

The Canadian Institute's 19<sup>th</sup> Annual

# PROVINCIAL/MUNICIPAL GOVERNMENT LIABILITY

## How to Limit Liability, Prevent Claims and Minimize Your Risk of Costly Lawsuits in Times of Fiscal Restraint



### Gain Critical Skills from our Distinguished Faculty

**CHAIR:**  
Andrew J. Heal  
Blaney McMurtry LLP

David Boghosian  
Boghosian + Associates  
Professional Corporation

**SPEAKERS:**  
Government  
Sonia Coward  
Regional Municipality  
of Durham

Barry Cox  
Stieber Berlach LLP  
Harry Dahme  
Gowling Lafleur Henderson LLP

Joy Jackson  
City of London  
Heather Mackay  
Ministry of the Attorney  
General (Ontario)

Demir Delen  
Morrison Hershefield  
Julian Falconer  
Falconer Charney LLP

Larry Ptashynski  
City of Vaughan  
Graham Rempe  
City of Toronto

Van Krkachovski  
McCague Peacock Borlack  
McInnis & Lloyd LLP  
Marc McAree  
Willms & Shier Environmental  
Lawyers

Private Practice  
Kirk Boggs  
Lerners LLP

Charles A. Painter  
Paterson, MacDougall LLP  
John B.A. Wilkinson  
WeirFoulds LLP

### Acquire the critical legal updates and practical strategies you need to stay on top of the most crucial and core liability issues facing government including:

- Strategies for minimizing liability for roads, highways and sidewalks and complying with MMS
- Implementing measures to prevent privacy breaches, and an analysis of the implications of the new tort of "intrusion upon seclusion" arising from *Jones v. Tsige*
- Best practices to protect police forces against negligent investigations, assault and malicious prosecution claims
- Protecting against, defending and reducing your risk of exposure to joint and several liability
- Conforming to building codes to prevent claims arising from lack of inspection and incorrect permit issue
- An update on environmental liability trends and what types of exposure governments are facing in the areas of excess fill, contaminated sites and the context of climate change

### Plus! Develop additional skills to mitigate risk by participating in our new Targeted Learning Sessions

- A** Practical Guide to Build a Solid Road Liability Claim
- B** Reduce Your Legal Liability with a Solid Risk Management Strategy

Media Partner



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## Get the tools you need from leading practitioners and industry experts to defend against claims, reduce your economic losses and limit your exposure to liability.

With slashed budgets, inadequate resources and heavier workloads, it is more critical than ever that you get the latest information you need to limit liability and reduce your risks of exposure to costly lawsuits.

Be prepared to respond effectively to critical liability issues by getting the most comprehensive coverage, all in just one day.

This conference is your “one-stop” venue to meet your needs of getting up-to-date on the core issues.

Learn how to:

- Meet the demands in road and highway liability
- Successfully forge a defense against negligent inspections claims
- Protect against breach of privacy and information loss claims
- Mitigate the risks of environmental liability
- Limit claims against police officers
- Reduce the risks of exposure to joint and several liability claims

**Municipal World**  
CANADA'S MUNICIPAL MAGAZINE

Since 1891, **Municipal World** magazine has been the best source for information, news, views, case summaries and trends in the Canadian municipal forum. Published 12 times a year, the magazine is targeted at elected and appointed officials, engineers, public boards and committees, lawyers, consultants and manufacturers. **Municipal World** provides up to date information in this fast changing environment, including public private partnerships, economic development, municipal finance, technology and coming events. [www.municipalworld.com](http://www.municipalworld.com).

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Maximize your organization's visibility in front of key decision-makers in your target market. For more information, contact Director Business Development **Daniel Gellman** at 416-927-0718 ext. 7389, toll-free 1-877-927-0718 ext. 7389 or by email at [d.gellman@CanadianInstitute.com](mailto:d.gellman@CanadianInstitute.com)

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### WHO SHOULD ATTEND:

- City solicitors
- Provincial and Municipal Legal Counsel
- Plaintiff and Defence Counsel
- Lawyers specializing in municipal, provincial, and civil law
- Claims Adjusters
- Insurance Underwriters
- Directors of Claims
- City Treasurers and Directors
- Risk Managers
- Operations Managers
- City Planners
- City Clerks

### LEGAL ACCREDITATION



This program may be eligible toward the CPD Requirement as 7 Substantive Hours, as required by the **Law Society of Upper Canada**. Please note that this program is not accredited for Professionalism Hours or the New Member requirement.

