

February 9 - 10, 2009 • The Sutton Place Hotel • Toronto

The Canadian Institute's 15th Annual

PROVINCIAL / MUNICIPAL GOVERNMENT LIABILITY

CROSS-CANADA COVERAGE OF THE MOST CRITICAL ISSUES FOR 2009



Co-Chairs

Christopher J. Tzekas Partner, WeirFoulds LLP
David J. Potts City Solicitor, City of Oshawa

Get the latest critical developments and develop strategies for managing risk including:

NEW AND UPDATED FOR 2009!

- ▶ Managing risk and minimizing liability in emergencies
- ▶ Identifying and avoiding liability in planning and land use development
- ▶ Dealing with Aboriginal claims
- ▶ Exploring the liability of Tasers in police work
- ▶ Examining the impact of climate change on infrastructure liability
- ▶ Best practices for managing transit systems to reduce liability

- ✓ **BEST PRACTICES** for minimizing liability for roads, highways and sidewalks
- ✓ **TOP TIPS** for managing risk with recreational facilities
- ✓ **SUCCESSFUL STRATEGIES** for disaster and crisis management
- ✓ **UNDERSTANDING** how to defend against negligent building inspection claims
- ✓ **OVERCOMING** the challenges of claims against police officers

And much more!



see inside for details

PLUS! Gain additional value by attending the post-conference workshop on February 11, 2009
Dealing with Disaster: Effective Strategies for Post-Crisis Management

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DO YOU HAVE THE RIGHT TOOLS TO SUCCESSFULLY PREVENT GOVERNMENT LIABILITY AND MANAGE RISK?

Each year, public liability exposure increases and damage awards grow larger. It is crucial that municipalities and provinces are aware of potential liability issues and have the tools to defend these claims. If you are unable to overcome liability challenges and properly manage risk, your municipality or province can suffer from costly litigation and economic loss.

The Canadian Institute's 15th Annual Provincial/Municipal Government Liability conference is the event that municipal solicitors, provincial lawyers, government advisors, risk managers, private-practice lawyers and insurance professionals know they cannot miss! This conference will provide you with practical strategies to avoid lawsuits and manage risk. Our outstanding speaker faculty will share their wide-ranging knowledge on matters of importance to you, including:

- Understanding the impact of climate change on **infrastructure liability**

- Managing risk and preventing liability in **planning and land use development**
- Dealing with **Aboriginal claims** and issues of liability
- Comprehending **nuisance and trespass claims**
- Best practices for managing risk for **public transit systems**
- Successful strategies for settling **multi-party litigation**

And much more!

PLUS! Add value to your attendance by participating in our post-conference workshop: **“Dealing with Disaster: Effective Strategies for Post-Crisis Management”**.

Don't delay! Spaces are limited. You can register by calling **The Canadian Institute** toll-free at **1-877-927-7936**, faxing the registration form to **1-877-927-1563**, or registering online at **www.CanadianInstitute.com**

Distinguished Faculty

Co-Chairs

Christopher J. Tzekas
Partner, WeirFoulds LLP

David J. Potts
City Solicitor, City of Oshawa

Speakers

Ron Barnes (tentatively confirmed)
Managing Director of Echelon Risk Management Services, Jardine Lloyd Thompson Australia

Eric Bergman
Principal/Communications Consultant
Bergman & Associates

C. Kirk Boggs
Partner, Lerner LLP

David Boghosian
Principal, Boghosian & Associates Professional Corporation

Doug Brown
Risk Manager, City of Regina

L. Craig Brown
Partner, Thomson, Rogers

Basile Chiasson, Q.C.
Partner, Chiasson & Roy (New Brunswick)

George Cowley
Director of Legal Services, Toronto Police Force

Bruno De Vita
Partner, Alexander Holburn Beaudin & Lang LLP (Vancouver)

Speaker to be announced
Edmonton Police Service

Daniel P. Ferguson
Partner, WeirFoulds LLP

Don Gordon
General Manager, York Region Transit

Stuart Huxley
Legal Counsel, City of Ottawa

Joy Jackson
Risk Manager, City of London

Van Krkachovski
Partner, McCague Peacock Borlack McInnis & Lloyd LLP

David Lewis
Manager of Litigation
City of Calgary Law Department

Charles Loopstra, Q.C.
Partner, Loopstra Nixon LLP

Marc McAree
Partner
Willms & Shier Environmental Lawyers LLP

Peter M. Rogers
Partner, McInnes Cooper (Halifax)

