February 9 – 10, 2010 | Marriott Bloor Yorkville | Toronto

The Canadian Institute's 16th Annual

PROVINCIAL/MUNICIPAL GOVERNMENT LIABILITY

Cross-Canada Coverage of the Most Critical Issues for 2010



CO-CHAIRS



Andrew J. Heal Partner Blaney McMurtry LLP

Bradley N. McLellan Partner

WeirFoulds LLP

New for 2010!

- Managing risks and minimizing the burdens from joint and several liability
- Identifying environmental liabilities your public body must address
- Reducing municipal and professional liabilities with the proper insurance coverage
- Meeting the duty to consult when dealing with Aboriginal communities
- Exploring potential risks arising from your employees' misdoings



See inside for details

Get the latest critical developments and learn strategies for managing risk from leading experts, including:

- **Top tips** for overcoming risks from **Aging Infrastructure**
- **Obtain** best practices for preventing **Litigation Claims**
- Successful strategies for managing risks from Building Inspection Claims
- Learn how to reduce exposure to Road and Sidewalk Claims
- Minimize potential liabilities arising from Unforeseen Events And much more!
- PLUS! Gain additional value in this must-attend post-conference workshop on February 11, 2010 on:

Managing Project Risks When Receiving Infrastructure Funding

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Good source of materials, expertise and updates on subjects

Michael Mallett, VP Public Sector Underwriting, The Guarantee Company of North America The Canadian Institute's 15th Annual Provincial / Municipal Government Liability Conference, February 2009

Get the Right Tools and Tips for Keeping Your Exposures and Expenses to a Minimum

Now more than ever, government deficits and the weak economy are emphasizing the need for provincial and municipal bodies to strictly adhere to their budgets. The heavy expenses incurred from having to pay high damages from lawsuits and liabilities take a substantial toll and must be avoided as much as possible. It is crucial for municipalities and provinces to have the tools and to know how to manage risks, obtain the suitable coverage and limit involvement in litigation. If you fail to harness your liabilities and expenses, your organization can suffer from increasingly costly litigation and related costs.

The Canadian Institute's 16th Annual Provincial / Municipal Government Liability conference is the event you cannot afford to miss. This conference will provide you with the latest updates and practical strategies you need for preventing lawsuits, minimizing exposure and reducing risks. Our outstanding speaker faculty will share their wide-ranging knowledge on matters of importance to you, including:

- Balancing the risks of infrastructure liability claims and the financial constraints that delay repairs
- Strategies for minimizing exposure to direct and vicarious liability
- Minimizing land use planning law suits by properly drafting site plan agreements and attacking claims early
- Evaluating the pros and cons of self-insurance and reinsurance options
- Overcoming potential liabilities from source water protection

And much more!

PLUS! Add value to your attendance by participating in our post-conference workshop: "Managing Project Risks When Receiving Infrastructure Funding".

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/PMGL

Co-Chairs

Andrew J. Heal Partner, Blaney McMurtry LLP

Bradley N. McLellan Partner, WeirFoulds LLP

<u>Speakers</u>

Chris Barnett Partner, Davis LLP

City Solicitors

William Blakeney Partner, Blakeney Henneberry Murphy & Galligan Barristers & Solicitors

Provincial and Municipal Legal Counsel

Plaintiff and Defence Counsel

provincial and civil law

• Lawyers specializing in municipal,

Janet Bobechko Partner, Blaney McMurtry LLP

David G. Boghosian Principal, Boghosian & Associates

Distinguished Faculty

Diana W. Dimmer Director of Litigation, City of Toronto, Legal

Bruce Drake **Risk Management Insurance Officer** City of Greater Sudbury

Daniel P. Ferguson Partner, WeirFoulds LLP

David A. Graves Partner, McInnes Cooper

Abdul-Basit Khan Partner, Blake, Cassels & Graydon LLP

Signe B. Leisk Partner, Cassels Brock & Blackwell LLP

Valerie M'Garry Principal, Valerie M'Garry Law Office

Alison Orr, P. Eng. Building Engineer, Southward Consultants Ltd.