This program has been approved by the **Law Society of Saskatchewan** for 7 CPD hours for the conference. Members will also receive 2.0 additional CPD credit hours for attending Learning Session A, and 3.0 for B.

The same number of hours may be applied toward your continuing legal education requirements in **British Columbia**.

The **Barreau du Québec** automatically recognizes the same number of hours for this training activity, the latter having been accredited by another Law Society subject to MCLE.

Attendance at this program by members of the **Law Society of Alberta** may be submitted to the Law Society for Continuing Professional Development credits.

## POST-EVENT TARGETED LEARNING SESSIONS • WEDNESDAY, FEBRUARY 6, 2013

*\* Benefit from this unique opportunity to ask specific questions about your claims! Submit your questions by February 1 to [k.bergeron@canadianinstitute.com](mailto:k.bergeron@canadianinstitute.com)*

10:00 a.m. to 12:00 p.m. (Registration opens at 9:30 a.m.)

### A Practical Guide to Build a Solid Road Liability Claim

**Van Krkachovski**  
Partner, McCague Peacock Borlack McInnis & Lloyd LLP

*Road claims monopolize an important part of resources for municipalities that are already faced with restrictive budgets. These types of claims represent a challenge faced by all municipalities looking to reduce their operational costs and insurance premiums. This practical session will give you the tools you need to create a solid claim in order to reduce costs and defend against claims in a more efficient manner.*

- How to effectively analyze a claim: Are there exemptions set at your disposal?
- Step-by-step guidelines to build successful arguments against complaints for the maintenance of roads and sidewalks
- Innovative and creative strategies to apply the legal defenses available in the *Municipal Act*
- How to defend in cases where there are no provisions established such as: bad weather, storm, traffic
- Guidance to navigate and manage expectations of large damage awards related to the “deep-pocket” syndrome

Lunch will be served for delegates participating in both Post-Conference Targeted Learning Sessions A & B.

1:00 to 4:00 p.m. (Registration opens at 12:30 p.m.)

### B Reduce Your Legal Liability with a Solid Risk Management Strategy

**Joy Jackson**  
Risk Manager, City of London

*Public authorities are held to very high standards of care. With constrained budgets and resources, your organization cannot afford the cost exposure to different types of breaches for weak policies and ineffective procedures. Managing your risks of liability and taking pro-active steps to reduce injuries can help to prevent or reduce costly lawsuits. This workshop is designed to give you the tools you need to build, assess and implement a thorough and thoughtful risk management plan.*

- How to identify and understand the risks to which your organization is exposed
- Assessing your current policies and strategies: Are all possible risks covered by the guidelines?
- Practical guidance to create and implement an effective plan to prevent losses and reduce the impact of potential litigation
- Advice to improve staff training to reduce your liability and litigation costs
- Effective record retention policies to preserve the evidence you need to defend claims
- Determining the best ways that technology can assist your staff to become more efficient and to increase their performance
- Strategies to defend claims: How to avoid errors and omissions liabilities arising from document distribution

Register at 1-877-927-0718 x7329 or [www.CanadianInstitute.com/GovtLiability](http://www.CanadianInstitute.com/GovtLiability) (Priority Code RMR)