Tony Rossi
Manager, Risk Management
City of Mississauga

George Rust-D'Eye
Partner, WeirFoulds LLP

Dr. Dianne Saxe
Saxe Law Office, Barristers & Solicitors

Nancy Smith
Barrister & Solicitor, Turkstra Mazza Associates

Ria Tzimas
Counsel, Crown Law Office – Civil
Ontario Ministry of the Attorney General

Speaker to be announced
Toronto Transit Commission

Who Should Attend

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

Register at 1-877-927-7936 or in Toronto 416-927-7936 or www.CanadianInstitute.com

Day I – Monday, February 9, 2009

8:00 **Registration Opens and Coffee Served** ☞

9:00 **Opening Remarks from the Co-Chairs**

Christopher J. Tzekas
Partner, WeirFoulds LLP

David J. Potts
City Solicitor, City of Oshawa

9:15 **Successful Strategies for Minimizing Highway, Road and Sidewalk Liability**

Van Krkachovski
Partner, McCague Peacock Borlack McInnis & Lloyd LLP

C. Kirk Boggs
Partner, Lerner LLP

Doug Brown
Risk Manager, City of Regina

Road and Highway Liability

- Examining recent court decisions: are minimum maintenance standards being eroded?
 - exploring the legislature's reaction
- Reviewing the recommendations from the Ontario Good Roads Association regarding minimum maintenance standards
 - what impact would they have on liability?
- Exploring proposed amendments to the *Pesticides Act*
 - how will the proposed ban of pesticides for cosmetic use affect road and highway liability?
- Successful strategies for risk management in road and highway liability

Sidewalk Liability

- What constitutes a danger on a municipal sidewalk?
- Understanding minimum maintenance requirements for sidewalks
- What is the standard of care for sidewalks? How does it compare to the standard of care for roadways?
- Latest developments in slip and fall cases
 - analyzing possible defences for slip and fall cases

10:45 **Networking Refreshment Break** ☞

11:00 **Crisis Management: Best Practices for Minimizing Liability and Managing Risk in Emergencies**

Tony Rossi
Manager, Risk Management, City of Mississauga

Stuart Huxley
Legal Counsel, City of Ottawa

- Learning how to identify potential disaster and crisis risks: being proactive
- Dealing with pandemics: what is the responsibility of the municipality?
 - top tips for preventing pandemics
 - developing plans to deal with pandemics
- Best practices for creating a disaster/emergency plan
 - creating an immediate response
 - who should be involved?
 - what is the role of supporting agencies?
- Protecting the municipality or province from liability
 - what is the role of mitigation?

- how can mitigation minimize liability?
- Effective risk management strategies

12:00 **Networking Luncheon for Delegates & Speakers**

1:15 **Minimizing and Defending Against Negligent Building Inspection Claims**

David Lewis

Manager of Litigation, City of Calgary Law Department

Charles Loopstra, Q.C.

Partner, Loopstra Nixon LLP

- Examining a municipality's obligations concerning building permits
 - when can a municipality be held liable?
- Analyzing the requirements for negligent inspection liability
 - what is the duty of care owed in the circumstances?
 - when is a municipality or province liable for not discharging its duty?
- What are the limitation periods for claims across Canada?
 - how are they comparable?
- Understanding joint and several liability for negligent building inspection claims
 - what impact will it have on damages?
 - are the damages severable?
 - is there an ability to recover from the co-defendants or their insurers?
- Successful strategies for defending against negligent building inspection claims
 - use of experts
 - distinguishing between workmanship errors and health and safety issues
 - defending subrogated claims
- Best practices for minimizing risk concerning negligent building inspection claims

2:30 **Networking Refreshment Break** ☞

2:45 **Preventing Municipal Liability in Planning and Land Use Development**

David Boghosian

Principal, Boghosian & Associates Professional Corporation

Basile Chiasson, Q.C.

Partner, Chiasson & Roy

- Can municipalities be held liable for failing to adhere to statutory procedures regarding planning and land use development?
- Can municipalities be liable for negligent land use planning?
 - examining *Bowes v. Edmonton (City of)*
- Can negligent misrepresentation with respect to future zoning lead to liability?
 - what is the position of the courts?
- Bad faith and municipal liability: examining the law relating to a municipal counselor's obligations
 - when are counselors exposed to liability?
 - when do counselors expose a municipality to liability?
- Exploring development officer negligence: when are they exposed to liability?

