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NEGLIGENT INSPECTIONS a growing litigation issue


As someone who represents municipalities with respect to liability claims, it seems that claims alleging negligent building inspections are occurring with noticeable frequency. It's not because the quality of building inspections has diminished. Rather, it is likely because as people become more aware of their "rights" or entitlements, they are more inclined to commence legal actions.

With a view to risk management, there is a great deal that municipalities and planning districts can do to protect themselves from legal claims and awards of damages, and to assist in the defence of such claims.

Basic steps include:

1. Ensure that all building inspectors are familiar with the provisions of the *Manitoba Building Code*, local building by-laws, development plans and all other applicable standards;
2. Encourage and pay for building inspectors to attend courses, seminars and other training opportunities;
3. Ensure that all building permits state that the permit holder and/or owner agree to abide by and comply with all municipal by-laws, the *Manitoba Building Code*, and all other applicable standards;
4. Have a system in place whereby the inspection steps required and the notice requirements for inspections are clearly communicated to the permit holder and/or the owner. As an example, a stamp or label with that information can be affixed to the set of drawings which is returned to the permit holder following review and approval as well as the set of plans retained in the office;
5. Where there is to be reliance on engineered drawings or engineer inspections, clearly indicate that reliance, in writing, to the permit holder. Affix a permanent stamp or label to both sets of plans;
6. Encourage inspectors to make detailed notes of all matters including: when the inspection was called for, time and date of the inspection, the state of construction including any areas or items not able to be inspected due to the state of construction, the particular items inspected, whether the owner or permit holder was present during the inspection, what plans and drawings were reviewed for the inspection, and all conversations and phone calls with permit holders, owners or tradespeople;
7. Implement a follow up system to ensure that required inspections are called for, conducted, and documented. Implement supervisory review of the detailed inspection logs to ensure that sufficient details are recorded;
8. Establish a system so that the same inspector, or a limited number of

- inspectors, are responsible for all of the inspections of each particular site;
9. Ensure that detailed inspection logs are maintained in a safe place. For example, do not store them in a basement which is prone to flooding;
10. Supply digital or other cameras for photographs of complex or problematic or of all construction inspections;
11. Before an occupancy permit is issued, have a system in place to ensure that all requisite inspections have occurred and are sufficiently documented in detail; and
12. Maintain the detailed inspection logs for a lengthy period of time as construction problems may not manifest themselves for many years.

Hopefully, implementation of these processes and systems will help to reduce the frequency and extent of building permit and inspection claims or make their defence more effective. 

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