

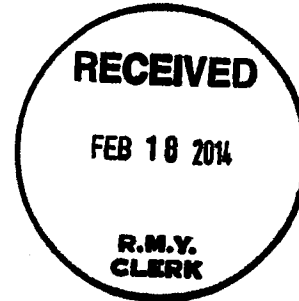


REGION OF YORK
CLERK'S OFFICE

FILE No. - 1 P03

February 12, 2014

The Honourable Kathleen Wynne
Premier of Ontario
Queen's Park, Room 281
111 Wellesley Street W
Toronto, ON M7A 1A1



**RE: JOINT AND SEVERAL LIABILITIES INSURANCE
REFORM FOR MUNICIPALITIES (13.0)**

Dear Ms. Wynne:

This will confirm that at a meeting held on February 11, 2014, Council of the City of Markham adopted the following resolution:

“Whereas the *Negligence Act* provides that “where damages have been caused or contributed to by the fault or neglect of two or more persons...and where, two or more persons are found at fault or negligent, they are jointly and severally liable to the person suffering the loss or damage”; and,

Whereas while fault may be apportioned among parties to litigation, a defendant who is only 1% responsible for damages may be required to satisfy the entire judgment, regardless of the size of the judgment or apportionment of responsibility; and,

Whereas municipalities are frequently the targets of litigation due, in part, to a perception that they have more resources, in fact “deep pockets”, to satisfy judgments that other defendants do not; and,

Whereas recent case law suggests that courts are frequently assigning significant liability to municipalities in circumstances where the plaintiff has been clearly at fault (excessive speeds, driver negligence, drinking while driving, failure to obey stop signs); and,

Whereas the Association of Municipalities of Ontario (AMO) has determined through a survey done two years ago that premiums for municipality liability insurance had risen 22 percent over five years; and,

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Whereas Randy Pettapiece, MPP Perth-Wellington, has proposed a private member's resolution in the Ontario Legislature, to be debated on February 27, 2014, as follows:

"That, in the opinion of this House, the government should protect taxpayers from higher property taxes by implementing a comprehensive, long-term solution to reform joint and several liability insurance for municipalities by no later than June 2014, addressing the alarming rise in insurance premiums due to rising litigation and claim costs."; and,

Whereas the Attorney General is consulting on reforms to joint and several liability, which would limit the amount payable by a municipality where the municipality has been found to be contributorily negligent, which should have a corresponding impact on liability insurance premiums;

Now therefore be it resolved:

- 1) That the City of Markham supports the private member's resolution proposed by Randy Pettapiece, MPP Perth-Wellington, to the Government of Ontario as set out below:
"That, in the opinion of this House, the government should protect taxpayers from higher property taxes by implementing a comprehensive, long-term solution to reform joint and several liability insurance for municipalities by no later than June 2014, addressing the alarming rise in insurance premiums due to rising litigation and claim costs."; and,
- 2) That the City of Markham supports the proposals to limit joint and several liability for municipalities currently under consideration by the Attorney General of Ontario; and further,
- 3) That this resolution be forwarded to the Premier of Ontario, Association of Municipalities of Ontario (AMO), Area Members of Provincial Parliament, Randy Pettapiece MPP Perth-Wellington, York Region municipalities and the Insurance Bureau of Canada.

Yours sincerely,



Kimberley Kitteringham
City Clerk

Copy to: Randy Pettapiece, MPP, Perth-Wellington
York Region MPP's
York Region Municipalities
Don Forgeron, President & CEO, Insurance Bureau of Canada
Association of Municipalities in Ontario (AMO)