



Risk Management Considerations for Injurious Affection

What on earth is injurious affection?

It is about your liability to businesses and residences who may be affected by road construction projects.

When planning such projects, disturbance of traffic flow and partial road closure are items which become necessary while the municipality fulfills its obligation to maintain the roads. However, in planning it is essential that you deal with the impact of such construction on adjacent property owners who may suffer a financial loss through the disturbance of their business or in temporarily relocating for a short period of time.

Financial loss resulting from those projects is called injurious affection. Injurious affection means the reduction in market value of land and also the personal or business losses resulting from the construction of public works.

The *Expropriations Act* governs injurious affection caused by the Statutory Authority and sets out the basis upon which claims for financial losses may be made. These claims, therefore, are based on a statutory requirement rather than being a third party action seeking damages in a court of civil law. Liability is not disputed; only the amount may be in dispute.

The procedure, however, is decidedly different from an action for damages where your insurer would indemnify and defend the municipal corporation. The question of compensation for injurious affection must be dealt with ahead of the loss being sustained if the municipality wishes to control such expenditures. Indeed, it is an integral part of costing the project and should encourage you to take steps to minimize injurious affection by planning and cooperation with adjacent property owners.

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