

Have Upstanding Citizens:
Slip and Falls and the
Municipal Duty of Care

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May 4, 2023

Relevant legislation:

Municipal Government Act:

How are slip/falls different when they occur on public vs. private property?

- Section 531 of MGA for slips on snow, ice or slush
- This section imposes a higher standard of gross negligence
- The section also imposes a limitation of 21 days to inform the municipality

Discussion of “gross negligence” and what courts have deemed “gross negligence” by municipalities in the past (*Grabczewski v Glenora Service Station Ltd.*, *Nelson v Grande Prairie*)

Occupiers' Liability Act:

- See *McAllister v Calgary*, 2019 ABCA 214 in which ABCA found that the City was an “occupier” of an overpass (“the City built it, owns and maintains it”)
- Case Discussion

There is a duty of care on municipalities re: ensuring citizens are reasonably safe from slip/fall hazards

What is the standard of care?

- Not universal across all kinds of City properties
- Depends on the nature and function of the property where the slip/fall occurred
- There is a difference between an open public space such as sidewalk, square, park, etc. and a building in which City conducts its business

Relevance of policy vs. operational distinction

- Recent case of *Nelson v Marchi* (SCC) and takeaways from this case
- Core policy decisions are immune from negligence claims but operational decisions to carry out a policy are not policy decisions
- The City's snow clearing decision was operational and not immune from negligence claim

How to put these principles into practice: due diligence

- System to monitor and respond to emergency or unexpected weather events
- Clarity in snow removal contracts if contractors hired
- Record keeping of snow/ice maintenance efforts
- Other

Questions?