



Tree Risk Management for Parks & Recreation: From Inspection to Defensibility





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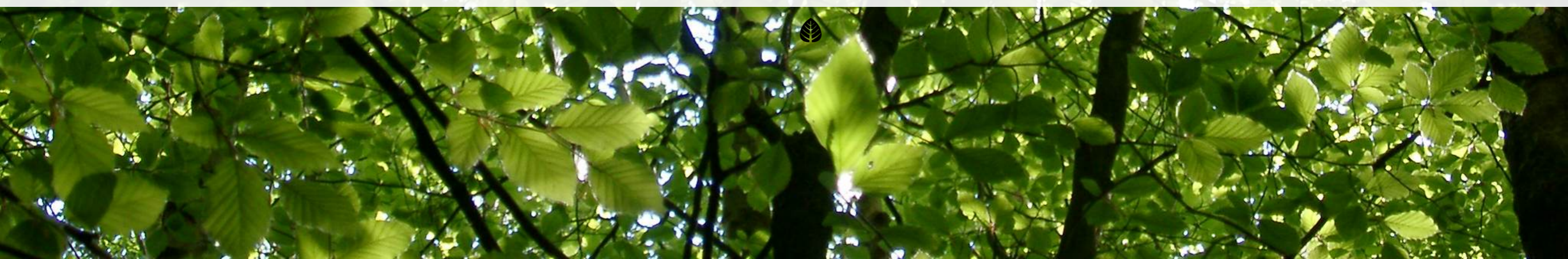


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OVERVIEW

-  **Understanding Tree Risk in Public Parks**
-  **How Occupancy Influences Inspection Standards**
-  **Recognized Industry Standards (ISA & ANSI)**
-  **Creating a Structured Risk Management Program**
-  **Notice**
-  **Documentation & Defensibility**
-  **Lessons from Litigation**
-  **Aligning Resources with Risk**




Understanding Tree Risk in Public Parks




Trees: Benefits and Inevitable Risk

Trees provide shade, cooling, habitat, and significant public value. However, they are living biological systems subject to decay, weather, and structural failure.

 **Biological Reality:** Trees are not static assets; they grow, age, and eventually fail.

 **Environmental Stress:** Wind, drought, and heavy rain can trigger failure in healthy-looking trees. (people may likely not be on site during inclement weather)

 **Duty of Care:** We must acknowledge that risk exists to manage it effectively.





Managing Risk vs. Eliminating Risk



Hazard vs. Risk

A **Hazard** is a situation that could lead to harm (e.g., a dead limb). **Risk** is the likelihood of that hazard failing and striking a target, combined with the severity of consequences.



The Goal of Management

We cannot eliminate risk without eliminating trees. Our goal is to maintain a **Reasonable Standard of Care**—identifying significant risks and acting on them proportionally.

ELIMINATING RISK



Not Possible (or Desirable!)

MANAGING RISK



Balance, Assessment & Action



How Occupancy Influences Inspection Standards



How Occupancy Influences Inspection Standards

Use & Occupancy Determines Scrutiny

Park Zone	Target Occupancy		Inspection Scrutiny	Standard of Care
Structures or high use areas	Constant	→	Extremely High	Greater inspection cycles
Sidewalk Corridors	Frequent	→	High	Regular visual assessments
Managed Greenbelts	Occasional	→	Moderate	Periodic windshield surveys
Rustic/Woodland Trails	Rare	→	Minimal	Reactive or hazard-based



These are suggested inspection priorities. Each site is unique and should be assessed for its inspection needs, occupancy rate(s) and cycles.





