

Building Bylaws: The Obligations of an RM

March 10, 2016

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THE VOICE OF RURAL SASKATCHEWAN

Overview

- Review of the obligations of RMs in relation to the enforcement of Building Standards
- What needs to be done to meet those obligations
- What can be done to minimize risks associated with those obligations



Legal Framework

- Section 7 of *The Uniform Building and Accessibility Standards Act (the “Act”)* requires that all buildings be designed and constructed in accordance with the building standards
- Act was introduced in 1984
- Building standards protect public health and safety



Legal Framework

By regulation, the Province has adopted as its standards those set out in *The National Building Code of Canada, 2010*.



Legal Framework

Primary responsibility to ensure that buildings are constructed to Code lies on the owner and/or builder. However, section 4 of the Act imposes on local authorities the legal obligation to “enforce and administer” the Act and Regulations.



Legal Framework

- Courts have said if a municipality is negligent in the performance of its duty it will be civilly liable to anyone who sustains damage as a result
- In addition to the owner, this duty extends to any subsequent owners or occupiers, neighbors and anyone lawfully on the premises



Legal Framework

Builders have a liability risk as well and municipalities are often found liable for deficiencies along with the builders however municipalities often bear most of the financial consequences.



Legal Framework

- General rule is that all buildings are to be designed and constructed in accordance with the Act and Regulations however there are exceptions ...
- Most significant from your perspective is that for “farm buildings”



Legal Framework

A “farm building” is defined for the purposes of the Act 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.



What Needs to be Done?

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

- At a minimum have a building bylaw
- Appoint a building inspector



... and How Does it Work?

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



... and How Does it Work?

How far your inspector should go will depend on the circumstances, ie.

- gravity of the potential harm if the work done is defective
- previous experience with the builder
- cost of measures to determine if standards have been complied with



Survey Background

Survey was sent to all 296 RM's

Responses collected over a two week period from
February 3 – 17, 2016

160 responses received in that time

54% response rate



Survey Results

- 85% of RM's have non-farm construction occurring within their boundaries
- A small majority of these RM's have a Building Bylaw and have appointed a Building Official
- Follow up on the work of Building Officials varies



How to Minimize Your Risk

- Adopt a building bylaw and take steps to enforce it
- Ensure your Building Officials are doing their job
- Keep good records!
- Transfer liability risk to your Building Official through agreement
- Insure against the RM's risk



Coverage Available through LSIP

Coverage G: Administrative Errors & Omissions

- Limit: \$500,000 Each Occurrence
- Annual Aggregate: \$500,000
- Deductible: \$500 Each Claim



Excess Liability Insurance

Additional “Layer” of Coverage

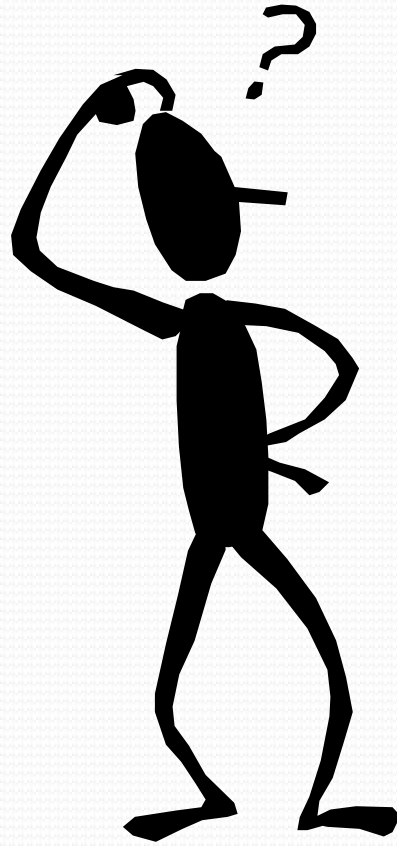
New for 2016

Options of \$500,000, \$1,000,000 or \$2,000,000 in excess of the \$500,000 on Coverage G in LSIP

Premiums of \$110 to \$330 annually



Questions ...



SARM

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