3:45 **Best Practices for Dealing with Aboriginal Claims: Identifying Claims and Consulting with Aboriginals**

Nancy Smith

Barrister & Solicitor, Turkstra Mazza Associates

Ria Tzimas

Counsel, Crown Law Office – Civil
Ontario Ministry of the Attorney General

- How is a municipality or province exposed to liability concerning Aboriginal claims?
- Defining a claim by Aboriginals
 - what is the role of experts in determining whether a claim exists?
- Top tips for working with the federal government to resolve disputes and prevent liability
- Do municipalities and provinces have a duty to consult?
- Best practices for meeting with Aboriginals
 - drafting public notices
- Drafting Servicing Agreements between municipalities and Aboriginals: what should be included?
- Successful strategies for risk management for dealing with Aboriginal claims

4:45 Co-Chairs' Closing Remarks Conference Adjourns

Day 2 – Tuesday, February 10, 2009

8:30 Coffee Served ☞

9:00 Opening Remarks from the Co-Chairs

9:15 Overcoming the Liability Challenges of Recreational Facilities

Bruno De Vita

Partner, Alexander Holburn Beaudin & Lang LLP
(Vancouver)

- Understanding liability for indoor skating rinks, community centres, parks, playgrounds and other recreational facilities
 - what is the duty of provinces or municipalities?
 - is the standard of care for indoor and outdoor facilities similar?
- Dealing with fairs and festivals in public parks: issues of insurance and liability
- Analyzing the role of community-based volunteers in the maintenance of recreational facilities
 - what is the duty of care for municipalities and provinces?
 - who is liable in the event that someone gets hurt?
- Reviewing the latest case law across Canada on liability for recreational facilities
- Learning how to identify hazards and risks
- Exploring duties concerning signage: will proper signs reduce liability?
- Best practices for risk management to reduce claims

10:00 Top Tips for Minimizing the Number of Claims Against Police Officers

George Cowley

Director of Legal Services, Toronto Police Force

George Rust-D'Eye

Partner, WeirFoulds LLP

Speaker to be announced

Edmonton Police Service

- Analyzing *R. v. Nesbeth*: grounds for investigation
 - what constitutes grounds for an investigation?
 - how will this case affect claims for *Charter* breaches?
 - what is the potential impact of this case on police forces across Canada?

- Demystifying the decision in *R. v. Hanemaayer*
 - what standards have the courts imposed when conducting photo identifications?
- Examining the recent implications of *Hill v. Hamilton*
 - understanding the “professional standard” of police officers
 - using expert evidence to judge an officer’s conduct
- Exploring the liability of Tasers in police work
 - how do officers ensure their use of Tasers is in line with current case law?
 - documenting and reporting Taser usage: what is the benefit of complete records?
- E-discovery and police records: is your document retention program in line with the court’s requirements?
- Recent developments on handling concurrent actions in different forums
 - best practices for managing different proceedings in different locations
- Successful strategies for minimizing liability for police officers
 - ensuring procedures, training and communication for police officers is up-to-date

11:00 Networking Refreshment Break ☞

11:15 Infrastructure and Climate Change: Adopting Proactive Measures to Decrease Claims

Dr. Dianne Saxe

Saxe Law Office, Barristers & Solicitors

Ron Barnes (tentatively confirmed)

Managing Director of Echelon Risk Management Services
Jardine Lloyd Thompson Australia

- How are climate change and other weather-related problems such as acid rain having an impact on infrastructure?
- Report from the insurance industry: what claims are they seeing with regards to climate change and infrastructure?
 - are these claims increasing?
- How is climate change affecting municipal liability for infrastructure?
 - what are the municipalities’ responsibilities?
- Analyzing the governments’ response to climate change: how do they propose to protect infrastructure and limit liability?
- Understanding the importance of adaptation: modifying infrastructure to stand up to climate change

12:15 Networking Luncheon for Delegates & Speakers

1:30 Managing Nuisance and Trespass Claims in an Environmental and Civil Liability Context

Marc McAree

Partner, Willms & Shier Environmental Lawyers LLP

Charles Loopstra, Q.C.

