

## COMMITTEE OF THE WHOLE – FEBRUARY 10, 2009

### REVIEW OF STANDARDS IN RESPECT OF SNOW-CLEARING OF LANEWAYS

#### Recommendation

Ward 2 Councillor Tony Carella recommends:

1. that the Commissioner of Engineering and Public Works be directed to review current standards with respect to the clearing of snow in laneways, and to provide options with respect to any potential revision of such standards, as well as estimates of related costs; and
2. that, in the event that Council endorses a revision to such standards, that the matter be then referred to the Budget Committee, for consideration in the operational budget process.

#### Economic Impact

Nil

#### Communication Plan

Corporate Communications will issue a media release once this recommendation is adopted by Council. Ward councillors may wish to inform residents in their own wards whose properties back onto laneways.

#### Background – Analysis and Options

The planning perspective commonly referred to as “the new urbanism”---adopted by many North American municipalities in the late 1980s and 1990s---called for a greater range of urban and suburban housing types.

Accordingly, when the block plan for the so-called Woodbridge Expansion Area (the “WEA”, see Vaughan Key Map 8D) was approved over ten years ago, the plan reflected the new urbanism through the inclusion of town house developments, principally in the southeast corner of the block. This in itself was significant, as the vast majority of houses in the City of Vaughan were either single family detached or semi-detached dwellings.

The rationale for such development was two-fold: (1) more efficient land use, as a greater number of residents could be accommodated on a given hectare of land, thus addressing the issue of “urban sprawl”; and (2) more varied price points for new housing, making possible a more complete community---one inclusive of a wider range of socio-economic groups.

The townhouses that were built in the WEA (now known as “Sonoma Heights”) front onto local streets and back onto laneways, providing access to garages at the rear of each property. While laneways were not new to the City of Vaughan (e.g., Burton’s Lane, running west off Kipling Avenue, north of Woodbridge Avenue, in the Woodbridge Core), concerns expressed at the time included the matter of how snow removal would be handled.

There is, in fact, a hierarchy of priorities when it comes to snow removal on the more than 800 km of roadways in the City. While principal roads (such as Highway 7, Islington, etc.) are cleared by the Region of York, local arterial roads receive the immediate attention of the City’s contractors, then collector roads, then side streets, then cul-de-sacs, and lastly

laneways---but only when the accumulation of snow in laneways reaches 15 cm or 6.25 in.

Given the depth of snow that first accumulates, the low priority of laneways relative to other roadways, and the special problems relating to snow removal within the limited width of the typical laneway, those residents whose properties back onto a laneway understandably view themselves as less than fully-served taxpayers.

Given the amount of snowfall last winter, and the amount to date this winter, it is clear that reconsideration of the current standard of service in this regard is not unreasonable, hence this recommendation.

### **Regional Implications**

Nil

### **Relationship to Vaughan Vision 2020**

This report is consistent with the priorities previously set by Council and the necessary resources have been allocated and approved.

### **Conclusion**

It is appropriate that Council give consideration to improved standards in respect of snow removal in local laneways.

### **Attachment**

Article, Toronto Star, January 26, 2009.

### **Report prepared by:**

Councillor Tony Carella, FRSA

Respectfully submitted,

Tony Carella, FRSA  
Councillor – Ward 2



TONY BOCK/TORONTO STAR

Vier Guy walks with her lawyer, Alan Preyra, in the same unpaved laneway where she slipped and fell nine years ago, breaking her wrist. Last month, a judge awarded Guy almost \$34,000 in damages after suing the city. City officials won't say how many complaints they get about icy sidewalks.

# Heavy snow means legal bills pile up, too

Court awarded damages to woman who slipped, but Toronto still isn't clearing ice from busy lane

**SANDRO CONTENTA**  
FEATURE WRITER

Vier Guy stopped dead in her tracks, the laneway extending before her like a snow and ice covered obstacle course. She had seen it in this perilous state before.

Nine years ago, she slipped and fell on this very same laneway, adjacent to the Greenwood subway exit on the Bloor-Danforth line. She fractured her wrist, bumped her head and sued the City of Toronto.

Last month, an Ontario Superior Court judge ruled the city was "grossly negligent." Justice Alfred J. Stong said the laneway should be treated as a sidewalk — with snow

and ice to be removed — because it is regularly used by local residents, subway passengers, students from nearby Danforth Collegiate & Technical Institute and people making deliveries to stores on Danforth Ave.

Stong awarded Guy, a 42-year-old nurse, damages of \$33,948.39. It included almost \$4,000 in lost tuition when her injuries made it impossible to complete her York University courses.

The ruling, which the city is appealing, places Toronto's snow removal practices under scrutiny. It comes during the second consecutive monster winter — the 115 cen-

timetres of snow so far are more than this time last year — with the avalanche of snow causing a spike in slip-and-fall injuries, according to downtown hospitals, insurance company officials, claims adjusters and lawyers on either side of liability claims.

