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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

DANIEL CLAVEL et al.,

Plaintiffs and Appellants,

v.

COUNTY OF LOS ANGELES,

Defendant and Respondent.

B270169

(Los Angeles County

Super. Ct. No.

BC524999)

APPEAL from a judgment of the Superior Court of Los Angeles County, Dan Thomas Oki, Judge. Affirmed.

Kirbys Law and Steven Crouch Kirby for Plaintiffs and Appellants.

Collins Collins Muir + Stewart, Brian K. Stewart and Christian E. Foy Nagy for Defendant and Respondent.

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## **I. INTRODUCTION**

In April 2013, defendant Joseph Morales was making a left turn at an intersection in Rowland Heights, County of Los Angeles (the county) when he collided with a motorcyclist, Daniel Clavel. Plaintiff Clavel and his wife, Tracey Walker-Clavel, sued various parties including defendant Morales and the county.<sup>1</sup> On summary judgment, the trial court ruled the county had established the design immunity defense (Gov. Code, § 830.6) as a matter of law.

On appeal, plaintiffs challenge the design immunity ruling. Plaintiffs argue there is no evidence the county engineers evaluated the height and color of a wall, located on private property, that sits on the northeast corner of the intersection. In addition, plaintiffs contend the trial court's evidentiary rulings were an abuse of discretion. We affirm the judgment.

## **II. BACKGROUND**

### **A. Traffic Accident Site**

The traffic accident occurred at the intersection of Pathfinder Road and Alexdale Lane in Rowland Heights in the County of Los Angeles. Pathfinder Road is an east-west county road with two lanes in each direction. The speed limit on Pathfinder Road at the intersection is 45 miles per hour. Pathfinder Road has a slight curve that concaves to the south of the intersection at Alexdale Lane. Alexdale Lane is a north-

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<sup>1</sup> Joseph Morales is not a party to this appeal.

south roadway. Southbound Alexdale Lane terminates into a T-intersection with Pathfinder Road. Southbound traffic on Alexdale Lane is controlled by a stop sign placed at the northwest corner of the intersection. The intersection was designed by county engineers who approved and stamped the plans on December 29, 1983.

On January 16, 2010, the deputy director of public works stamped and approved the plan design for Project Number RDC0015342. The project included resurfacing Alexdale Lane where it meets Pathfinder Road and the installation of signage and striping at the intersection. The project was constructed in accordance with the design and the plans were stamped “as built” on February 11, 2013.

On April 30, 2013, defendant Joseph Morales was driving a 2006 Toyota Camry southbound on Alexdale Lane. Defendant Morales stopped at the stop sign with the car front wheels at the limit line. Defendant Morales testified his view of the traffic westbound on Pathfinder Road was obstructed by a block wall. However, he could see two or three westbound cars on Pathfinder Road come into view about 30 to 40 feet away. After checking the traffic on Pathfinder Road, he pulled forward two to three feet and made a second stop. Defendant Morales testified his view was no longer obstructed by the block wall. After checking traffic again, defendant Morales pulled into the intersection to make a left turn. Defendant Morales failed to see plaintiff Clavel, who was riding his motorcycle westbound in the number 2 lane of Pathfinder Road. Defendant Morales collided with plaintiff Clavel while making a left turn onto Pathfinder Road.

## B. Complaint

On October 18, 2013, plaintiffs filed a lawsuit against a number of parties including defendant Morales and the county. The complaint alleges four causes of action for negligence, premises liability, dangerous condition of public property, and loss of consortium. Plaintiffs assert a claim against the county based on the allegedly dangerous condition of the intersection. According to the complaint, the height of a corner wall that is on private property exceeded the height limit for the area and obstructed visibility at the intersection. In addition, the allegedly dangerous condition was due to “inadequate design and/or maintenance of roadway markings, including but not limited to, limit lines.”

## C. Summary Judgment Motion

In April 2015, the county moved for summary judgment. It argued there was no dangerous condition of public property and thus it was entitled to judgment as a matter of law pursuant to Government Code sections 830 and 830.2.<sup>2</sup> In addition, the county contended it was immune from liability under sections 830.4 and 830.8. Finally, the county asserted it was entitled to design immunity pursuant to section 830.6.

