

You Can't Fight City Hall: Why Is My Right To Sue So Limited When I Get Hurt On Public (State, County Or City) Property?

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If you have the unfortunate circumstance of falling due to a negligent condition on public property such as a hole in a sidewalk in front of your Town Hall building or if you are in a car accident with a police car, even more unfortunate is the fact that your rights to sue are significantly restricted.

New Jersey has what is called the Tort Claims Act which is a statute that gives public entities and public employees protection against lawsuits. The Tort Claims Act requires that an individual who is injured on public property or by a public official prove that there was a dangerous condition on the property that caused the individual's injury. There also has to be medical proof that the injury is permanent. A permanent injury under the Tort Claims Act has to be substantial. In interpreting this standard New Jersey courts have dismissed cases in which an individual sustained a herniated disc in his back without any type of surgery because this type of injury is not considered to be substantial. Also, cases have been dismissed in which individuals suffered broken bones but had a good recovery.

Besides an individual's injuries, the public entity or employee gets protection as to how the accident happened. For example if an individual loses control of their car on black ice on a town street, the town cannot be sued because of a weather immunity statute in the Tort Claims Act. Also, if a condition such as a hole or crack in the sidewalk is not found to be a dangerous condition or a condition that the town did not know about, the case can be dismissed.

Furthermore, under the Act, an injured individual is required to notify the public entity and/or public employee of their accident within 90 days of the accident. If a proper Notice of Claim form is not sent out before the 90 day time period after the accident the injured individual cannot file a lawsuit against the public entity or employee.

The question is why should your local Town or police officer get extra protection, especially when your neighbor across the street settled his injury case against a local food store for big money and he is still working? The simple answer is that if everyone sued the State, the County or their Town for millions of dollars, the State, county and/or Town would be even more broke than they are now. The Legislature drafted the Tort Claims Act to establish uniformity to injury cases on public property and maintain the resources and financial well-being of public entities and their employees. The Tort Claims Act established stringent laws in order to protect the public entities and employees so that only severely injured individuals can possibly pursue a claim.

There have been many challenges to the Tort Claims Act by injured individuals. However, the courts in New Jersey continually uphold the law and only a few lawsuits survive the protection and immunities of the Tort Claims Act. It is a common expression in the legal community that “it comes down to the facts”. If the facts are that you were injured in a commercial establishment such as a grocery store or department store you have significantly greater rights than you do if the facts are that you were injured on public property. The expression that you can’t fight City Hall is for the most part true when it comes to injury lawsuits against the State, County or Town.

If you have unfortunately been injured on public property or have been in a car accident with a public employee you are entitled to a free consultation with a [personal injury](#) attorney to explore any rights that you may have.