

Managing Risk In Your RM

March 11, 2019

Michael Morris, Q.C., Director of Legal Services

Craig Williams, Director of Insurance and Benefit Programs



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Outline

- Benefits of a Liability Policy
- Review of Liability Self-Insurance Plan (LSIP) Coverages
- Overview of Excess Liability Program
- Commonly Asked Questions about Liability Coverage
- What to do in the event of a liability claim
- Common Liability Risks for RM's
- Tips to Avoid / Mitigate Liability Risk



Transferring Liability Risk via Insurance

- Liability Self-Insurance Plan (LSIP)
- Excess Liability Program



Benefits of Transferring Risk

- 3rd Party handles assessment of claims and/or demands for compensation on RM's behalf
- Covers Catastrophic Loss, to the limits purchased
- Covers defence costs of a claim, with no limit, except in USA



Liability Self-Insurance Plan

- Policy Wording
 - What are the coverages?
 - Who is an Insured?



LSIP – Coverage Types

Coverage A: Bodily Injury and Property Damage Liability

- Limit: \$3,000,000 Each Occurrence
- Deductible: \$1,000 Each Claim;
\$2,500 for Subsurface Damage



LSIP – Coverage Types

Coverage B: Personal and Advertising Injury Liability

- Limit: \$3,000,000 Each Occurrence
- Deductible: None

Coverage C: Medical Payments

- Limit: \$25,000 Each Person; \$100,000 Each Accident
- Deductible: \$None



LSIP – Coverage Types

Coverage D: Tenant's Legal Liability

- Limit: \$3,000,000 Each Occurrence
- Deductible: \$1,000

Coverage E: Non-Owned Automobile Liability

- Limit: \$3,000,000 Each Occurrence
- Deductible: None



LSIP – Coverage Types

Coverage F: Legal Liability for Damage to Hired Automobiles

- Limit: \$250,000 (AP) for Fire Fighting Vehicles; \$50,000 (AP) for All Other Vehicles
- Deductible: \$1,000

Coverage G: Garage Legal Liability

- Limit: \$50,000 per Automobile; \$100,000 Each Occurrence
- 3rd Party Liability Covered under Coverage A or E
- Deductible: \$1,000

The logo for SARM (Saskatchewan Agricultural Risk Management) features the word "SARM" in a bold, brown, sans-serif font. Above the letters "A" and "R" is a stylized, curved line that resembles a wave or a swoosh, rendered in a light grey color.

LSIP – Coverage Types

Coverage H: Administrative Errors & Omissions

- Limit: \$500,000 Each Occurrence;
\$500,000 Annual Aggregate
- Deductible: \$2,500 Each Claim;
- Special Deductible: \$50,000 for Building Bylaw Claims**



LSIP – Coverage Types

Coverage I: Environmental Damage Liability

- Limit: \$500,000 Each Occurrence;
\$500,000 Annual Aggregate
- Deductible: \$1,000 per Occurrence



LSIP – Coverage Types

Coverage J: Excess Automobile Bodily Injury and Property Damage Liability

- Limit: \$3,000,000 Each Occurrence
- When damages are in excess of the \$200,000 License Plate coverage through SGI



Who Is An Insured?

- Named Insured = RM
- “Unnamed” Insured
 - when acting on behalf of the RM
 - a) Members of council
 - b) Employees
 - c) Appointees (i.e. Building Inspector, Waterworks Operator, etc.) or Volunteers
 - d) Pest Control Officers w/ Valid Application License
- Independent Contractors are **not covered**



Who Is An Insured?

- “Committee, board, association, commission or other organization which the municipality is by law authorized to establish or be a member of, but only while and to the extent that the said organization is acting in connection with the business of the municipality . . .”
- Hamlet Boards;
- Public Utility Boards;
- Boards or committees established by the RM to manage and operate the activities of the RM.



Excess Liability Insurance

- Additional “Layer” of Coverage
- Limits of \$1 Million to \$12 Million Available
- Enhances LSIP Coverages with a \$3 Million Limit
- Optional coverage available for Excess Errors & Omissions (Coverage H)



Liability Coverage FAQ's

- Employee with DUI Operating Municipal Equipment
- Coverage for Independent Contractors
- Custom work for Ratepayers, others
- Liability Coverage for Volunteer Firefighters and/or Mutual Aid Response outside of the RM
- Building Bylaws / Building Inspections



I Have a Claim, What Next?

- Notify Insurer (SARM)
- Provide Information
- Preserve Evidence
- Do Not Admit Liability



Common Liability Risks and How to Manage Them

- 1. Common types of claims**
- 2. What you can do to minimize risk**
- 3. How you can assist us**



Flooding

The Legal Framework

Claims in negligence or under *The Water Security*

Agency Act.

The logo for SARM (Saskatchewan Agriculture, Rural and Municipalities) features the word "SARM" in a bold, brown, sans-serif font. The letters are set against a white background that is framed by two curved, grey, swoosh-like lines, one above and one below the text.

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Flooding

The Legal Framework

Common causes:

- Inadequate drainage facilities
- Failure to maintain existing drainage facilities
- Breaching a road during a flood event



Flooding

Minimize the risk

- Ensure adequate draining facilities in place
- Ensure that drainage facilities are unobstructed
- Consider impacts before breaching road or beaver dam



Trespass

The Legal Framework

- Entry upon land of another, without lawful justification, constitutes a trespass
- Consent or statutory authority a defence



Trespass

To avoid claims:

- Get consent in writing
- Be aware of any unusual conditions
- Know where the property line is



Road Repair and Signing

Typical Claims:

- Failure to sign
- Failure to alert re temporary conditions
- Objects on road surface



Road Repair and Signing

Duty

- To keep roads in a “reasonable” state of repair
- “Municipal Road”
- What are the consequences of a breach of duty?