7:20	<p><b>Registration and Coffee Served</b></p>		
8:20	<p><b>Opening Remarks from the Chair</b></p> <hr/> <p><b>Andrew J. Heal</b> Partner, Blaney McMurtry LLP</p>		<ul style="list-style-type: none"> <li>• Update on recent case law and guidelines to ensure privacy of information: What concerns arise from <i>Jones v. Tsige</i> for provinces and municipalities?</li> <li>• Analysis of the new tort of “intrusion upon seclusion”: What are the implications for future cases?</li> <li>• Strategies to avoid risks when managing, preserving and transferring sensitive Freedom of Information requests</li> </ul>
8:30	<p><b>Top Cases of the Year in Sidewalk, Road and Highway Liability: What They Mean and Lessons Learned</b></p> <hr/> <p><b>David Boghosian</b> Partner, Boghosian &amp; Associates Professional Corporation</p> <ul style="list-style-type: none"> <li>• What is the extent of the liability of the municipality to maintain roads, sidewalks and highways: How is new case law changing the duty of care?</li> <li>• Complying with the standard of care for sidewalk, roadways, highways and areas where there are no sidewalks: What are the evolving requirements?</li> <li>• What are your areas of exposures resulting from the new cases?</li> <li>• New developments in slip and fall cases: What are the latest trends for a successful defense?</li> </ul>	12:00	<p><b>Networking Luncheon</b></p>
9:00	<p><b>Meeting the Demands in Road and Highway Liability: What are the Implications of the Recent Rulings to Municipalities and the Provinces?</b></p> <hr/> <p><b>Kirk Boggs</b> Partner, Lerner LLP</p> <p><b>Charles Painter</b> Partner, Paterson MacDougall LLP</p> <ul style="list-style-type: none"> <li>• Review of the Ontario Court of Appeal decision in <i>Giuliani v. Halton (Municipality) et. al.</i> and its effect on your ability to establish a defense under the MMS (Minimum Maintenance Standards)</li> <li>• Blurring the statutory duty: Analyzing the problem that is being created for road authorities by conflicting legal analysis in common law and statutory duty of the provinces</li> <li>• Exploring the proposed amendments to the MMS: How will you need to change your defense strategy?</li> <li>• Update on the legal challenge to the constitutional validity of the MMS in <i>Silveira v. Ontario et. al.</i></li> </ul>	1:15	<p><b>Understanding the Emerging Developments in Joint and Several Liability Reform Across Canada</b></p> <hr/> <p><b>Sonia Coward</b> Manager, Risk Management &amp; Insurance Regional Municipality of Durham</p> <p><b>Barry Cox</b> Partner, Stieber Berlach LLP</p> <ul style="list-style-type: none"> <li>• Lessons learned from case law across Canada: Analysis of the implications arising from recent key cases</li> <li>• Understanding the emerging developments in joint and several liability reform across Canada</li> <li>• What are the initiatives and status of proposed amendments to the <i>Negligence Act</i>: How will it provide better protection for municipalities?</li> <li>• How are the proposed reforms impacting settlement negotiations?             <ul style="list-style-type: none"> <li>- What you need to know to protect and properly advise your client on accepting settlements</li> </ul> </li> <li>• Guidance in creating a checklist of areas of potential exposure to liability to limit the rise in insurance premiums</li> </ul>
9:45	<p><b>Networking Coffee Break</b></p>	2:15	<p><b>Networking Coffee Break</b></p>
10:00	<p><b>Addressing Issues Around Police Liability at an Early Stage</b></p> <hr/> <p><b>Heather Mackay</b> Counsel and Team Lead, Malicious Prosecution Crown Law Office-Civil, Attorney General of Ontario</p> <p><b>Julian Falconer</b> Partner, Falconer Charney LLP</p> <ul style="list-style-type: none"> <li>• Get up to date on the latest legal developments and actions in police civil liability</li> <li>• Analyzing your differing obligations in the range of claims: negligent investigation, malicious prosecution, claims resulting from assault, Charter rights violations and false arrest             <ul style="list-style-type: none"> <li>- What defenses are working in these claims?</li> </ul> </li> <li>• Exploring the challenges arising from the G8/G20, Vancouver riots and Quebec student riots: What lessons can you learn and what errors should you avoid to limit liability?</li> <li>• How to effectively use summary judgment as a tool to defend and dispose of police liability claims</li> <li>• Strategies to limit claims against police officers by implementing updated internal procedures, training and communications for police officers</li> </ul>	2:30	<p><b>Defending Against Negligent Inspections Claims: Best Practices to Reduce Costly Actions</b></p> <hr/> <p><b>Demir Delen, P.Eng</b> Principal, Morrison Hershfield</p> <p><b>Larry Ptashynski</b> Manager of Inspection Services, Building Standards Department City of Vaughan</p> <p><b>Andrew J. Heal</b> Partner, Blaney McMurtry LLP</p> <ul style="list-style-type: none"> <li>• Understanding the municipality’s obligations: Update of the building controls, services and code issues and recent cases</li> <li>• Determining the types of deficiencies that could lead to costly lawsuits: Where are your most exposed areas of risk?</li> <li>• Being proactive to reduce liability: Case study focusing on best practices</li> </ul>
11:00	<p><b>Guarding Against Liability for Privacy Breach: What Does a Right of Action for Intrusion Upon Seclusion Mean to Future Cases?</b></p> <hr/> <p><b>John B.A. Wilkinson</b> Partner, WeirFoulds LLP</p> <ul style="list-style-type: none"> <li>• Understanding how the privacy regimes apply to public bodies: What are the requirements for secure service delivery across Canada?</li> </ul>	3:45	<p><b>Emerging Trends in Environmental Liabilities and Related Claims</b></p> <hr/> <p><b>Graham Rempe</b> Solicitor, Legal Services, City of Toronto</p> <p><b>Mark McAree</b> Partner, Willms &amp; Shier Environmental Lawyers LLP</p> <p><b>Harry Dahme</b> Partner, Certified Specialist (Environmental Law), Gowlings</p> <ul style="list-style-type: none"> <li>• How and when does government liability for historic contamination arise?</li> <li>• How and why should municipalities regulate the deposit of excess fill             <ul style="list-style-type: none"> <li>- What are the implications of the province’s Best Management Practices?</li> </ul> </li> <li>• What has the Environmental Review Tribunal proposed about municipal liability to remediate another landowner’s contamination?             <ul style="list-style-type: none"> <li>- Analysis of <i>The Corporation of the City of Kawartha Lakes v. Director, Ministry of the Environment</i></li> </ul> </li> <li>• What kinds of claims against governments are more prevalent in the context of climate change and what can be done to adapt?</li> </ul>
		5:00	<p><b>Concluding Remarks from the Chair</b></p>