How Occupancy Influences Inspection Standards

Target Occupancy Drivers



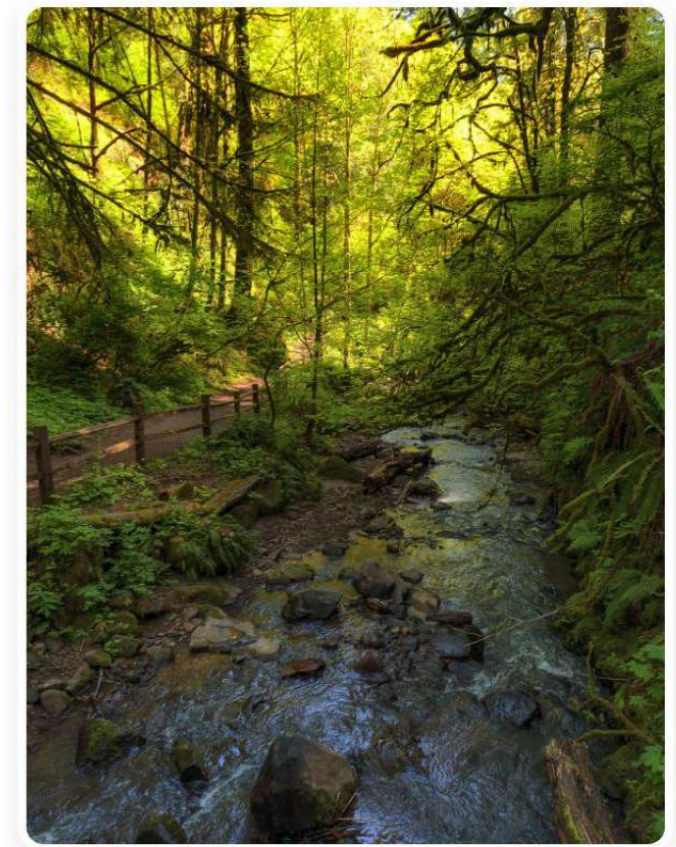
Playgrounds

People are targets, use may be frequent or occasional or rare.



Sidewalk Corridors

Managed paths where the agency has explicitly invited use.



Rustic Zones

Lower duty of care due to "natural condition" status.



Natural Condition Immunity

So we've talked about how use and occupancy increase responsibility.. but the law doesn't treat every tree the same..

“Neither a public entity nor a public employee is liable for an injury caused by a **natural condition** of any **unimproved public property.**”

Government Code § 831.2



Why Natural Condition Immunity Exists

Government Code § 831.2 provides immunity for injuries caused by natural conditions of unimproved public property.

The purpose is to avoid requiring public entities to make all natural recreational lands safe or defend every claim arising from public use of those lands.

This preserves public access to natural open space where public demand exceeds available recreational resources.

McCauley v. City of San Diego (1987)
190 Cal.App.3rd 981.





Immunity Can Still Apply to Modified Landscapes

Natural condition immunity can apply even where a public entity has made changes to natural conditions.

California courts have recognized that human involvement does not automatically eliminate natural condition immunity.

Example may include:

- Trails
- campsites
- access roads
- limited site improvements

City of Chico v. Superior Court (2021) 68 Cal.App.5th 352.





Natural Condition Immunity

The fact the tree fell on an improved campsite does not take this outside the ambit of the natural condition immunity. Accordingly, the evidence establishes the tree that injured Alana was “natural condition of any unimproved public property” under Section 831.2 as a matter of law, and the natural condition immunity applies.

Alana’s position is..

.. that she was entitled to a campsite in the forest safe from falling trees, but this is exactly the type of complaint Section 831.2 was designed to protect public entities against.

Alana M. V. State of California (2016) 245 Cal.App.4th 1482



Campgrounds: Unique Risk Profile

So legally, that case fell under natural condition immunity.. but from a management standpoint, campgrounds are one of the highest-risk environments we deal with.

- ▶ Occupancy (people sleeping under trees)
- ▶ Targets are stationary and vulnerable
- ▶ Large, mature canopy trees
- ▶ Limited visibility for defects
- ▶ High consequence when failure occurs
- ▶ Dedicated SPACES for campers can have a higher duty of care where they "rent" a space and are directed where to camp and sleep.





Recognized Industry Standards (ISA & ANSI)



Recognized Industry Standards (ISA & ANSI)

Defining the Standard of Care



ISA Best Management Practices (BMP): The blueprint for the Tree Risk Assessment Qualification (TRAQ). Defines how to evaluate likelihood and consequence.



ANSI A300 Part 9: The American National Standard for tree risk assessment. This is what courts look at to see if you were “reasonable.”



Why Standards Matter: They anchor your program in professional frameworks, moving your agency from “subjective guessing” to “objective reporting.”



Professional Competence: Utilizing TRAQ-qualified staff ensures that inspections meet the rigorous industry bar for defense.

These standards help define what courts consider reasonable care.



Creating a Structured Risk Management Program



Parks & Recreation Workflow

1



Inventory

Know your assets.
Mapping location,
species, and age
class.

2



Assessment

Systematic
inspection (Level 1
or 2) by TRAQ staff.

3



Prioritize

Weighting risk
rating against target
occupancy levels.