Guy's lawyer, Alan Preyra, fears city officials may be making a cold calculation, judging it cheaper to pay liability claims than to regularly clean ice and snow. That is why four weeks after the ruling, the laneway was in as bad a shape as it was the day Guy broke her wrist.

"Is it a cost issue? Is it preferable to risk the safety of your citizens than pay the costs of doing your due diligence?" says Preyra, who specializes in personal injury claims.

He believes the question is impor-

tant given city hall's policy of no plowing 2,000 kilometres of sidewalks in central Toronto — a swath that runs from just north of St. Clair Ave. down to Lake Ontario, and from Jane St. east to Victoria Park Ave.

Provincial law requires municipalities to maintain all sidewalks. They can pass bylaws like Toronto's requiring homeowners to clear snow from adjacent sidewalks. But courts have ruled that if someone slips and falls, municipalities are liable. (Homeowners could become responsible if they've blocked the sidewalk).

The city won't release figures about spills on ice or snow-covered sidewalks — not the number c

SNOW continued on GT2

# Cities liable for keeping sidewalks safe

SNOW COVER

complaints from people who felt that the number that filled liability claims and the amount of money paid out.

Those numbers should be public knowledge, says Mike Del Grande, councillor for the Scarborough council, who doesn't see a job for his city there. It's one thing to say 100 people have slipped and fallen on city sidewalks in a season.

It's another to say it's 500. He believes the figures would help determine the effectiveness of the city's snowing and snow-removal program.

The claims, totaling 10 years of data, are made fall by the labor tax, says Toronto budget chief Shelley Carroll, who has seen the secret slip and fall figures.

The 194 centimetres of snow last winter were tough by once as much as fall the winter before, causing liability claims to almost double, Carroll says. Generally, 10 per cent of claims are found to have no merit and don't proceed, the rest require the defence of city lawyers.

Carroll notes that since amalgamation, council has repeatedly considered whether to extend snow removal to sidewalks throughout the city. Each time, a majority

opted for the status quo.

We're delivering a level of service to the best of our abilities and one that we can afford without increasing a 20 per cent tax increase, Carroll says, noting this year's snow removal budget is \$80 million (the city spent about \$96 million cleaning up winter snow).

Slip-and-fall claims are only reported in the general liability category for transportation services.

In 2005, the last full year the city published its figures, transportation received 2,040 general liability claims, 462 more than the previous year. The city estimated it would cost \$9.2 million to make all of them, including awards and legal fees.

Pete Noehammer, director of transportation services, made clear that winter repair figures show liability claims against his department costing the city about \$12 million.

Jeff Madaley, manager of the city risk management department, sympathizes with residents who injure themselves in falls. But he agrees with the city's insurer that publicity would only encourage more people to sue.

The legal community is something that's gone amok out there, he says, referring to growing trends in lawsuits.

Perhaps a sign of the times was the downtown seminar earlier this month by the Toronto lawyers Association on the risks and outs of suing municipalities. Thirty lawyers listened to Preyra and a colleague outline court rulings on the maintenance of roads and sidewalks in winter, new avenues for lawsuits under the Guy decision and some basic insurance tools.

It can be a lucrative business. Earlier this month, Preyra settled

ally all successful claims are paid, the trimmed to Guy would cost at least another \$2 million. The \$8-million sidewalk clearing estimate was contained in a 2007 report that claimed less than a third of the 2,000 kilometers of urban sidewalks could be serviced with smaller equipment. Preyra would travel to be done manually. Inner city sidewalks are said to be too narrow for plow, while parked cars and iron yard fences raise the risk of property damage.

But Noehammer concedes that central sidewalks could be plowed in Toronto, like in other large cities. It's a matter of resources, having small budgets. The one harm calculated whether spending more to plow sidewalks would pay for itself in the long run by reducing liability payments and lawsuits.

Noehammer says similar cost-benefit analysis have been done for some roads. They resulted in increased liability insurance claims by assigning more value to sidewalks.

If you're able to improve safety so people aren't getting hurt, that should be the No. 1 goal, and if you're also reducing the subsequent insurance claim, Guy agrees. Peter Preyra is a prominent

**The only real defence is if it was in the middle of some vicious storm**

LAWYER STUART FORBES

claim against the City of Toronto for a 68-year-old woman who fractured her ankle after slipping on a sidewalk the city doesn't plow. She received \$104,900. His share of the \$33,000 award to Guy will be relatively modest. But he's presenting the City of Toronto with a \$160,000 bill for legal costs.

The city's insurance plan has a \$5 million deductible, meaning virtu-

ally all successful claims are paid, the trimmed to Guy would cost at least another \$2 million. The \$8-million sidewalk clearing estimate was contained in a 2007 report that claimed less than a third of the 2,000 kilometers of urban sidewalks could be serviced with smaller equipment. Preyra would travel to be done manually. Inner city sidewalks are said to be too narrow for plow, while parked cars and iron yard fences raise the risk of property damage.

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