In support of the summary judgment motion, the county submitted a declaration from Craig Cline, a licensed senior civil engineer in the design division of the Los Angeles County

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<sup>2</sup> Further statutory references are to the Government Code unless otherwise specified.

Department of Public Works. As a senior civil engineer, Mr. Cline is responsible for the design and supervision of roadway design projects. He has personal knowledge of the physical features and conditions of the accident site based on his review of the as-built plans, aerial views and topographical surveys of Alexdale Lane and Pathfinder Road including the intersection of the two roads.

On October 21, 2014, an engineer on Mr. Cline's staff performed a corner sight distance study of the intersection. In measuring the corner sight distance, the staff engineer used the criteria recommended in the Caltrans Highway Design Manual. Although engineers are under no legal duty to comply with the Caltrans Highway Design Manual, it is common practice within the Department of Public Works to use the manual as a guide for determining the corner sight distance. The Caltrans Highway Design Manual states that a vehicle stopped at an intersection, that is crossing traffic traveling at 45 miles per hour, shall be afforded 495 feet of sight distance. The measurement is not taken from the location of the stop sign limit line because the limit line is not a feature of highway design. Rather, corner sight distance is measured from a 3.5 foot height at the location of the driver on the minor road (Alexdale Lane) to a 4.25 foot object height in the center of the approaching lane of the major road (Pathfinder Road). The staff engineer determined the corner sight distance, afforded to a stopped vehicle on Alexdale Lane and looking eastbound towards westbound traffic on Pathfinder Road, was in excess of 1,000 feet.

Attached to Mr. Cline's declaration are the 1983 and 2010 design plans for the intersection of Pathfinder Road and Alexdale Lane. The intersection was designed and constructed in 1983

based on a plan approved by the road commissioner in association with the construction of a residential development. Mr. Cline opined the engineer who developed the 1983 plans would have relied upon the Caltrans Highway Design Manual and the exercise of his independent engineering judgment when designing the intersection.

The 2010 plans were developed to update the existing roadway along Pathfinder Road including the intersection with Alexdale Lane. Mr. Cline opined the engineer who developed the 2010 plans would have conducted a field review of the conditions of the roadway including the intersection. Mr. Cline stated: “As part of this field review the engineer would have reviewed the conditions, including the corner sight distance for vehicles traveling southbound on Alexdale Lane through the intersection, of the location of the project. In particular, if there were any obstruction(s) to the corner sight distance that the engineer, in the exercise of his engineering judgment, determined presented a hazard to motorists or failed to provide adequate corner sight distance to a motorist stopped at the intersection on southbound Alexdale Lane, the engineer would engage in further analysis to determine what changes to the engineering configurations would need to be made. In this circumstance, no such changes were deemed necessary by the reviewing engineer and none were made within the design of the plan for the project.”

The county also submitted a declaration from Weston Pringle, a civil and traffic engineer, in support of the summary judgment motion. Mr. Pringle stated, “To measure the sight distance at the Subject Intersection, an engineer would begin at the edge line of the intersection of Alexdale Lane and Pathfinder Road and move northbound on Alexdale Lane for 10 feet. The

engineer would then set a height of 3.5 feet and measure the distance to which an object set 4.5 feet high would be visible. These measurements are taken prior to any Traffic Engineering being performed on the roadway, and therefore the limit line is not in place when the measurement is typically made.” Based on his personal observation of the intersection, Mr. Pringle stated the sight distance afforded at the intersection was in excess of the minimum 495 feet recommended by the Highway Design Manual.

Further, Mr. Pringle opined the wall and fence “have no impact on the sight distance afforded to a motorist that stops at the limit line and proceeds into the intersection only when it is reasonably safe to do so in compliance with the California Vehicle Code.” Mr. Pringle stated, “There are no physical conditions at or around the Subject Intersection that would prevent a motorist exercising due care from viewing and observing oncoming Westbound traffic.” Based on a review of the traffic collision history for the area, Mr. Pringle stated in the five years prior to April 30, 2013, there were four traffic collisions between traffic travelling westbound on Pathfinder Road with a vehicle making a left-hand turn from Alexdale Lane onto eastbound Pathfinder Road.

