

CIRMA MUNICIPAL HIGHWAY DEFECT ACT BULLETIN

Connecticut local public entities are responsible for maintaining over 17,000 miles of public roads.¹ Generally, local municipalities are required to identify and repair defects in these roads and adjacent sidewalks within a reasonable timeframe. When local entities fail to remedy a defect, the sole proximate cause of a claimant's injuries or damages, the claimant may seek to recover damages from the party bound to keep it in repair under Connecticut General Statute (CGS) 13a-149.

Over the last ten years, claims related to 13a-149 have amounted to over \$25 million in damages.

CGS 13a-149. Damages for injuries by means of defective roads and bridges.

*Any person injured in person or property by means of a defective road or bridge may recover damages from the party bound to keep it in repair. No action for any such injury sustained on or after October 1, 1982, shall be brought except within two years from the date of such injury. No action for any such injury shall be maintained against any town, city, corporation, or borough, **unless written notice of such injury and a general description of the same, and of the cause thereof and of the time and place of its occurrence, shall, within ninety days thereafter be given to a selectman or the clerk of such town, or to the clerk of such city or borough, or to the secretary or treasurer of such corporation ...** No notice given under the provisions of this section shall be held invalid or insufficient by reason of an inaccuracy in describing the injury or in stating the time, place or cause of its occurrence, if it appears that there was no intention to mislead or that such town, city, corporation or borough was not in fact misled thereby.*

For the claimant to be successful in a 13a-149 claim, the claimant must prove:

1. The highway was defective, as claimed;
2. The local public entity knew of the particular defect or that, in the exercise of its supervision of highways, it should have known of that defect;
3. The local public entity, having actual or constructive knowledge of this defect, failed to remedy it has had a reasonable time, under all the circumstances, to do so; and
4. The defect must have been the sole proximate cause of the injuries and damages claimed, which means that the plaintiff must prove that their actions did not contribute to the injury.

RECOMMENDATIONS

- Consider working with the municipality's Corporation Counsel to assess the in-take procedures for CGS 13a-149 claims to ensure **claimants are required to notify the selectman or town clerk in writing within 90 days of the incident;**
- Consider working with the municipality's Public Information Officer (PIO) to develop a response directing claimants to the entity's 13a-149 claim reporting procedures;
- Consider regularly communicating the entity's 13a-149 reporting procedure to applicable staff;
- Consider reviewing the language of the town's maintenance plans to determine compliance with CGS 13a-149;
- Consider working with CIRMA Risk Management to review the town's procedures and policies to develop recommendations that can assist in mitigating the severity of 13a-149 claims.

¹ https://portal.ct.gov/dot/it/-/media/dot/documents/dpolicy/publicroad/publicroadmileage_final.pdf