Who Should Attend

- Claims Adjusters
- Underwriters
- Insurance Claims Examiners
- Directors of Claims
- Risk Managers

Terry Patterson Managing Director Jardine Lloyd Thompson Canada Inc.

Anthony (Tony) Rossi, MBA, FCIP, CRM Manager, Risk Management City of Mississauga

Alan S. Rudakoff Partner, Macleod Dixon LLP

Colleen Sinclair Barrister & Solicitor, The City of Calgary Law Department, Litigation Section

Jacquelyn E. Stevens Willms & Shier Environmental Lawyers LLP

Matthew Wilson Senior Policy Advisor Association of Municipalities of Ontario

- 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/PMGL

DAY I | TUESDAY, FEBRUARY 9, 2010

8:00 Registration Opens and Coffee Served

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

Andrew J. Heal Partner, Blaney McMurtry LLP

9:15 Minimizing Risks Arising from Aging Infrastructure

Chris Barnett

Partner, Davis LLP

- Understanding the role of provincial and federal governments in municipal infrastructure projects: what is the allocation of risks and liabilities?
- Learning how to identify key hazards and potential for liability
- Clarifying the duty of care and extent of responsibility of municipalities and provinces
- Lessons learned from legislative initiatives in Eastern Canada limiting liability
- Updates on latest case law and legal developments
- Canvassing exposures to liability and suitable legal defenses
- Scenario analysis: how a provincial body handled the collapse of a section of a highway
- What pro-active steps could have been taken prior to the event?
- What risk minimizing strategies should be taken?
- What can be learned from court cases of such situations?

10:15 Networking Refreshment Break

10:30 Effective Risk Management Strategies for Defending Against Negligent Building Inspection Claims

Signe B. Leisk

Partner, Cassels Brock & Blackwell LLP

Alison Orr, P. Eng.

Building Engineer, Southward Consultants Ltd.

- Examining a municipality's obligations:
- Reviewing building and permit inspections regimes
- Understanding the liabilities arising from negligent inspections
 What constitutes a "reasonable inspection"?
- Analyzing joint and several liability issues in the context of negligent building inspection claims
- Devising successful strategies for defending against negligent building inspection claims:
 - Expert witnesses
 - Workmanship errors and reliance on design professionals
 - Health and safety issues
- Defending subrogated claims
- Registered code agencies
- Best practices for reducing liability:
- Contributory negligence
- Failure to mitigate

11:30 Joint and Several Liability: Keeping the Burden to a Minimum

David G. Boghosian

Principal, Boghosian & Associates

Matthew Wilson

Senior Policy Advisor, Association of Municipalities of Ontario

In cases such as motor vehicle accident litigation, if the defendants are unable to meet the court ordered award, joint and several liability provisions may create a disproportionate situation in which the municipality ends up paying for the entire judgment. This session will share risk minimizing strategies and draw upon lessons learned from case law across Canada.

- Updates on key case law
- Learning about the reform initiatives in Ontario and their status
- Examining Joint and Several Liability in Canada:
 - Understanding Saskatchewan's Contributory Negligence Act
 - Identifying the changes made to joint and several liability in the *Canadian Business Corporations Act*
- Understanding potential alternatives
- Strategies for minimizing exposure to liability

12:30 Networking Luncheon for Delegates and Speakers

1:15 Best Practices for Avoiding, Reducing and Defending Litigation Claims against Public Bodies

Diana W. Dimmer

Director of Litigation, City of Toronto, Legal

Colleen Sinclair

Barrister & Solicitor, The City of Calgary Law Department, Litigation Section

- Case law updates on claims against municipal and provincial bodies
- Dealing with the changes to the Ontario Rules of Civil Procedure: what you need to know
- Using alternative dispute resolution effectively
- Analyzing hold harmless clauses:
 When are they suitable?
 - Are they enforceable?
- Strategies for minimizing personal injury claims against municipalities and provincial bodies
- · Lessons learned and updates on limitation period defences

2:15 Identifying and Reducing Your Exposure to Environmental Liabilities

Janet Bobechko

Partner, Blaney McMurtry LLP

Valerie M'Garry

Principal, Valerie M'Garry Law Office

- Updates on liabilities arising from landfill sites:
 - Steps to take to avoid leaching liabilities
 - Key lessons from case law
- Examining how to manage liabilities for source water protection:
 - How to balance municipal liabilities in situations where utilities run through lands that are under provincial or federal authority?