In addition, the county submitted a declaration from Paul S. Guthorn, a mechanical and metallurgical engineer and accident reconstruction expert. On March 11, 2015, he conducted a site inspection and sight distance determination of the intersection. To determine the corner sight distance available to defendant Morales while stopped on Alexdale Lane, Mr. Guthorn drove a 2005 Toyota Camry, the dimensions of which matched defendant Morales’s 2006 Toyota Camry. Mr. Guthorn drove the

vehicle southbound on Alexdale Lane and brought the vehicle to rest with the front bumper even with the limit line.

According to Mr. Guthorn, all lanes of travel westbound on Pathfinder Road are visible except for “a very small section of the bicycle lane and a very small portion of the Number 2 westbound lane that are briefly obstructed by the wall on the Northeast corner of the Intersection.” Mr. Guthorn opined, “This obstruction is not large enough to block the view of an oncoming car as part of the car would at all times be visible.” Next, Mr. Guthorn pulled the car 2 feet beyond the limit line, and approximately 8 feet from the edge of the intersection. According to Mr. Guthorn, the view of westbound traffic from the intersection is completely unobstructed by the wall on the northeast corner of the intersection. Likewise, the view of westbound traffic from the intersection is unobstructed by the wall when the vehicle is 4 feet beyond the limit line and 6 feet from the edge of the intersection.

In opposition, plaintiffs argued the placement of the stop sign and limit line on Alexdale Lane and the concrete wall on the northeastern corner of the intersection constituted a trap. Plaintiffs also contended the wall violated county ordinance because it exceeded the 3.5 feet maximum height for corner side yard walls. In addition, plaintiffs argued the wall is 5 foot, 4 inches tall, which is higher than the stamped and approved plans showing a 5 foot wall.

In support of the summary judgment opposition, plaintiffs submitted a declaration from Joseph Yates, a mechanical engineer with expertise in motor vehicle accident reconstruction. Mr. Yates stated the wall impacted the view from the Alexdale Lane stop sign area by partially blocking visibility of a section of



the curving westbound traffic on Pathfinder Road. Mr. Yates opined, “In this case, the motorcycle, a narrow vehicle approaching on the right side of the number two westbound lane would be most vulnerable to being affected by the ‘pocket’ caused by the wall’s sight line limitation. With the unobstructed view of distant approaching traffic and of close[-]by approaching traffic, the possibility of hidden traffic in the middle distance created by the presence of the wall may not be readily apparent. This creates a visual trap for the southbound motorist on Alexdale Lane intending to enter and/or cross Pathfinder Road, looking left, believing that their path is clear and proceeding into the path of formerly hidden westbound traffic.”

Plaintiffs also submitted a declaration from Paul Kayfetz, an expert in engineering photography. Joined by Mr. Yates, Mr. Kayfetz performed a visibility study at the accident site in May 2015. He drove a Camry that was similar in configuration to the vehicle that defendant Morales drove on the date of the accident. Mr. Kayfetz opined, “A driver pulling up and stopping with his vehicle bumper at the limit line looks to his left, sees a roadway in which a low contrast blockage is hiding 5 to 10 seconds of traffic approaching in the nearest lane. . . . [¶] The significance of ‘low contrast’ is that the wall is a light color—blending into the background. A driver stopping at the limit line and looking to his left might not even notice something is blocking his view of approaching cars. He could stop at the limit line, look to his left, see what appears to be an open roadway, pull into the intersection, and suddenly be hit by a vehicle which was concealed for 5 to 10 [seconds] behind a subtle view blockage.”

In addition, plaintiff submitted a declaration from Edward Ruzak, a civil engineer with experience in highway and traffic

engineering. Mr. Ruzak stated the block wall was a sight restriction when measured from the 15 foot setback from the curb line. In addition, he opined the center median striping on Pathfinder Road, east of Alexdale Lane, was a design and operational defect. Mr. Ruzak stated, “[T]he striping creates more conflict points for the intersection users and exacerbates an already dangerous condition created by the block wall, roadway geometry, travel speeds and reduced sight distance.”

