When and How to Sue Your Local Government
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Deciding whether to bring a lawsuit is a serious enough decision when you are injured by a private citizen, but there is added pressure whenever you consider suing your local government. Though the vast majority of workers perform their jobs with care, each day, there are municipal workers who carry out their work negligently, and in some cases, the result is that someone gets hurt. Whether a sanitation truck accidentally bumps your vehicle or your child hurts themselves on a poorly assembled playground, municipalities are liable for the torts of their employees. Unfortunately, suits for damages against cities, towns, and villages carry with them extra legal barriers that don't otherwise apply to suits against private entities. If you want to sue a municipality, the preliminary steps to initiate the lawsuit put the onus on both you and your attorney to act swiftly.

Typically, a lawsuit brought against a private entity carries with it one important time barrier that can prevent you from bringing an action: the statute of limitations. These statutes allow courts to toss out law suits that have not been filed in time. For most personal injury suits, where the claimant has been hurt by another's negligence, the statutory limit begins to run from the moment the claimant suffers their injury. In New York, a claimant usually has 2 years from the time they are injured to bring a suit against the defendant.

Yet, there is an additional time restraint that allows courts to toss out suits when the suit is against a municipality. This is known as the “notice of claim” requirement. In addition to having to file your action in court on time to comply with the statute of limitations, the notice of claim law requires you to inform the municipality that you intend to sue them!

In New York, the notice of claim requirement is 90 days from the date when you were injured. That means that in order to successfully sue for damages, the municipality must be served with notice of your impending lawsuit against them. The specifics of serving the municipality with notice should be left to your attorney, but you can help this process along by not sitting on a claim until it's too late. If you think you've been injured because of a municipality’s negligence, it's important to inform your attorney quickly.

While the notice of claim requirement applies to lawsuits for money damages, it does not apply when you bring a lawsuit to “enjoin” or prohibit your municipality from continuing an activity that tramples on your property rights or injures you. Take for instance a case where a farmer wants to stop a city from emptying sewage into a creek which causes damage to his farm. In this scenario, the farmer’s main goal is to stop the city from continuing to dump sewage that damages his farm. Since the farmer wasn’t asking the court to award him damages but to stop the activity, the notice of claim requirement would not apply. As a result, the farmer could proceed with his action despite having never notified the city he intended to sue them.

Taking into account the above, when debating whether to bring an action against your local government, the decision may seem complicated. The key is to evaluate the merits of your potential action, and your potential gain with competent counsel, and to remember that especially when you are suing the government, time is of the essence.