

# CLIENT NEWS BRIEF

## California Supreme Court Extends the Scope of Design Immunity

In a unanimous decision, the California Supreme Court recently issued a ruling that extends the scope of design immunity for public agencies. *Hampton v. County of San Diego* (Dec. 10, 2015, S213132) 2015 Cal.Lexis 9854 (*Hampton*) clarifies that a public agency need not necessarily show that an employee approving a public works project followed, or was even aware of, applicable design standards to claim immunity. However, such an inquiry is still relevant in deciding whether or not the plan or design was reasonable.

Government Code section 830.6 gives immunity to public agencies where defective designs in certain public projects result in injury to third parties. The most common example of such projects are traffic improvements, where an injured party asserts that the road or signage condition resulted in an accident and injury. To be eligible for immunity in such instances, the public agency must show the following: (1) a causal relationship between the plan or design and the accident; (2) discretionary approval of the plan or design prior to construction; and (3) substantial evidence supporting the reasonableness of the plan or design. If a public agency is successful in proving these three elements then it will not be held liable for injuries caused by dangerous conditions of public property.

In *Hampton*, the Supreme Court evaluated the second element and determined that a public agency is immune from civil liability even when an employee who approves the plan was not aware of the particular design standards. The plaintiffs in question were involved in a car accident while attempting to turn onto a two-lane thoroughfare from a rural side road. The plaintiffs alleged that the County had created a dangerous condition in planning the intersection by failing to account for a "high, raised embankment covered with shrubs." They asserted that the failure to account for the embankment rendered visibility plainly inadequate under County standards. The County argued that it was immune under section 830.6, offering design plans for the intersection in question.

The Supreme Court agreed with the County, determining that section 830.6 was applicable because the very purpose of the statute was "to avoid second-guessing the initial design decision adopted by an employee vested with authority to approve it..." The Court confirmed that a public agency is not required to show that the designated employee considered applicable standards when approving the plan or was authorized to deviate from any possibly relevant standards. What is essential is that the employee approving the plan or design had authority to do so.

While this case helps expand one aspect of section 830.6 immunity, public agencies should be mindful of the remaining requirements. The Court cautioned that while an employee need not be aware of applicable standards when approving a plan to satisfy the second element, such circumstances could be relevant as to whether or not the plan was reasonable under the third element. As such, it remains important that public agencies remain vigilant in considering applicable standards as well as any other requirements when implementing new plans or designs.

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