- Analyzing the effects of environmental impacts on municipal liabilities:
 - What are the municipal obligations to provide better drainage systems in the event of excess rainfall?
- Scenario analysis of a spill and cleanup: checklist of steps you must take
- Benefits of taking proactive actions:
- Surveying old hazards on public propertiesPromoting implementation of green standards
- Evaluating how the new clean-up standards in Ontario may affect the liabilities of completed clean-ups
- Understanding the implications of the Ontario Green Energy Act on municipal powers: a sign of things to come in other provinces?

3:15 Networking Refreshment Break

3:30 Reducing the Liabilities from Recent Developments in Municipal and Provincial Land Use Planning

Andrew J. Heal

Partner, Blaney McMurtry LLP

- Challenging or striking claims at an early stage
- The *Planning Act* and allegations of negligent handling of the planning process
- Top tips for drafting successful Site Plan Agreements
- Updates on the latest key expropriation challenges and cases across the provinces

4:30 Co-Chairs' Closing Remarks Conference Adjourns

DAY 2 | WEDNESDAY, FEBRUARY 10, 2010

- 8:30 Coffee Served 💻
- 9:00 Opening Remarks from the Co-Chair

Bradley N. McLellan Partner, WeirFoulds LLP

9:15 Keeping Your Exposure to Road and Sidewalk Liabilities to a Minimum

David A. Graves Q.C. Partner, McInnes Cooper

Alan S. Rudakoff Partner, Macleod Dixon LLP

Road Maintenance:

- Differing statutory regimes for municipalities across Canada - Case Study: Ontario vs. Nova Scotia
- Lessons learned from case law: pot holes, snow and ice, repair of roads and streets
- Strategies for minimizing risk of claims and reducing liability
- Balancing financial constraints with the risk of liability claims
- Understanding your own evidence: record keeping and intradepartmental communication
- "Principal" pitfalls: overcoming the problems of avoiding and insuring against the liability of subcontractors
- Comparing and analyzing historical infrastructure versus modern liability standards

Motor Vehicle Accidents:

• The rise of damages from catastrophic brain injuries and the risk this presents for municipalities

Slips and Falls:

- Case law updates and risk management strategies
- Updates of case law of injuries under the Occupier Liability Act(s)

10:15 Networking Refreshment Break

10:30 Reducing Your Exposure and Controlling Your Costs: Best Practices for Effective Insurance Coverage

Terry Patterson

Managing Director, Jardine Lloyd Thompson Canada Inc.

Bruce Drake

Risk Management Insurance Officer, City of Greater Sudbury

- Exploring how to extinguish claims in the early stages
- Examining developments in insurance products:
 What is covered and what is not?
- Evaluating the pros and cons of self-insurance and reinsurance options
- Analyzing the trend of increasingly large sums of damages in road accidents:
 - How to assess whether you have enough coverage?
 - What should you consider when deciding on the insurance coverage amount?
- Tips on effectively controlling your costs
- Strategies for minimizing liabilities that are not covered
- · Checklist of areas of potential exposure for municipalities

11:30 Meeting the Duty to Consult in Provincial and Municipal Matters: What Happens When You Cannot?

Jacquelyn E. Stevens

Willms & Shier Environmental Lawyers LLP

- Understanding liability risks provinces and municipalities face from Aboriginal claims
- Examining the principle of Duty to Consult in the context of provincial and municipal responsibilities
- Overcoming the challenges arising from lack of willingness to participate in safe drinking water committees under freshwater protection policies: how does this affect the liabilities and responsibilities of the municipalities?
- Strategies for risk management when dealing with Aboriginal claims

12:15 Networking Luncheon for Delegates and Speakers

1:30 Avoiding Litigation: A Guide to Errors & Omissions (E & O) and General Commercial Liability (CGL) Issues

William Blakeney

Partner, Blakeney Henneberry Murphy & Galligan Barristers & Solicitors

With the rapid increase in class action lawsuits, exclusions claims against Professional E & O and CGL policies are increasingly common. Attend this session and learn how to effectively manage these liabilities.