Partner, Loopstra Nixon LLP

- Analyzing the latest developments in contaminated land lawsuits
- What factors may give risk to class action lawsuits in nuisance cases?
 - exploring the role of fiduciary duty
- Best practices for preventing litigation
- Are municipalities required to disclose information regarding potential contaminations?
 - who should be informed?
 - how much information should be released?
- Successful strategies for managing risk in nuisance cases
 - developing a risk management plan

2:30 Networking Coffee Break ☞

2:45 **Identifying Liability Issues and Creating Effective Risk Management Strategies for Public Transit Systems**

Daniel P. Ferguson
Partner, WeirFoulds LLP

Don Gordon
General Manager, York Region Transit

Speaker to be announced
Toronto Transit Commission

- Useful strategies for managing transit systems to reduce the risk of liability
- Dealing with accidents on subways, light rail transit, bus rapid transit or other public transit systems
 - examining how liability can arise
 - top tips for preventing accidents and lawsuits
 - successful strategies for risk management
- Identifying public transit security issues
 - dealing with major incidents on transit systems
 - to what extent can security measures be put in place for transit systems?
- Obtaining liability insurance coverage for public transit agencies
 - what factors should be considered when obtaining insurance coverage?
- Best practices for enforcement of non-fare box payment
- Understanding Operation and Management Agreements with the private sector
 - is the municipality still liable when the private sector operates the transit system?
 - how can municipalities best protect themselves under these Agreements?

3:45 **Demystifying Multi-Party Litigation: Best Practices for Settlements**

L. Craig Brown
Partner, Thomson, Rogers

Peter M. Rogers
Partner, McInnes Cooper (Halifax)

- Exploring recent developments and trends in multi-party litigation
- Understanding Mary Carter Agreements
 - how are they used?
 - what are the benefits and drawbacks?
 - how do the courts respond to Mary Carter Agreements?
- How does joint and several liability affect multi-party litigation?
- Best practices for drafting partial settlement agreements
 - when should partial agreements be used?
 - top tips for negotiating partial settlement agreements
- Handling the practical issues of multi-party cases
 - sharing experts
 - division of labour
 - common interest privilege
 - overcoming the problem of the free-loading co-defendant

4:45 **Co-Chairs' Closing Remarks
Conference Concludes**



This program has been accredited by the Law Society of Upper Canada towards the professional development requirement for certification.

	Conference	Workshop
Civil Litigation	11.5 hours	3.0 hours
Municipal Law	11.5 hour	3.0 hours
Environmental Law	1.0 hour	

**Post-Conference Workshop
Wednesday, February 11, 2009**

9:00 a.m. – 12:00 p.m.

Dealing with Disaster: Effective Strategies for Post-Crisis Management

Joy Jackson
Risk Manager, City of London

Eric Bergman
Principal/Communications Consultant
Bergman & Associates

Disasters such as explosions, blackouts, epidemics, fires and floods can cause limitless damage to private property and public infrastructure. It is crucial that municipalities have a disaster management plan in place to manage risk after a crisis.

If municipalities are not aware of how to properly respond to a crisis and how to deal with the press and the public in order to protect its reputation, it could expose itself to lawsuits and class action suits. This session will provide municipalities with the tools and the knowledge to create a disaster management plan that will help them manage risk and prevent liability.

Topics that will be covered at this must-attend workshop include:

- Who should be responding to a crisis?
- Successful strategies for keeping the government functioning during a disaster
- Understanding reputational risk: learning how to protect the city's reputation after a disaster
 - protecting the reputation and integrity of multiple departments and support agencies
- When should you involve your insurance company?
 - should municipalities and provinces involve their insurance company and begin investigations prior to a claim?
- Meeting your obligations as a municipality to address public concerns
- Dealing with the practical aspects of the press
 - what are the differences between print and broadcast media?
 - managing polarization
 - learning the four priorities of spokesperson
- Knowing the importance of answering questions... and stopping
 - exploring the defensive skill of a spokesperson

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For group discounts please call 1-877-927-7936

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<input type="checkbox"/> Conference Only	\$1895 + 5% GST = \$1989.75	\$2095 + 5% GST = \$2199.75
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<input type="checkbox"/> I am attending, please add the conference materials CD-ROM to my order \$195 + \$15.95 (S & H) (+ applicable taxes)		

STEP 2

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STEP 3

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TEL.: 416-924-9221

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For information on hotel room availability and reservations, please contact The Sutton Place at 1-866-378-8866. When making your reservation, please ask for "The Canadian Institute's Corporate Rate".

Program Materials

Conference participants will receive a comprehensive set of conference materials prepared by the speakers, as an excellent reference source after the conference. If you have paid and are unable to attend, the conference materials will be shipped to you upon request only. Request must be received within 30 days upon conclusion of the conference.

Payment Policy

Payment must be received in full by the conference date. All discounts will be applied to the Conference 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 individuals employed by the same organization.

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 conference 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 Canadian Institute conference. 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 conference date. The Canadian Institute reserves the right to cancel any conference 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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