

Committee of the Whole (2) Report

DATE: Wednesday, October 16, 2019

WARD(S): ALL

**TITLE: RESOLUTION SUPPORTING AMO'S REPORT ON GROWING
MUNICIPAL LIABILITY AND INSURANCE COSTS**

FROM:

Wendy Law, Deputy City Manager, Administrative Services and City Solicitor

ACTION: DECISION

Purpose

To seek Council's endorsement of the Association of Municipalities of Ontario's (AMO) submission to the Attorney General titled "Towards a Reasonable Balance: Addressing Growing Municipal Liability and Insurance Costs".

Report Highlights

- AMO submitted a report to the Attorney General on Joint and Several Liability on October 1, 2019
- The report outlines seven (7) recommendations and encourages further discussion
- The Attorney General is accepting council resolutions supporting AMO's report until November 1, 2019

Recommendations

1. That Council endorse the Association of Municipalities of Ontario's (AMO) motion in respect to Joint and Several Liability in Attachment 1; and
2. That the City Clerk be directed to forward Council's motion to AMO and the Attorney General of Ontario.

Background

On September 24, 2019, the Committee of the Whole received Report #27, Item #7 – Update on Joint and Several Liability. In that report, staff discussed the effect Joint and Several Liability has had on both the City of Vaughan’s risk program and the municipal insurance market at large. In response to the Province’s request for input from municipalities, staff made submissions on the issues as noted in the report to the Ministry of the Attorney General.

On September 27, the AMO Board approved a submission on joint and several liability titled, “Towards A Reasonable Balance: Addressing growing municipal liability and insurance costs.” On October 1, 2019, AMO President Jamie McGarvey forwarded the report to the Attorney General, The Honourable Doug Downey for consideration.

In a communication on its website dated October 1, 2019, AMO advised all municipalities of this submission and encouraged each one to endorse the report and its recommendations. The Ministry of the Attorney General has agreed to accept municipal resolutions up until November 1, 2019.

Previous Reports/Authority

[Update on Joint and Several Liability \(Report #27, Item #7, October 2, 2019 Council\)](#)

Analysis and Options

AMO’s report includes seven key recommendations on actions which the government could take to reduce the negative impact of joint and several liability. This 2019 report builds on previous AMO reports and resolutions submitted in 2010, 2011, and 2014. It also aligns with the City of Vaughan’s submission to the Attorney General.

The following measures were recommended by AMO:

1. The provincial government adopt a model of full proportionate liability to replace joint and several liability.
2. Implement enhancements to the existing limitations period including the continued applicability of the existing 10-day rule on slip and fall cases given recent judicial interpretations, and whether a 1-year limitation period may be beneficial.
3. Implement a cap for economic loss awards.
4. Increase the catastrophic impairment default benefit limit to \$2 million and increase the third-party liability coverage to \$2 million in government regulated automobile insurance plans.

5. Assess and implement additional measures which would support lower premiums or alternatives to the provision of insurance services by other entities such as non-profit insurance reciprocals. [An example of a reciprocal is the Ontario Municipal Insurance Exchange (OMEX), of which the City of Vaughan was a member from April 1, 2012 – January 1, 2017, before OMEX ceased underwriting operations due to market conditions and increasing financial burdens. This recommendation includes taking a closer look at the reciprocal structure for controlling insurance costs.]
6. Compel the insurance industry to supply all necessary financial evidence including premiums, claims, and deductible limit changes which support its, and municipal arguments as to the fiscal impact of joint and several liability.
7. Establish a provincial and municipal working group to consider the above and put forward recommendations to the Attorney General.

City of Vaughan staff agree with the recommendations in the report. Further discussions and exploration of remedies to ensure that municipalities are paying their fair share in claims brought against them is welcome.

Financial Impact

There are no direct financial impacts associated with this report. However, if the *Negligence Act* is not amended, municipalities will continue to face this legislation when attempting to negotiate the purchase of insurance. While there is no way to specifically pinpoint the direct financial impact of joint and several liability, the concept is woven into every claim as it is managed.

Broader Regional Impacts/Considerations

York Region's risk management team faces the same challenges as joint and several liability impacts their claim process and their carriers. Their risk manager currently sits on AMO's Joint and Several Liability Task Force.

Conclusion

Staff recommends that Council supports the above noted AMO recommendations as contained in their submission to the Attorney General of Ontario.

For more information, please contact: Shannon Devane, Manager, Risk and Registration Services, extension 8167

Attachments

1. AMO Report: Towards a Reasonable Balance: Addressing Growing Municipal Liability and Insurance Costs

Prepared by

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