Mr. Ruzak agreed the Caltrans Highway Design Manual mandated a corner sight view of 495 feet but criticized Mr. Cline’s measurement of it. Mr. Ruzak opined in paragraph 14: “However, there is an error in Mr. Cline’s measurements of the [corner sight distance]. Reference is made to his declaration Exhibit D, which is the sight distance measurement, Exhibit G. It is clear that he measured the 15 foot setback from Pathfinder Road at the beginning of the solid white bicycle lane line and proceeding north. [¶] This is not correct. Bicycles are a vehicle and as such have the same right to travel straight through the intersection in their lane, just like a motor vehicle can travel straight in their lane. Thus, the setback measurement should [be] 15 feet back of the north side curb on Pathfinder, not in the traveled way of the bicycle lane traffic. [¶] When one measures this distance from Exhibit F, Mr. Cline’s Exhibit D, one finds a distance well below 495 feet. This does not conform with the Caltrans standard [corner sight distance] that Los Angeles County admits they utilize for intersections such as the subject intersection.” The county objected to paragraph 14 based on lack of foundation, speculation, hearsay and improper expert opinion. The trial court sustained the county’s evidentiary objections to paragraph 14 of Mr. Ruzak’s declaration.

#### D. Summary Judgment Ruling

On December 11, 2015, the trial court held a hearing on the county's summary judgment motion. The trial court found there were triable issues of fact as to whether there was a dangerous condition of public property. Further, the trial court found the county did not have immunity under sections 830.4 and 830.8, which shield the county from liability for failure to provide traffic control signs or regulatory and warning signals. The trial court explained, "Plaintiffs' claim for dangerous condition on the public property is not based solely on County's failure to install traffic control devices and/or provide traffic regulatory or warning signals or devices . . . . Plaintiffs have also raised triable issues as to whether the condition of the public property was dangerous . . . ."

However, the trial court granted the county's summary judgment motion based on design immunity. The trial court found the county met its burden of showing it had absolute immunity pursuant to section 830.6. Further, the trial court ruled: "Plaintiffs . . . fail to demonstrate a triable issue of fact as to the plan approved on January 16, 2010, for Project Number RDC0015342, which included the resurfacing of Alexdale Lane at the intersection with Pathfinder Road and the installation of signage and striping at the intersection. . . . The plan show[s] existing walls at the intersection . . . , and although the dimensions of the wall [are] not shown on the particular plan . . . , the plans are drawn to [ ] s[c]ale and show the wall [ ] 'as maybe 5 feet and perhaps a little more than 5 feet'. . . . The project was constructed in accordance with the design, and the plans were

stamped ‘As-Built’ on February 11, 2013, more than two months prior to the subject accident.”

### III. DISCUSSION

#### A. Evidentiary Rulings

In *Reid v. Google, Inc.* (2010) 50 Cal.4th 512, 535, our Supreme Court declined to decide whether evidentiary rulings made in summary judgment proceedings are reviewed for an abuse of discretion or de novo. Post-*Reid*, a number of appellate courts have reviewed evidentiary rulings on summary judgment for an abuse of discretion. (*Ryder v. Lightstorm Entertainment, Inc.* (2016) 246 Cal.App.4th 1064, 1072; *Serri v. Santa Clara University* (2014) 226 Cal.App.4th 830, 852; *Garrett v. Howmedica Osteonics Corp.* (2013) 214 Cal.App.4th 173, 181.) We follow the weight of authority and review the trial court’s evidentiary rulings for an abuse of discretion.

Plaintiffs contend the trial court abused its discretion by sustaining the county’s objections to paragraph 14 of the Ruzak declaration. But plaintiffs do not explain how the evidentiary ruling was an abuse of discretion. In paragraph 14 of his declaration, Mr. Ruzak stated the corner sight distance was “well below 495 feet” but he did not explain how he measured it. Without abusing its discretion, the trial court could determine Mr. Ruzak’s criticism of Mr. Cline’s measurement of the corner sight distance was speculative and lacked foundation.

