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Joint and Several Liability & Rising Municipal Insurance Costs

February 16, 2021

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In early 2019, Premier Doug Ford announced to the delegates of the Rural Ontario Municipal (ROMA) Conference that his government was going to launch consultations into the long-standing municipal concern around joint and several liability. I remember being in the room and noting that this announcement was positively received. I think many, including myself, thought that this new government could well take a different perspective and approach to this issue.

Later that year, with the support of its Task Force, AMO staff prepared a submission titled, "[Toward a Reasonable Balance: Addressing growing municipal liability and insurance costs](#)" to the Attorney General. In this submission, AMO outlined a series of recommendations that included, but was not limited too, introducing a model for full proportionate liability to replace joint and several liability and implementing a cap for economic loss awards.

Unfortunately, AMO and the municipal sector have not formally heard back from the Attorney General with respect to the outcome of this consultation. Naturally, many in the sector understood the impact of

the pandemic and that it placed a pause on many government consultations in early 2020. However, recent comments at the AMO and ROMA Conference from the Attorney General have caused some concern. Notably, Minister Downey indicated in a response to a Minister's Forum question that he may still be unconvinced about the data surrounding joint and several liability and its relation to higher insurance premiums for municipal governments. Suffice it to say, this may be a point of contention and AMO is keen to learn more about the Attorney General's thoughts moving forward.

2021 is representing a challenging year for municipalities in several ways. One of these challenges focuses on insurance premiums. It is a growing trend that municipal governments are reporting significant increases and, in some cases, even struggling to get quotes. This can be attributed to a series of factors including being in a "hard" insurance market, managing challenges arising from COVID-19, and joint and several liability that continues to place a heavy burden on municipalities.



Recently, the Federation of Northern Ontario Municipalities (FONOM) and the Northwestern Ontario Municipal Association (NOMA) shared some initial data gathered from their members on insurance premiums.

The data captures the percentage increase in premiums from 2020 to 2021 for nearly 65 municipalities. The average rate of increase is just over 20% and for many smaller communities, this is simply not sustainable. One municipal government noted that it must now increase taxes to ratepayers by 2.5% to simply make up for the increase on its insurance premiums. This scenario, left unaddressed, will continue to draw property tax dollars away from key public services for Ontario residents.

This issue is not going away.

Without action, the public and media will continue to circle matters related to joint and several liability. AMO has outlined options for the government to pursue that have worked in other jurisdictions. The provincial government can do more to support a risk management approach from municipal governments in the pursuit of a more fair, reasonable, and responsible system for liability.

The time to restart this dialogue is now as there remain too many outstanding concerns and the trend line is less favourable for municipal governments with each passing year.

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