4



Work Plan

Scheduling
mitigation based on
urgency & budget.

5



Mitigate

Pruning, support, or
removal to reduce
risk.

6



Document

The "Proof of Care."
Closing the loop for
legal defense.

This process helps eliminate 'we didn't know' as a defense.



Notice



Did You Have Notice?

Plaintiff must prove the Public Entity had notice of the dangerous condition before the incident occurred.

To prove that there was notice, Plaintiff must prove: ...



Condition existed long enough



Condition was obvious



Agency should have discovered it

(CACI 1103)

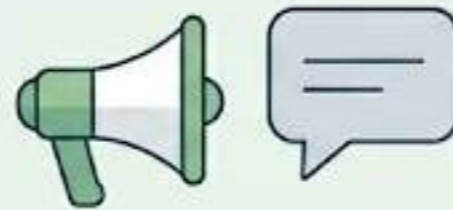


Did You Have Notice?



1. INSPECTION PROGRAM

- **GOAL:** Safety and Regulatory Compliance.
- **PROCESS:** Mandatory Periodic Site Assessments.
- **OUTCOME:** Expedited Repair and Remediation.



2. CITIZEN COMPLAINT PROCEDURES

- **SUBMISSION:** Documented Online or Formal In-Person Filing.
- **REVIEW:** Formal Investigative Evaluations.
- **RESOLUTION:** Timely Official Response and Action.



3. REGULAR MAINTENANCE SCHEDULE

- **AIM:** Extension of Asset Lifespan.
- **TIMING:** Fixed Regular and Seasonal Procedures.
- **BENEFIT:** Mitigation of System Failure.

PROACTIVE CARE FOR COMMUNITY SPACES



Notice Isn't Just a Report — It's a Pattern

You don't need a phone call to have notice — sometimes your site conditions are the notice!

- ▶ Not just citizen complaints
- ▶ Not just one inspection
- ▶ Notice can be inferred from patterns

Two Types:

Broad (environmental)

Granular
(tree-specific)



Broad Notice: The Environment is Telling You Something

If you're losing trees regularly, you are on notice that your population is at risk.

- ▶ Repeated tree failures in a park
- ▶ Aging tree population
- ▶ Drought stress across site
- ▶ History of storm damage



Two Types:

Broad (environmental)



Granular Notice: The Tree is Telling You Something

If staff is routinely cleaning up under a tree — that tree has already given notice.



- ▶ Repeated limb drop
- ▶ Deadwood accumulation
- ▶ Leaning structure
- ▶ Visible decay or cavities

Two Types:

**Granular
(tree-specific)**



Lessons from Litigation





The Paper Trail of Notice

Your own records often become the plaintiff's evidence of notice.

CHAINSAW MARKS



EVIDENCE OF PREVIOUS PRUNING OR CLEANUP.
Proves the entity was aware of the tree's condition.
PRIOR INTERVENTION SHOWS KNOWLEDGE.

HISTORICAL GOOGLE STREET VIEW



USING HISTORICAL IMAGERY to show visible decline or losing canopy over several years.
DOCUMENTED DECAY OVER TIME.

NORMAL WEATHER vs. ACTS OF GOD



FALLING DURING A STANDARD RAINSTORM COUNTS AS "NOTICEABLE" FAILURE.
Trees should withstand typical weather.

CATASTROPHIC AND UNPREDICTABLE EVENTS THAT BEYOND REASONABLE CONTROL.



Documentation & Defensibility



Protection Through Documentation



Inspection Records

Detailed records including date, time, inspector credentials (TRAQ), and findings. These serve as the physical evidence of your agency's proactive risk assessment efforts.



Work Order Linkage

Every work order should explicitly tie back to a risk rating. This creates a clear "paper trail" showing that mitigation efforts were prioritized based on the level of threat.



Reasonable Care

The goal isn't to be perfect; it's to be systematic. Consistent documentation demonstrates that the agency followed industry standards (ANSI A300) to protect the public.

*"In the eyes of the court, if it wasn't **documented**, it didn't happen."*



Proactive Defense: Eyes on the Trees

You **do not** need every employee to be a TRAQ arborist.

You **need** staff trained to recognize basic obvious red flags and report them.