Further, plaintiffs argue the trial court abused its discretion by overruling their objections to the Cline and Pringle declarations. Plaintiffs object to portions of the Cline and Pringle

declarations as improper speculation that is not based on personal knowledge. But as noted by the trial court and conceded by plaintiffs, their evidentiary objections do not comply with rule 3.1354(b) and (c) of the California Rules of Court. Furthermore, even if the trial court erred by admitting the Cline and Pringle declarations in full, plaintiffs fail to show how they were prejudiced by the admission of these declarations. (Cal. Const., art. VI, § 13 [a judgment will not be set aside based on the erroneous exclusion of evidence unless the error results in a miscarriage of justice]; Evid. Code, § 354; *Colombo v. BRP US Inc.* (2014) 230 Cal.App.4th 1442, 1478.) An evidentiary ruling results in a miscarriage of justice if a different result would have been probable had the error not occurred. (*In re Automobile Antitrust Cases I & II* (2016) 1 Cal.App.5th 127, 142; *Pannu v. Land Rover North America, Inc.* (2011) 191 Cal.App.4th 1298, 1317.) Here, plaintiffs fail to demonstrate the summary judgment ruling is based solely on the challenged paragraphs of the Cline and Pringle declarations.

## B. Standard of Review

Summary judgment may be granted only if “there is no triable issue as to any material fact and . . . the moving party is entitled to a judgment as a matter of law.” (Code Civ. Proc., § 437c, subd. (c); *Hampton v. County of San Diego* (2015) 62 Cal.4th 340, 347 (*Hampton*).) A defendant moving for summary judgment must show “one or more elements of the cause of action . . . cannot be established, or that there is a complete defense to the cause of action.” (Code Civ. Proc., § 437c, subd. (p)(2); *Aguilar v. Atlantic Richfield Co.* (2001) 25 Cal.4th 826, 849

(*Aguilar*).) If defendant meets this burden, the burden shifts to plaintiff to produce admissible evidence showing a triable issue of material fact exists. (Code Civ. Proc., § 437c, subd. (p)(2); *Aguilar, supra*, 25 Cal.4th at p. 850.)

We review de novo the trial court's grant of summary judgment. (*Hampton, supra*, 62 Cal.4th at p. 347; *Hartford Casualty Ins. Co. v. Swift Distribution, Inc.* (2014) 59 Cal.4th 277, 286.) We take the facts from the record that was before the trial court and consider all the evidence set forth in the moving and opposing papers except that to which objections were made and sustained. (Code Civ. Proc., § 437c, subd. (c); *Hampton, supra*, 62 Cal.4th at p. 347.) "We liberally construe the evidence in support of the party opposing summary judgment and resolve doubts concerning the evidence in favor of that party." (*Yanowitz v. L'Oreal USA, Inc.* (2005) 36 Cal.4th 1028, 1037; accord, *Hampton, supra*, 62 Cal.4th at p. 347.)

### C. Design Immunity

Under section 835, a public entity is liable for injury proximately caused by a dangerous condition of its property if the condition "created a reasonably foreseeable risk of the kind of injury which was incurred" and either an employee's negligence or wrongful act or omission caused the dangerous condition or the entity was on "actual or constructive notice" of the condition in time to have taken preventive measures. (*Hampton, supra*, 62 Cal.4th at p. 347; *Cornette v. Department of Transportation* (2001) 26 Cal.4th 63, 66 (*Cornette*).) A public entity may avoid such liability by raising the affirmative defense of design

immunity under section 830.6. (*Cornette, supra*, 26 Cal.4th at p. 66.)

“A public entity claiming design immunity must establish three elements: (1) a causal relationship between the plan or design and the accident; (2) discretionary approval of the plan or design prior to construction; and (3) substantial evidence supporting the reasonableness of the plan or design.” (*Cornette, supra*, 26 Cal.4th at p. 66; accord, *Hampton, supra*, 62 Cal.4th at p. 343.) “Section 830.6 was intended to avoid second-guessing the initial design decision adopted by an employee vested with authority to approve it, except to the extent the court determines that the employee’s approval of the design was unreasonable.” (*Hampton, supra*, 62 Cal.4th at p. 351; *Gonzales v. City of Atwater* (2016) 6 Cal.App.5th 929, 950 (*Gonzales*).) “The first two elements, causation and discretionary approval, may only be resolved as issues of law if the facts are undisputed.” (*Gonzales, supra*, 6 Cal.App.5th at p. 946; *Grenier v. City of Irwindale* (1997) 57 Cal.App.4th 931, 940 (*Grenier*).) The third element, substantial evidence of the reasonableness of the plan, is tried by the court, not the jury. (*Cornette, supra*, 26 Cal.4th at p. 66; *Gonzales, supra*, 6 Cal.App.5th at p. 946.)

