

Corrina Giles

From: OGRA Information [communications@ogra.org]
Sent: November 19, 2010 3:21 PM
To: Corrina Giles
Subject: Minimum Maintenance Standards Litigation
Attachments: MMSLitigationUpdateNovember2010.pdf

Attached is an update on the MMS Litigation.

Municipal Clerk:

Please bring this to the attention of your Council.

Thanks

J. W. Tiernay
Executive Director



TO: Ontario Municipalities

FROM: J. W. Tiernay, Executive Director
Ontario Good Roads Association

DATE: November 5, 2010

RE: Minimum Maintenance Standards Litigation – Status Report

Background

Earlier this year all heads of Council received a letter advising that a legal challenge had been filed to have the Minimum Maintenance Standards (MMS) declared null and void. The letter requested municipalities consider contributing to a Litigation Fund to fight the application. I am pleased to report that many municipalities have contributed to the fund and we are proceeding with our opposition to this application. If your municipality is still considering the request please let me know at your earliest convenience as to whether funds will be forthcoming.

This memo is intended to keep all municipalities informed as to the progress to date on this important matter.

Discussion

OGRA has retained J. Murray Davison, Q.C. of the law firm, Paterson, MacDougall, LLP as our legal counsel to represent your interests. Mr. Davison is very knowledgeable in the area of Minimum Maintenance Standards having volunteered his time and expertise in the development of the initial standards and the 5 year review that was recently undertaken.

Mr. Davison has met with other counsel from the Regional Municipality of York and the Ministry of Transportation as represented by Crown Counsel to discuss the issues and to map out their strategy.

Our counsel filed an application with the courts to grant OGRA intervenor status. The opposing counsel did not object to this application and the court issued an order adding OGRA as intervenor on October 8, 2010.

The Ontario Trial Lawyers Association has also filed an application to be granted intervenor status. If granted they would support the application to have the MMS declared null and void. Our legal team is currently considering what action, if any, will be taken with respect to this application.

A steering committee made up of representatives from the Ontario Good Roads Association; the Ontario Municipal Insurance Exchange (OMEX); the Regional Municipality of York; the Province of Ontario; the Waterloo Region Municipalities Insurance Pool and Frank Cowan Company Limited has been established to provide oversight and guidance to legal counsel. The Committee had its first meeting on November 4, 2010.

The hearing on this matter was originally scheduled for November 10, 2010, however; due to various filings, the hearing has been delayed and will not likely be heard until spring of 2011.

Further updates will be provided on a regular basis or when important milestones are reached. Any questions can be directed to me at 905-795-2555 or joe@ogra.org.

JWT