

Is Your Municipality/Employee Liable?

BY JERRY CRONIN, RMI GENERAL MANAGER



The answer to this question is not an automatic yes or no. There are myriads of issues that must be examined before the determination of liability is properly established. That determination is the responsibility of the entity providing liability coverage for your municipality and its employees.

In this issue, I would like to address a specific type of claim that is not uncommon to any area of the state - namely, the sewerage back-up.

When this accident occurs, there is, in many cases, significant property damage/loss. It is also an emotional issue that requires immediate attention. There is no question that the back-up appears to be related to the municipality's system; however, this does not automatically make it the responsibility of the municipality.

When sewerage back-up occurs, there are some immediate actions required to address the problem at hand:

- 1) Clean up the house or facility in which the back-up took place.
- 2) Assess the damage done and record the damage with photographs.
- 3) Have a qualified person evaluate the damage and get an estimate on the cost to repair and restore.
- 4) Provide a place for the inhabitants to reside while the house/facility is unsafe for use.
- 5) Determine who is liable for the damage.

However, these actions are not necessarily the responsibility of the municipality.

The primary responsibility to have the home/facility cleaned, is that of the residents. Securing a place for them to reside, is also their responsibility. In the final analysis, the cost of these actions may be their responsibility as well.

The functions of recording the damage, getting estimates of the cost to repair/restore and to determine the liability, is the responsibility of the insurer, so there should be no acceptance of liability by a municipal employees or officials.

There is much to be investigated and resolved before the issue of liability is determined.

As stated above, the circumstances surrounding such an incident are emotional and the feelings of all involved are understandable, but in spite of these feelings, the facts - yet to be discovered - will be that which will determine liability.

There are numerous instances in which the premature acceptance of liability has caused additional problems between the citizen and the municipal employee or official because in the final analysis, the municipality was

not responsible for the damage/loss which occurred.

Clearly, our society has become litigious to the point of excess. Over the years there has been a significant change in the attitude concerning personal responsibility.

Too many have reached a level of thinking if anything bad happens it is someone else's responsibility to fix it. Of course, each of us still has a responsibility to be attentive and diligent in maintaining our well-being. We have not been relieved of all individual, personal responsibility and cannot pass that off exclusively to someone else.

Be assured that the insurer will take all necessary steps to determine the issue of liability and resolve the claim in an equitable manner. It is not our function to just deny claims, but to fairly evaluate and resolve them.

If you have any questions concerning liability issues, please contact us at (225) 344-5002 or (800) 247-4965.



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