#### D. Causation

The causation element requires proof that the alleged design defect was responsible for the accident, as opposed to some other cause. (*Alvis v. County of Ventura* (2009) 178 Cal.App.4th 536, 550 (*Alvis*); *Grenier, supra*, 57 Cal.App.4th at p. 940.) In establishing causation, the county may rely on the allegations of

the complaint. (*Alvis, supra*, 178 Cal.App.4th at p. 550; *Fuller v. Department of Transportation* (2001) 89 Cal.App.4th 1109, 1114.)

Plaintiffs contend there is no causal relationship between the design and the accident. Plaintiffs argue the wall, which is on private property, was not built by the county and not part of any improvement made to the subject intersection. At the same time, plaintiffs assert the county's employees were negligent in approving the allegedly non-conforming wall. Plaintiffs contend the wall exceeded the maximum height of 3.5 feet for front yard walls under Los Angeles County Ordinance 22.48.160. Plaintiffs submit evidence there was no permit or variance for the 5 foot, four inch wall. The county argues no permit is required because the wall is well within the 6 foot maximum height allowed under Ordinance 22.48.160 for corner side yards more than five feet from the highway line. We need not resolve whether the wall violates the ordinance's height restriction in considering the causation element.

As stated above, causation is established by the allegations in the complaint and plaintiffs' contentions concerning the roadway design. The complaint alleges the intersection is dangerous because of "the physical characteristics of the roadway . . . and surrounding area; inadequate design and/or maintenance of roadway markings, including but not limited to, limit lines; lack of visibility at and around the subject intersection, due primarily to the height of the wall/fence that exceeded the applicable height limits for the [area] . . . inadequate design of intersection and surrounding roadways; inadequate design of road placement . . . inadequate [sight] distance and/or stopping distance; [and] the fact that the roadway and surrounding areas



constituted a trap for those using the roadway for its intended purpose . . . .”

Further, the wall, which is on the northeast corner of the intersection, is depicted as a road feature in the plans. William James Winter, the deputy director for the Los Angeles County Department of Public Works, testified his department developed the plans for the roadway including the intersection. Mr. Winter stated, “[The plan] depicts different elements within the road, and . . . there’s conventional symbols shown on the plan. . . . There might be a wall depicted as existing topography and manholes and other types of road features.” Mr. Winter testified the 1983 plans reference “a future wall per grading plan” while the 2010 plans depict the wall.

Even if the wall is not part of the roadway design, causation is established based on plaintiffs’ contentions concerning the allegedly dangerous condition of the intersection. Plaintiffs’ experts opined the location of the limit line and stop sign, along with the light-colored wall, created a visibility trap. Further, plaintiffs proffered evidence that the center median striping on Pathfinder Road was a design defect. Plaintiffs’ expert, Mr. Ruzak, opined, “[T]he striping creates more conflict points for the intersection users and exacerbates an already dangerous condition created by the block wall, roadway geometry, travel speeds and reduced sight distance.” Based on the foregoing, the county has established a causal relationship between the plans and the accident.

### E. Discretionary Approval

The second design immunity element requires the county to show discretionary approval in advance of construction by a legislative body or an employee exercising discretionary authority. (§ 830.6; *Gonzales, supra*, 6 Cal.App.5th at p. 947.) Discretionary approval does not require that one exercising discretionary authority must conform to governing standards. (*Hampton, supra*, 62 Cal.4th at pp. 348-349; *Gonzales, supra*, 6 Cal.App.5th at p. 952 [rejecting argument “that proof of how a decision is made is necessary to establish the exercise of discretionary authority”].) “Plaintiffs [do] not create a conflict in the evidence on the question of the employees’ authority merely because they proffered evidence at trial that the designs failed to comply with county standards.” (*Hampton, supra*, 62 Cal.4th at p. 358.)

