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## Municipal Inspectors Face Risk of Negligent Misrepresentation

Often purchasers of commercial properties seek assurance from municipal inspectors that the property they are considering closing meets various regulations such as the Ontario Building Code or the Ontario Fire Code.

In St. Catherines ON in October, 2004 the buyer (Bucking Jubilee Ltd.) of a student residence requested a fire prevention inspection to confirm that the building complied with existing fire retrofit requirements and whether there were any outstanding deficiency notices or violation. An inspection was conducted in November, 2004 and the vendor was notified of six deficiencies. Subsequently, in December the inspector sent a letter confirming that the premises “appeared to comply with the fire safety requirements”.

After the purchaser closed the deal, he was notified of three subsequent inspection reports identifying alleged fire code violations including one which, in April 2006, cited for the first time the need for a sprinkler system.

The purchaser filed a lawsuit against the City of St Catherines alleging negligent misrepresentation. For a claim for negligent misrepresentation to succeed, there must be a duty of care based on a ‘special relationship’ between representer and representee, the representation must be untrue, inaccurate or misleading, the representer must have been negligent and the representee must have reasonably relied on the misrepresentation.

The judge found that the code violations stated in the notices of violations issued after the purchaser took possession of the property were correctly articulated. He also determined that the fire inspector had negligently mislead the buyer (in fact, had written to the vendor, not the buyer) prior to the sale closing.

The plaintiff buyer was awarded about \$900,000. in costs needed to bring the building into compliance with the Ontario Fire Code.

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" Providing services to the public is a risky business. Use risk management techniques to make your activities safer."

## Pictorial Signs vs. Worded Signs

Which is better, a warning sign showing a person falling, or a sign that states "slippery when wet"?

We receive a number of claims each year as the result of slip and falls in changing rooms and swimming pool decks. We also receive summertime claims from water parks when a serious injury occurs as a result of a slip and fall.

From our discussions with aquatic personnel, we are also aware of numerous incident reports covering minor injuries as the result of slip and falls. We believe that a combination of pictorial and worded signs is necessary to reduce the number of incidents and claims. Pictorial signs are more visible and warn individuals who can not read or for whom English is a second language.



### Caution Slippery When Wet

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## Learn From Mistakes of Others!

***Last month, 88 key Polish government officials and their companions died in a plane crash. What actions have your organization taken to reduce the chance of losing multiple key personnel in a single accident?***

## Cloutier measuring device

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