Legal Liability Issues for Transportation Plans

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A Caveat
The Law
Liability, Risk, and Torts
How do we reduce liability?
Duty of Care
Breach of Duty
Causation
Damages
Department Responsibilities
MPO Duties
Nondelegable Duties
Records

Qualified Immunity

Duties

Notice
What did you have for lunch on May 8, 2019?
Transportation Plans
Chemung County LRSP - Elmira
Notice
Qualified Immunity
Duties
Records
Notice

• Written/Actual
• Constructive
Written Notice Laws

- Municipalities cannot be aware of “every defect”
  
  **Gorman v. Town of Huntington, 12 NY3d 275, 279 (2009).**

- Opportunity to fix from written knowledge
Written Notice Categories

• Physical Defects
• Snow and Ice Defects
Affirmative Act / Negligence Exception
Written Notice Laws Do Not Apply to Highway Design Claims
Do Transportation Plans Constitute Written Notice?
Chemung County LRSP - Elmira

- 23 USC 407
Qualified Immunity

- Notice
- Records
- Duties
Negligent or Defective Highway Design
Qualified Immunity
Qualified Immunity Protection

- Perform a study of actual conditions
- Develop a correction plan
- Use a reasonable and rational basis
Transportation Plans
Chemung County LRSP - Elmira
Can Still be Sued
Following the Plan!
How Does a Plan Change Liability?
Qualified Immunity

Duties

Notice

Records
Redundancy

Post-crash care
Safe roads
Safe speeds
Safe vehicles
Safe road users

Source: FHWA
How do we reduce liability?
Always Expect the Unexpected
New York State Local Technical Assistance Program

Thank You

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