It is undisputed that the 1983 and 2010 plans were designed by licensed engineers. Mr. Winter testified the plans are signed by registered engineers who attest to their completeness as engineering documents. In addition, the plans were approved by county employees exercising their discretionary authority. (Sts. & Hwys. Code, §§ 1191 [county “may employ an engineer who shall prepare plans” and supervise highway work], 2009 [road commissioner shall supervise county road work]; Los Angeles County Code, §§ 2.18.010, 2.18.013, 2.18.015, 2.18.027.) The 1983 plans were approved by the road commissioner on December 29, 1983. The 2010 plans were approved by the Deputy Director of Public Works on January 16, 2010. The county has established discretionary approval of the plans as a matter of law. (*Gonzales, supra*, 6 Cal.App.5th at p. 947)

[approvals by city engineer and city council establish discretionary approval element]; *Laabs v. City of Victorville* (2008) 163 Cal.App.4th 1242, 1263 (*Laabs*).)

#### F. Reasonableness of Plans

Under section 830.6, the trial court or appellate court determines whether there is any substantial evidence upon which a reasonable public employee could have adopted or approved the plan or design or the design standards. (*Cornette, supra*, 26 Cal.4th at p. 66; *Laabs, supra*, 163 Cal.App.4th at pp. 1264-1264.) “Our task ‘is to apply the deferential substantial evidence standard to determine whether any reasonable [public] official could have approved the challenged design. [Citation.] If the record contains the requisite substantial evidence, the immunity applies, even if the plaintiff has presented evidence that the design was defective.’ [Citation.] ‘The fact of approval by competent professionals can, in and of itself, establish the reasonableness element.’ [Citation.] However, ‘[t]ypically, “any substantial evidence” consists of an expert opinion as to the reasonableness of the design, or evidence of relevant design standards.’ [Citation.]” (*Gonzales, supra*, 6 Cal.App.5th at pp. 953-954.)

Plaintiffs argue there is insufficient evidence to support the reasonableness of the plans. They assert there is no evidence the county engineers evaluated the wall using reasonable engineering judgment. Plaintiffs further contend there is no evidence the county ever considered the height or color of the wall when approving the design in the 2010 plans. We respectfully disagree.

The county presents substantial evidence supporting the reasonableness of the plans. Contrary to plaintiffs' contention, the county engineers considered the wall when designing and approving the plans. The 1983 plans reference a future wall per a grading plan while the 2010 plans depict the wall. Mr. Winter testified the 2010 plans are drawn to scale, with the wall being "as little as maybe 5 feet and perhaps a little more than 5 feet."

In addition, Mr. Winter testified he expected county engineers to perform a field review of the conditions when designing the plans. Mr. Winter stated, "Our engineers visit the site and perform a field review of conditions when determining the scope of the work or making sure that the scope of work is well established for then preparing the plans. So as part of that site review . . ., if there are walls or other physical features, they're noted by the engineer in the field and indeed even depicted on the plan. And if there are any concerns with the features observed by the engineer, they would address that with some further engineering analysis." Mr. Cline described the analysis conducted by county engineers in similar detail: "As part of this field review the engineer would have reviewed the conditions, including the corner sight distance for vehicles traveling southbound on Alexdale Lane through the intersection, of the location of the project. In particular, if there were any obstruction(s) to the corner sight distance that the engineer, in the exercise of his engineering judgment, determined presented a hazard to motorists or failed to provide adequate corner sight distance to a motorist stopped at the intersection on southbound Alexdale Lane, the engineer would engage in further analysis to determine what changes to the engineering configurations would need to be made. In this circumstance, no such changes were

deemed necessary by the reviewing engineer and none were made within the design of the plan for the project.” Furthermore, Mr. Winter testified he generally conducted an on-site inspection to review field conditions prior to approval of the plans. We conclude substantial evidence supports the reasonableness of the plans’ design and approval.

#### **IV. DISPOSITION**

The judgment is affirmed. Defendant County of Los Angeles shall recover its costs on appeal from plaintiffs Daniel Clavel and Tracey Walker-Clavel.

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

LANDIN, J.\*

We concur:

KRIEGLER, Acting P.J.

BAKER, J.

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\* Judge of the Los Angeles Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.