

Our File/N/Réf. 03 07-00-1119
Your File/V/Réf.

DATE 29 March 2000

TO/DEST. Co-ordinator, Corporate Services and Economic Development Committee

FROM/EXP. Co-ordinator, Planning and Environment Committee

SUBJECT/OBJET **REGIONAL LIABILITY FOR PROPERTY DAMAGE**

REPORT RECOMMENDATION

That the Corporate Services and Economic Development Committee receive this report for information and discussion.

BACKGROUND

At the Planning and Environment Committee meeting of 28 March 2000, Councillor Legendre raised an inquiry concerning a constituent who suffered water damage to his basement as a result of a break in a regional water main. The constituent sought to recoup from the Region the expenses he incurred, however, Regional legal staff have advised that pursuant to the Municipal Act, the Region is not liable for these costs as it did nothing to cause the water main to break and was therefore not at fault.

Councillor Legendre felt this to be an unjust policy that warranted review. As this is a matter of policy, Councillor Legendre asked that it be referred to the Corporate Services and Economic Development Committee for your consideration.

Attached for your information, is an Extract of Draft Minute of the 28 March 2000 Planning and Environment Committee meeting, pertinent to this item.

*Original Signed by
Dawn Whelan*

INQUIRIES

Councillor Legendre raised an inquiry that related to a regional water main that broke in front of a constituent's house, causing his basement to flood. The constituent, Mr. St. Martin, called the Region for service and staff responded promptly and repaired the break. The Councillor noted that thankfully, not a lot of damage was done to Mr. St. Martin's property, however, his basement was finished and he did incur some expenses for such things as having the carpets cleaned. Mr. St. Martin sought to recover these costs from the Region, however, Regional legal staff have advised that the Region is not responsible to pay for these damages. Councillor Legendre stated he wanted to raise this issue because he said he considered the fact the Region would not cover costs of damage caused as a result of failure of its equipment/infrastructure, to be "fundamentally unjust".

Councillor Legendre indicated he had already received two memos from the A/Regional Solicitor, Eric Johnston, on this matter and noted Mr. Johnston had explained, because the Region did nothing to cause the break to the water main, it was not at fault and therefore not liable for damages. In providing a bit of history on this policy, the Councillor advised there was an amendment to the Municipal Act that occurred as a result of flooding that took place in the Region a few years earlier. These floods resulted in many damage claims and, even though the lower tier municipality was primarily responsible, the Region assumed 25% of the responsibility in this instance. He noted subsequently, someone requested that the Province "fix the law", the Municipal Act was amended and now a homeowner is liable for damage costs when something breaks in the Region's system.

Councillor Legendre opined that although the law allows the Region to deny liability in such claims, this was not the way in which a responsible municipality should act. The Councillor stated he would like to have a report brought back to the Committee on the possibility of having the corporate policy reviewed on claims arising from watermain breaks and sewer back-up.

Councillor Beamish concurred there was something fundamentally wrong with such a policy. He pointed out there was no law that says a person has to insure their home and he said if he did not have insurance and something happened to a municipality's water line that caused damage to his home, he would expect the municipality to be responsible for the damage. Councillor Beamish suggested this matter should be referred to the Corporate Services and Economic Development Committee (CSED) for consideration.

Councillor Legendre agreed with Councillor Beamish that the matter should be referred to CSED for a policy discussion. The Councillor concluded his remarks by thanking Mr. St. Martin for attending the meeting.