- Understanding the scope of Professional E & O and CGL coverage
- Examining exclusion claims against professional E & O and CGL policies
- Top tips for minimizing liability risks and avoiding litigation

- Examining coverage under Claims Made and Occurrence **Based** Policies
- Limitation Periods in sexual abuse claims for professionals: do they exist?
- When has a Claim been made?
- Best practices for reporting claims
- Advantages and Disadvantages to ADR

Networking Refreshment Break 2:30

Limiting Your Liability in the 2:45 **Employment Context**

Abdul-Basit Khan

Partner, Blake, Cassels & Graydon LLP

- Managing the risks and losses from employee fraud
- Strategies for effective workplace investigations
- When is just cause dismissal sustainable
- Examining wrongful dismissal in the public sector
- Avoiding constructive dismissal claims

Flooding Impact on Municipalities: Minimizing 3:30 Your Exposure to Litigation and Claims

David G. Boghosian

Principal, Boghosian & Associates

Anthony (Tony) Rossi, MBA, FCIP, CRM

Manager, Risk Management, City of Mississauga

- Strategies for updating emergency response plans Understanding the liability of a municipality: checklist of key issues to address
- Effectively communicating to minimize exposure to liability
- Examining provincial and municipal liability when facing a pandemic: analyzing case law on SARS and Walkerton Scenario Analysis: Recommended steps to take in an event
- of a power outage of failure of a communications tower fails due to harsh weather conditions

4:30 **Co-Chairs' Closing Remarks** Conference Concludes

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POST-CONFERENCE WORKSHOP THURSDAY, FEBRUARY 11, 2010

9:00 a.m. – 12:00 p.m.

Managing Project Risks When Receiving Infrastructure Funding

Bradley N. McLellan Partner, WeirFoulds LLP

Daniel P. Ferguson

Partner, WeirFoulds LLP

In order to combat the financing difficulties caused by the global financial crisis, the federal government created the Economic Action Plan. The Action Plan's goals include assisting municipalities with the funding of construction and infrastructure projects as well as streamlining federal approval processes to expedite construction projects. One of the Action Plan's funds is the Infrastructure Stimulus Fund under which provincial governments and municipalities may be eligible for financial assistance to develop their facilities and infrastructure. P3 Canada Inc. has also announced infrastructure funding through its \$1.2 billion P3 Canada Fund. In April 2009, the Province of Ontario announced \$9 billion of funding for transit in the GTHA.

This workshop will provide hands-on practical information on:

- Identifying the types of federal and provincial infrastructure funding available to municipalities.
- Examining what types of infrastructure projects are included
- Tips and tools for successful applications
- Learning what to look for in funding and contribution agreements:
 - Eligible costs
 - Ineligible costs
 - Procurement
 - Reporting
- Managing the risks and challenges of the funding and the project:
 - When will funding monies flow?
 - When will contractors be paid?

- What to include in project agreements?
- Strategies for managing and monitoring the project



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

Civil Litigation Municipal Law Environmental Law

Conference	<u>Workshop</u>
11 hours	2.5 hours
11 hours	2.5 hours
1 hour	

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- We encourage our delegates to recycle their conference badges DIZT AZTOLA A WARA IN A AND A A ADDIVIDUT



The Canadian Institute, in partnership with Zerofootprint, is pleased to announce a program that will allow attendees to contribute to the reduction of carbon emissions associated with our events. For only \$5 you can offset your contribution and support tire recycling projects in Canada. For more information visit www.zerofootprint.net

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

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	FROMINC	AL/MON		Top tips for drafting hold harmless clauses
	GOVERNM	1ENT LI/	ABILITY	Limiting exposure from the rising damages from catastrophic brain injuries
	Cross-Canada Coverage	e of the Most Critic	al Issues for 2010	Gaining valuable insights from the latest key expropriation challenges
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L L	Conference (on site)	\$1895 + 5% GST = \$1989.75	\$2095 + 5% GST = \$2199.75	For information on hotel room availability and reservations please contact Marriott Bloor Yorkville at 1-800-859-7180
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