Reasonable Care

- Train all personnel to observe red flags
- Encourage reporting of changing conditions
- Link inspections to work orders
- Document visual checks and follow-up actions

The “Simple Five”

- Significant lean
- Large deadwood
- Cavities / visible decay
- Cracks or splitting
- Root lifting / soil movement



Lessons from Litigation



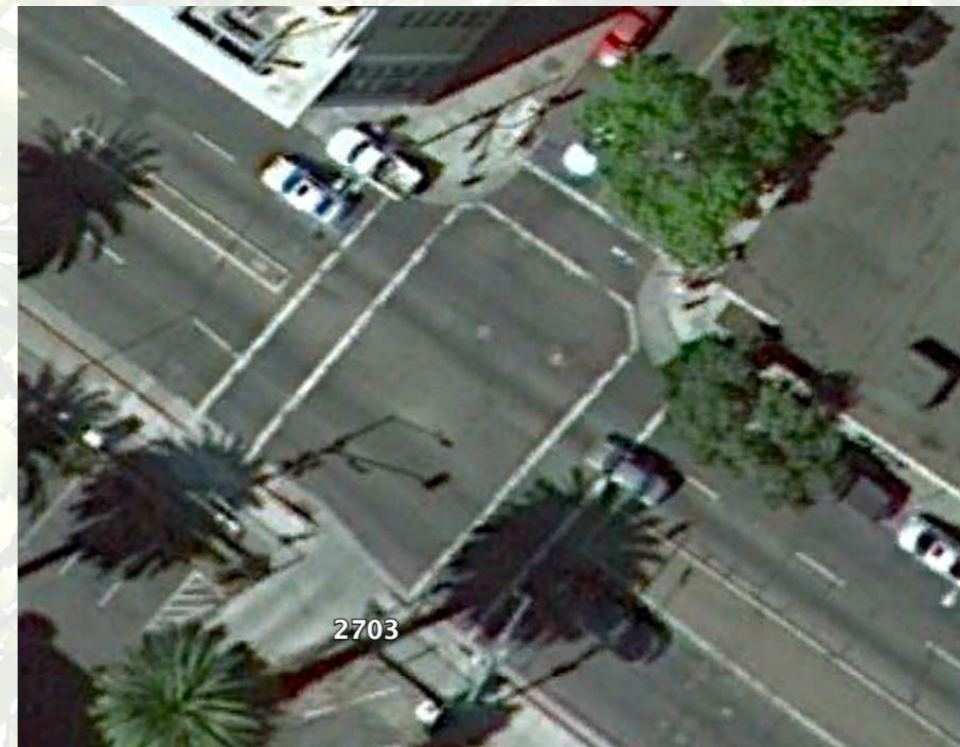
Most Common Cause of Action

Dangerous Condition of Public Property

A public entity may be liable if the plaintiff establishes:

- The property was in a **dangerous condition** at the time of injury
- The injury was **caused** by that dangerous condition
- The condition created a **reasonably foreseeable risk** of the type of injury incurred
- The public entity:
 - ➔ created the condition
 - OR
 - ➔ had actual or constructive notice of the condition in sufficient time to protect against it

Cerna v. City of Oakland (2008) 161 Cal.App.4th 1340, 1347.





Trees Are Not Inherently Dangerous

A condition is not considered "dangerous" merely because it is capable of causing injury.

A "dangerous condition" is defined as a condition of property that creates a **substantial** (as distinguished from a minor, trivial or insignificant) **risk** of injury when such property is used with due care and in a manner in which it is reasonably foreseeable that it will be used.

Trees in general do not present a substantial risk to park patrons...

Government Code § 830(a); Cerna v. City of Oakland (2008) 161 Cal.App.4th 1340, 1347.





Do YOUR Trees Present A Substantial Risk?

- Lack of irrigation?
- Too much irrigation?
- Diseases? Stress?
- Old, large trees
- Pest infestation?
- Exposed to wind loading?
- Hillside/bluff location?
- Other site-specific conditions...





