Significant Change in Sidewalk Liability Law for Commercial Property Owners

July 19, 2024

By: Carmen Andrade, Joseph Paparo

A significant decision was issued by the New Jersey Supreme Court on June 13, 2024 concerning an owner's liability for maintaining vacant commercial real estate. In *Alejandra Padilla v. Young Il An*, the Court held for the first time that owners of vacant commercial properties have a duty to maintain abutting sidewalks in reasonably good condition. Failure to do so may result in liability for injuries to pedestrians passing by. Prior to this decision, only owners of active, income-producing commercial property were required to maintain their sidewalks.

The Court found that there was something profoundly unfair about commercial property owners purchasing vacant lots for the purpose of making money and having no responsibility whatsoever for maintaining the area where the general public traverses. The Court held that all commercial landowners, including owners of vacant commercial lots, must maintain the public sidewalks abutting their property. Now, all commercial property owners, regardless whether the property is income-generating or not, may be liable for failure to fulfill the duty to maintain abutting sidewalks.

What does this mean for commercial property owners with vacant or unimproved properties? First, the decision warrants a review of a commercial property owner's insurance policy. This is to ensure proper and sufficient coverage is in place. Second, any adjacent sidewalks should be assessed to determine if any repair or maintenance is necessary. Finally, it is important to have a maintenance plan to ensure that, throughout the year, any issues are addressed promptly, such as ensuring that snow and ice are removed in a timely manner during the winter and that the areas in question are checked on a routine basis, including for lingering debris, protruding roots, or other interference from plants and trees. The purpose is to make sure that sidewalks remain unobstructed and are reasonably safe.

Porzio's team of real estate attorneys are ready to answer your questions about how to best move forward with protecting yourself from issues of liability arising from this major change in commercial real estate liability law.