

Liability Insurance Subcommittee Report MIRANET - AGM – February 3, 2010

Terms of Reference

To recommend a direction to guide MIRANET member groups in considering the need of Liability Insurance for their Associations.

The personal liability concern for Directors and Officers of ratepayer associations came to the forefront a couple of years ago when a developer of a large project on Lake Simcoe won an OMB hearing in which he had been vigorously opposed by the ratepayers. *The developer then sued the ratepayer groups for \$3.2 million dollars. On January 30, 2009 the case was dismissed by the OMB. The legal costs were estimated at about \$1,000,000 to defend this suit.*

This type of suit has come to be known as SLAPP (Strategic Lawsuits Against Public Participation). The Province of Ontario has not joined other jurisdictions in creating legislation against such suits. There is therefore a serious reason for concern for individuals who get involved in the public process. We should note the support that our Mayor (with the endorsement of Council) supported us with her letter she sent to the Province in support of residents associations and citizen engagement in August 2008.

We looked at General Commercial Liability Insurance which provides insurance coverage for financial damages to third parties. We then looked at additional coverage which allows you to add a D&O (Director's & Officer's) insurance coverage. This additional coverage protects the directors and officers in case of an action being placed against them for a multitude of reasons including errors & omissions. This combination of insurance is an option for Associations like ours in the non-for-profit area.

The process started by talking to two ratepayers associations in Mississauga each having a different way to handle their Liability Insurance concerns.

John McKinnon, Credit Reserve Ratepayers Association – their executive realized a few years ago that they were exposed. They decided to arrange for the insurance and simply informed their Association of the Insurance at their AGM. There were no objections.

They felt that they would have lost some of their directors without this coverage.

We also talked to Tony Jasinski of the Lakeview Ratepayers Association who told us that they went a different route. They also felt that without the insurance they would not get the caliber of Directors and board members. They approached the City and applied for Affiliate Status. They were approved and found that with this status they had the ability to add on a D&O (Director & Officers) coverage option at a reduced price.

Our investigation determined that we all need Liability Insurance protection to cover our Directors & Board members along with other volunteers working on our behalf.

The other concern that a few of you raised is the addition of special projects insurance which cover against accidents etc for the people attending your event. This is also something that you can add on a per needed basis at extra cost. *For example we hold an annual picnic where we have anywhere from 100 to 250 residents enjoying a community BBQ and fun times for the children.*

The next step was to check out the cost of both types of insurance. We requested a quotation from a different national insurance provider which compared closely to the insurance that John McKinnon's CRA has purchased for their Ratepayers Association.

When we reviewed the coverage we determined that a value of at least \$2,000,000 in liability insurance would be sufficient.

Let us keep in mind that the total amount of coverage that we buy only covers the amount of the payout that would be given to any person or company when and if they receive a settlement from the courts against us.

The insurance company's retain the right to fight any litigation against the insured and insurance company. The cost of fighting this litigation could be substantial and is paid by the insurance company and not out of the total value of the insurance policy for example \$2,000,000.

We did a simple survey of our MIRANET Member Associations and found that a couple are "Affiliated" with the city while most did not know

of the program or are not members. The other issue was from cost perspective. Many groups agreed that they could not afford anything for insurance. Some of the groups suggested they might be able to afford a premium of up to \$500.

COST COMPARISON:

When comparing the cost of insurance with a traditional policy you will find that the Commercial General liability Insurance starts at \$ 750 to \$860 per Association. When you add the D&O Liability Insurance you then bring it up to anywhere from \$1,300 to \$1,500 per Association.

With the Cities “Affiliate Program” we only have one comparable which is the Lakeview Ratepayers Association’s policy. This gives you the same recommended amount of \$2,000,000 in general liability insurance. It also gives you the option of add D&O liability Insurance at a premium of around \$500 (depending on their Board size) for their Association.

OUR RECOMMENDATION:

The “City of Mississauga Affiliate Program” is our only recommendation. If you can qualify for it, you will find it is the best option for all our Associations. You should purchase the optional D&O (Directors & Officers) liability insurance.

We are proposing a MOTION to mandate the Insurance Subcommittee to liaise with the City of Mississauga for the next step; to clarify and streamline the process for the Ratepayers Associations to apply for such affiliation status.

Submitted by the Subcommittee:

Alex Banks, President - Sherway Homeowners RA (SHORA)
John McKinnon, Chair - Credit Reserve Association (CRA)
Colleen Peddle, President - Erindale Village Association (EVA)
Graeme Lake, Director – Sheridan Homelands RA (SHORA)