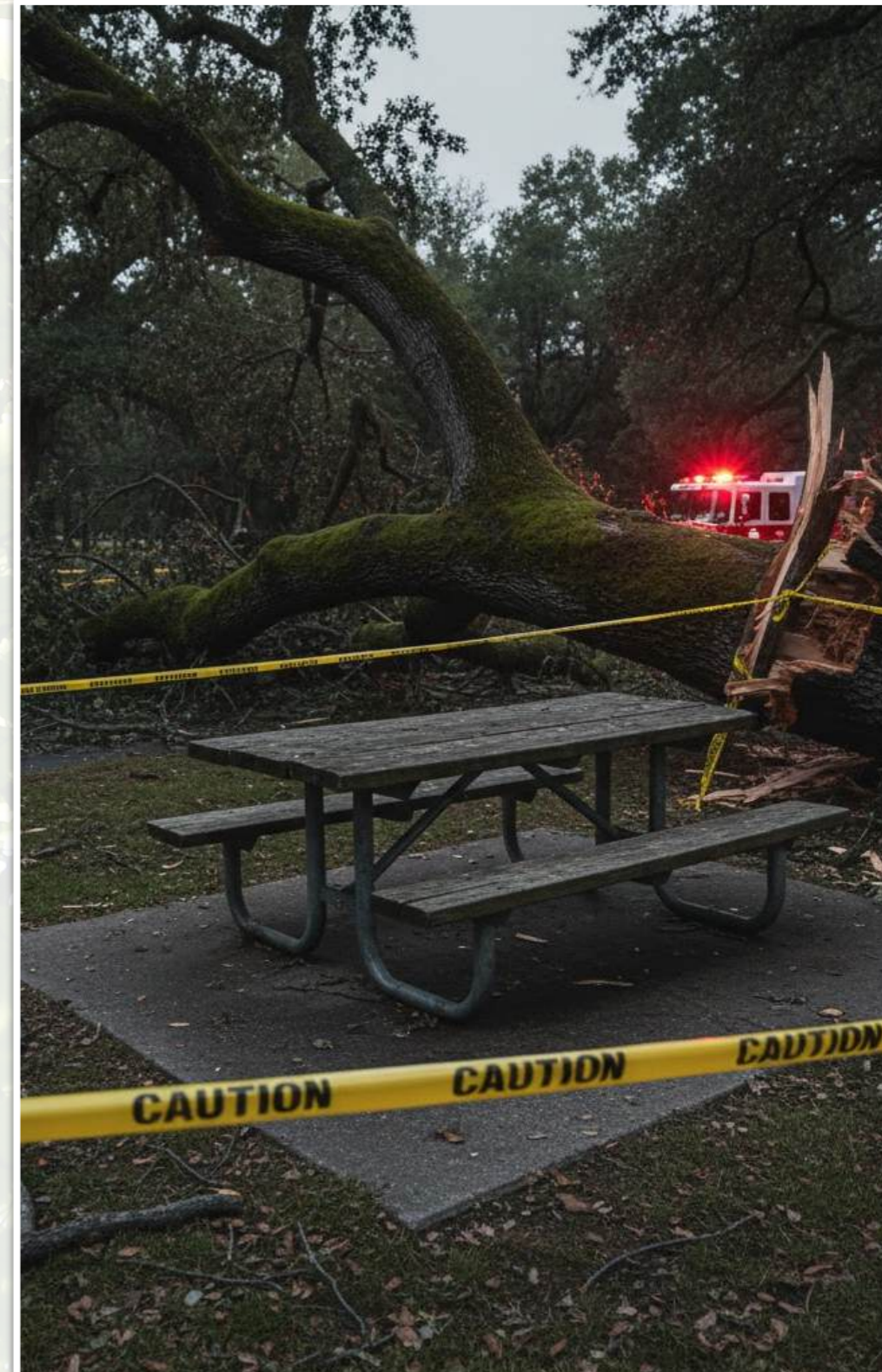
The Price of Failure

When Things Go Wrong

A massive cedar branch fell on a picnic group at a large city park, resulting in a fatality and a paralyzed survivor. The case focused on notice and inspection history.

Another park had a heritage oak branch failure which resulted in significant liability. This tree had been recently inspected and acknowledged to be shedding branches.

Another park had a species with high limb failure histories and was continually cleaning up branches. They rented out the space for an event during the season of branch failures.

