

Dear Mayor and Council,

We, The Georgian View Ratepayers Association are back to Council on this subject for two key reasons -

First, at the meeting of the Committee of the Whole on June 30 we asked whether reducing the speed limit on Indian Circle to 40 km/h would have eliminated the need for having any guardrails installed. We followed this up with a letter to Council and staff on this point and have not received a reply - we did get a reply from the clerk along with a copy of Reg Russwurm's report, but the **question on speed limits was left unanswered.**

Second and even more important, we believe that we and Council, were given an incomplete, inaccurate or incorrect answer to a question that was asked by council at the meeting, as to whether there was "any legal reason requiring installation of the guardrails?"

The answer from staff was "well, yes there was".

Following the meeting we reviewed the Municipal act and found that there is a specific section that states that **the town has no liability for accidents occurring on the untraveled portion of the roadway, i.e. shoulder.** The section reads as follows:

#### **Untraveled portions of highway Section 44**

- (8) No action shall be brought against a municipality for damages caused by,
- (a) The presence, absence or insufficiency of any wall, fence, rail or barrier along or on any highway; or
  - (b) any construction, obstruction or erection, or any siting or arrangement of any earth, rock, tree or other material or object adjacent to or on any untraveled portion of a highway, whether or not an obstruction is created due to the construction, siting or arrangement. 2001, c. 25, s. 44 (8).

It is very clear that the town has no liability in this area.

We believe that if the town had appropriately taken this into consideration, and also considered the effect of a reduction in the speed limit (40km), the guardrails at this location would not have been installed in the first place.

**We ask Council to reconsider this matter and vote to remove the guardrails.**

**Georgian View Ratepayers Association**