Road Repair and Signing

Standard of Care

- Must be “reasonable” having regard to the character of the road and the area of the municipality in which it is located
- Can be used without danger by those exercising ordinary care



Road Repair and Signing

Standard of Care

- Type or class of road
- Traffic volume
- Use to which the road is put
- Means at your disposal
- Weather



Road Repair and Signing

Standard of Care

Signs are required to warn of hazards that prudent drivers, using ordinary care, would be unlikely to appreciate.



WA-14



WA-2R(L)



WA-11

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Road Repair and Signing

Standard of Care

Standards or guidelines are relevant, but not conclusive. Go to the question of whether you have met the required standard of care.



Road Repair and Signing

Standard of Care

A driver may contribute to his or her own risk of harm while, at the same time, other drivers, exercising ordinary care, would still have been put at unreasonable risk by the state of repair.



Road Repair and Signing

- No liability unless you either knew or should have known of the disrepair
- No liability if you took reasonable steps to prevent the disrepair from arising



Road Repair and Signing

What You Can Do to Avoid Claims

Be proactive in identifying and dealing with potential hazards on your roads!



Road Repair and Signing

What You Can Do to Avoid Claims

- **Failure to Sign Hazardous Conditions Such As “T” Intersections, Sharp Curves or Hidden Intersections**

If you are in doubt as to whether a sign is required, **consult** the Traffic Signing Manual.



Road Repair and Signing

What You Can Do to Avoid Claims

- **Failure to Alert Motorists to Temporary Conditions
Such as Washouts or Soft Spots in Roads**

The key here is **inspections!**



Road Repair and Signing

What You Can Do to Avoid Claims

➤ Claims Based on the Presence of Rocks or Other Obstructions on the Travelled Portion of the Road

Important that your employees be made aware of the need to **check the road surface upon completion** of grading to ensure there are no problems.



Operation of Municipal Equipment



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Operation of Municipal Equipment

To avoid claims:

- Note risk of familiarity
- Remind operators **regularly** of the risks
- Identify risks and establish safe working practices



Building Inspections

The Legal Framework

All buildings are to be designed and constructed in accordance with the building standards



Building Inspections

The Legal Framework

By regulation, the Province has adopted as its standards those set out in The National Building Code of Canada, 2015.



Building Inspections

The Legal Framework

While the primary responsibility to ensure that buildings are constructed to Code lies on the owner and/or builder, section 4 of *The Uniform Building and Accessibility Standards Act* (“the UBASA”) imposes on local authorities the legal obligation to “enforce and administer” the UBASA and regulations.



Building Inspections

The Legal Framework

While the UBASA does not say what the civil law consequences would be of a failure to administer and enforce the UBASA, the courts have said that if a municipality is negligent in the performance of its duty in this regard, it will be civilly liable to anyone who sustains damage as a result.



Building Inspections

The Legal Framework

What precisely you should do to administer and enforce the UBASA will vary, depending on the amount of building construction activity in your RM and whether it falls under the UBASA and the regulations.

- Have a building bylaw
- Appoint a building inspector



Building Inspections

The Legal Framework

While the general rule is that **all** buildings are to be designed and constructed in accordance with the UBASA and the regulations. **There are, however, exceptions.** The most significant of these, from your perspective, is that for farm buildings.



Building Inspections

The Legal Framework

A “farm building” is defined for the purposes of the UBASA to mean “a building associated with a farming operation”. It includes a residence consisting of not more than two dwelling units, but does not include buildings associated with commercial operations, multiple occupancy residences or assembly buildings.



Building Inspections

So what is required?

- When someone applies for a building permit, the building official is expected to review the plans to see if what is proposed will meet the Code.
- During construction, the building official should be permitted to inspect at certain key times (see subsection 17.2(1) of the UBASA).



What You Can Do to Assist Us in Defending Claims

Beforehand:

Keep good records!



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What You Can Do to Assist Us in Defending Claims

Beforehand:

Keep good records of road construction and/or maintenance activities:

- Grading
- Gravelling
- Inspections
- Complaints
- Signs
- Accidents
- Culverts



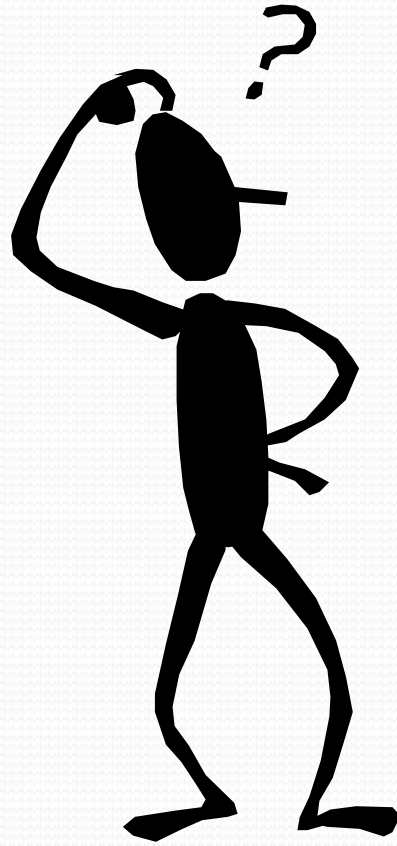
What You Can Do to Assist Us in Defending Claims

After an incident:

- ✓ Notify insurer ASAP
- ✓ Gather relevant information
- ✓ Preserve evidence
- ✓ No admissions



Questions ...



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