of city permits, etc.

The owners of lots or portions of lots fronting on any portion of a public street or place when that street or place is improved or if and when the area between the property line of the adjacent property and the street line is maintained as a park or parking strip, shall maintain any sidewalk in such condition that the sidewalk will not endanger persons or property and maintain it in a condition which will not interfere with the public convenience in the use of those works or areas save and except as to those conditions created or maintained in, upon, along, or in connection with such sidewalk by any person other than the owner, under and by virtue of any permit or right granted to him by law or by the city authorities in charge thereof, and such persons shall be under a like duty in relation thereto.

Added Stats 1941 ch 79 § 1.

Prior Law: Stats 1911 ch 397 § 31 1st sent p 747, as amended by Stats 1935 ch 771 § 2 p 2148, Stats 1939 ch 508 § 1 p 1886.

Collateral References:

Within Summary (8th ed) p 2842.

37 Cal Jur 3d Highways and Streets § 40.

39 Am Jur 2d Highways, Streets, and Bridges §§ 77, 78, 361, 366, 367, 501.

Annotations:

Liability of abutting owner or occupant for condition of sidewalk. 88 ALR2d 331.

NOTES OF DECISIONS

In absence of statute, there is no common-law duty resting on owner or occupant of premises abutting on public street to keep sidewalk in repair, and he is not liable to travelers injured from defects in sidewalk which were not created by him. *Schaefer v Lenahan* (1944) 63 CA2d 324, 146 P2d 929.

Purpose of this act is to provide means of reimbursing municipality for cost of repairs of sidewalk, not to transfer primary duty of repair to property owners nor to relieve municipality from that responsibility. *Schaefer v Lenahan* (1944) 63 CA2d 324, 146 P2d 929.

This act does not impose liability on abutting owners for injuries received by travelers from defective sidewalks. *Schaefer v Lenahan* (1944) 63 CA2d 324, 146 P2d 929.

Extent of liability created by this act is to pay for repairs, not to pay damages to an individual, nor to reimburse city if it is compelled to pay such damages. *Schaefer v Lenahan* (1944) 63 CA2d 324, 146 P2d 929.

Duty to maintain portions of sidewalk which have been altered for benefit of abutting property runs with land, and property owner cannot avoid liability

on ground that condition was created by, or at request of, his predecessors in title. *San Francisco v Ho Sing* (1958) 51 C2d 127, 330 P2d 802.

Abutting landowner may be held liable for dangerous condition of portions of public sidewalk which had been altered or constructed for benefit of his property and which served use independent of, and apart from, ordinary and accustomed use for which such sidewalks are designed. *San Francisco v Ho Sing* (1958) 51 C2d 127, 330 P2d 802.

Where adjoining property owner for exclusive benefit of his own property places in public street or sidewalk some artificial structure and city is

compelled to pay compensation and damages to member of public injured thereby, city has right to recover amount so paid from property owner by way of indemnity. *San Francisco v Ho Sing* (1958) 51 C2d 127, 330 P2d 802.

With regard to persons who are injured by defective condition of sidewalk, which condition was created or maintained by abutting property owner, city and landowner are joint or concurrent tortfeasors; each is directly liable for his own wrong and each may be held liable for entire damage suffered. *San Francisco v Ho Sing* (1958) 51 C2d 127, 330 P2d 802.

§ 5611. Notice to repair: Duty to give

When any portion of the sidewalk is out of repair or pending reconstruction and in condition to endanger persons or property or in condition to interfere with the public convenience in the use of such sidewalk, the superintendent of streets shall notify the owner or person in possession of the property fronting on that portion of such sidewalk so out of repair, to repair the sidewalk.

Added Stats 1941 ch 79 § 1.

Prior Law: Stats 1911 ch 397 § 31 2d sent p 747, as amended by Stats 1935 ch 771 § 2 p 2148, Stats 1939 ch 508 § 1 p 1886.

Collateral References:

See form set out below, following Notes of Decisions.

Annotations:

Relative rights and liabilities of abutting owners and public authorities in parkways in center of street. 81 ALR 2d 1436.

NOTES OF DECISIONS

This act creates no liability on property owner in favor of third persons injured on sidewalk if owner, after being given notice to repair, fails to