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ATTENTION MAILROOM: If undeliverable to addressee, please forward to:  
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### TOP REASONS TO ATTEND

- ✓ Learn how to overcome liability challenges for road and highway suits
- ✓ Get the top strategies to manage your police force liability claims
- ✓ Discover cost effective practices to defend against negligent inspections claims
- ✓ Navigate new developments in environmental liability claims
- ✓ Gain valuable information to prevent claims against breach of privacy and information loss

### 5 EASY WAYS TO REGISTER

- Phone:** 1-877-927-0718 x7329 or 416-927-0718
- Fax:** 1-877-927-1563 or 416-927-1563
- Email:** R.Mangar@CanadianInstitute.com
- Mail:** The Canadian Institute  
1329 Bay Street  
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- Online:** www.CanadianInstitute.com/  
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YES! Register the following delegate for **PROVINCIAL/MUNICIPAL GOVERNMENT LIABILITY**

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### 2 CONTACT DETAILS

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EMAIL \_\_\_\_\_

TYPE OF BUSINESS \_\_\_\_\_ NO. OF EMPLOYEES \_\_\_\_\_

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Please charge my  VISA  MasterCard  AMEX  DISCOVER CARD

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Please quote the name of the attendee(s) and the program code 432D13 as a reference.

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### ADMINISTRATIVE DETAILS

VENUE: Marriott Bloor Yorkville  
ADDRESS: 90 Bloor Street East, Toronto, ON  
TEL.: 416-961-8000

### Hotel Reservations

For information on hotel room availability and reservations, please contact the Marriott Bloor Yorkville at (416) 961-8000 and request **'The Canadian Institute's Preferred Corporate Rate'**. To book online, please go to the Marriott Bloor Yorkville website and click on the "Special Rates & Awards" drop down menu and use Corporate/Promotional Code "KN8".

### Registration Fee

The fee includes the program, all program materials, coffee breaks and lunches.

### Payment Policy

Payment must be received in full by the program date to ensure admittance. All discounts will be applied to the Program Only fee (excluding add-ons), cannot be combined with any other offer, and must be paid in full at time of order. **Group discounts available to 4 or more individuals employed by the same organization, who register at the same time. For more information on group rates, please call 1-877-927-0718.**

### Cancellation and Refund Policy

You must notify us by email at least 48 hrs in advance if you wish to send a substitute participant. Delegates may not "share" a pass between multiple attendees without prior authorization. If you are unable to find a substitute, please notify **The Canadian Institute** in writing no later than 10 days prior to the program date and a credit voucher will be issued to you for the full amount paid. Credit Vouchers are valid for 1 year and are redeemable against any other program by **The Canadian Institute**. If you prefer, you may request a refund of fees paid less a 25% service charge. No credits or refunds will be given for cancellations received after 10 days prior to the program date. **The Canadian Institute** reserves the right to cancel any program it deems necessary and will, in such event, make a full refund of any registration fee, but will not be responsible for airfare, hotel or other costs incurred by registrants. No liability is assumed by **The Canadian Institute** for changes in program date, content, speakers or venue.

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