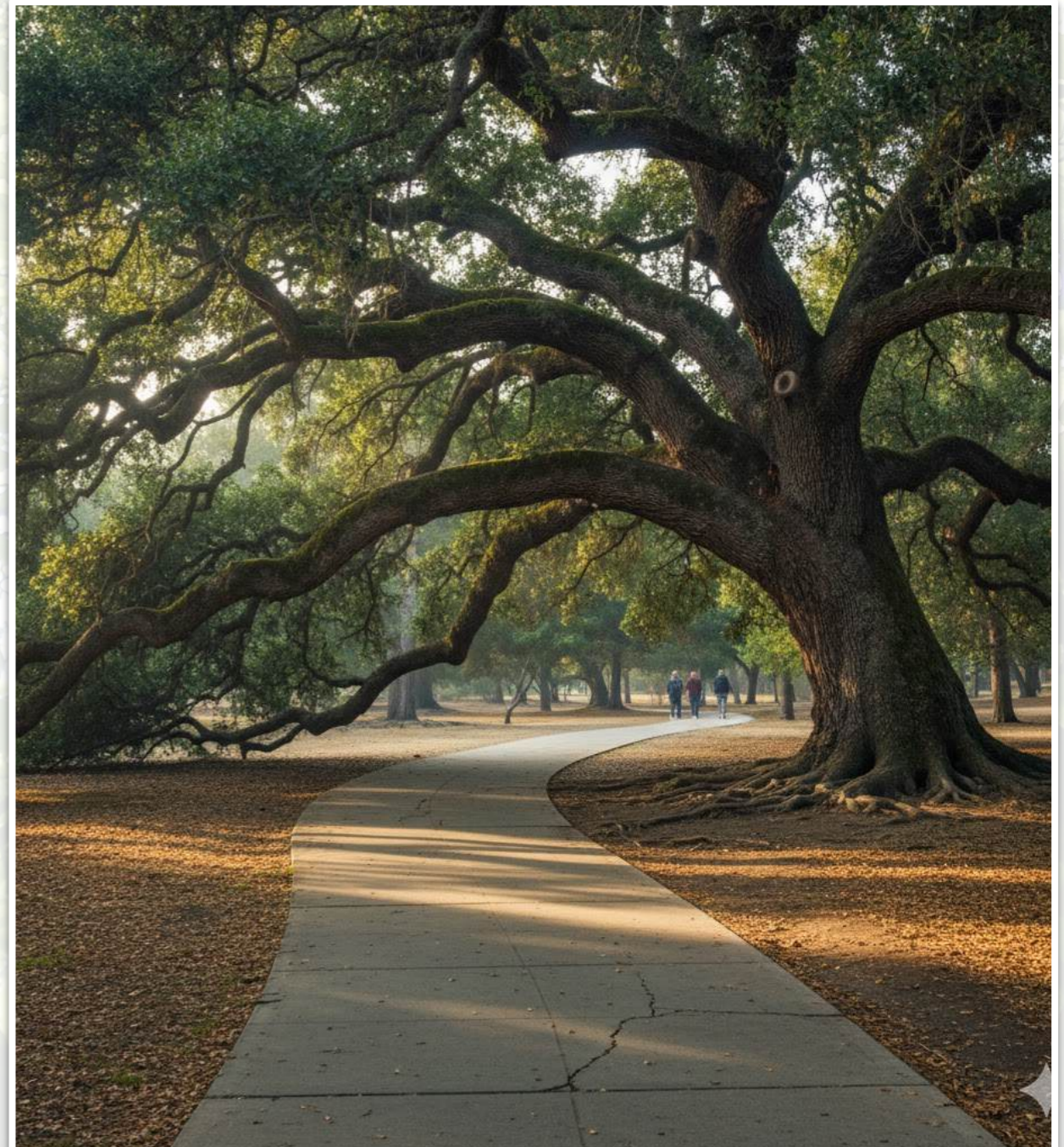




Legal Precedents: Managed vs. Rustic

The city argued a failed oak was in a "rustic woodland" (Natural Condition Immunity). However, the tree leaned over a city-installed sidewalk. The court found that once a city installs infrastructure, the duty to inspect increases significantly.

Highlights the importance of "Reasonable Care." Courts examine whether the city had **actual** or **constructive notice** of the defect. A systematic program is your only shield against claims of negligence.





Aligning Resources with Risk



Risk-Based Budgeting

High Occupancy Zones



Moderate Use Paths



Low Use Greenbelts



Strategic funding allows you to defend your "Reasonable Effort" when resources are limited.

One Cut Rules Them All!

Not all trees require equal resources:

- High-occupancy zones receive priority.
- Risk assessment supports budget justification.
- Documentation strengthens funding requests.



Balanced Risk Management

**In the world of trees, failure will occur.
Our responsibility is not to eliminate nature —
but to manage foreseeable risk in a consistent, documented,
and standards-based manner.**

**When we do that, we protect the public, and we protect our
agencies.**



Questions & Discussion

Thank you for your commitment to safe public parks.

Don't Plant Trees for the Future.
Plant Trees With a Future.



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