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BUILDING REGULATION AND INSPECTION: A REFRESHER

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Elizabeth Anderson and Emma McCann

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I. INTRODUCTION

Local governments in British Columbia are empowered to enforce the 2024 BC *Building Code* (the "Code"). While they are not required to do so, many municipalities choose to adopt building bylaws and inspection regimes to regulate construction within their jurisdictions. By assuming this responsibility, municipalities may potentially expose themselves to liability where their actions—or inactions—in the permitting or inspection process fall below the standard of reasonable care. British Columbia courts have sometimes decided that municipal building inspectors owe a duty of care to both property owners and subsequent purchasers once a municipality elects to regulate construction under a building bylaw. Courts have confirmed that the purpose of regulating building construction is to protect the health and safety of building inhabitants by providing an independent review of the sufficiency of construction undertaken by builders who might otherwise intentionally cut corners to save cost or time, or who are unaware of mistakes in their work. If extant, exposure to liability can be significant and defects in construction often remain latent for many years, surfacing only after ownership has changed hands. When such defects are discovered, municipalities may face claims that their inspectors negligently approved, or failed to prevent, non-compliant construction. This paper examines the statutory framework governing municipal building regulation and enforcement in BC, the leading jurisprudence on negligence in building regulation regimes, and defences to limit or negate liability. It concludes with practical guidance for municipalities to minimize liability exposure while maintaining effective oversight of building activity within their jurisdictions.

II. STATUTES

Unlike in some other provinces, local governments in BC may, but are not required to, administer and enforce the Code.

Section 8 of the *Community Charter*, S.B.C. 2003, c. 26, authorizes municipalities to regulate in relation to health, safety, and the protection of persons or property. Section 53(2) provides that a building bylaw must be enacted only for purposes related to safety, energy or water conservation, accessibility, or the reduction of greenhouse gas emissions. Section 55 permits councils to require that permit applicants provide certifications from qualified professionals—such as architects, engineers, or geoscientists—that submitted plans comply with applicable safety standards. This gives local governments the power to delegate technical compliance assessments while retaining oversight authority.

Regional districts are empowered to make bylaws for regulating construction, alteration, repair or demolition of building and structures, requiring and governing the issuance of building permits, providing for the conduct of inspections, among other things under s. 298 of the *Local Government Act* R.S.B.C. 2015, c. 1.

Prior to September 1, 1973, local governments could adopt a building code under local bylaws. However, in 1973, an amendment to the *Municipal Act* (the predecessor to the *Local Government Act*) gave the provincial government the power to make regulations establishing a building code, including a plumbing code, for the province through an Order in Council. In September 2015, the province adopted the *Building Act,* S.B.C. 2015, c.2, and now adopts building regulations under that authority. The *Building Act* is the first act in BC dedicated solely to building and construction in BC and was intended to streamline how the Code is used. The *Building Act* gives the province the sole authority to establish building requirements and establishes mandatory qualifications for local building officials. The *Building Act* was adopted in part to establish mandatory credentials for building officials and require a province-wide register of building officials; and curtail local government bylaws that go beyond the Code.

The Code is a provincial regulation that governs new construction, building alterations, repairs and demolitions, and is based on the *National Building Code of Canada*, with some variations specific to BC. The Code applies throughout BC, except on federal land, reserves, and the City of Vancouver where the *City of Vancouver Building Bylaw* applies pursuant to the *Vancouver Charter*.

III. CASE LAW: NEGLIGENCE IN REGULATING BUILDING CONSTRUCTION

Municipal liability for negligent building inspection developed alongside governmental liability in negligence. The framework originates from three Supreme Court of Canada decisions: *Kamloops (City) v. Nielsen*, [1984] 2 S.C.R. 2 "*Kamloops*"); *Rothfield v. Manolakos*, [1989] 2 S.C.R. 1259 ("*Manolakos*"); and *Ingles v. Tutkaluk Construction Ltd.*, [2000] 1 S.C.R. 298 ("*Ingles"*). Together, these decisions indicate that, absent limiting language in bylaws, where a municipality undertakes to inspect or approve building construction, it can owe a private law duty of care to those reasonably foreseeable as likely to suffer harm from negligent inspection, including subsequent purchasers of the property.

Although the court has recognized that enforcing bylaws is a matter of discretion rather than a mandatory obligation, a local government's potential exposure to liability can increase significantly once compliance with those bylaws is brought into play through the building regulation process. This is reflected by the trifecta of Supreme Court of Canada building inspection cases decided between 1985 and 2000 involving instances in which municipalities were found to have had a duty of care to detect and respond to a building being constructed in contravention of the applicable building regulations, resulting in damages.

The decision of the Supreme Court of Canada in *Kamloops* set out the framework for assessing negligence claims against municipalities. First, it imported into Canadian law the general test for establishing a duty of care set out in the British case, *Anns v. Merton London Borough Council* [1977] U.K.H.L. 4, [1978] AC 728 ("*Anns*"). In order to establish that a defendant owes a claimant a duty of care, there must be:

- Proximity between the claimant and the defendant, in that the harm caused by the defendant was reasonably foreseeable; and
- No policy consideration that negates the duty of care.

Second, *Kamloops* also sets out the distinction between policy and operational decisions, the former being largely immune from liability. This distinction will be discussed in greater detail in Section IV.

A. Proximity

Kamloops is often referred to as the "negligent inspection case", even by the Supreme Court of Canada. However, the case is actually in regard to the City's non-enforcement of its building bylaw, not a negligently conducted inspection. In *Kamloops*, the City made a policy decision to regulate construction by bylaw and have the City's building inspector enforce the bylaw. In this case, a contractor did not abide by the approved plans in the construction of a house. Upon several inspections, the City's building inspector issued a "Stop Work Order". Nonetheless, the contractor continued the construction of the house, but the City did not enforce the "Stop Work Order" despite being aware of the continued construction. Eventually, a subsequent purchaser of the house found significant issues with the foundation of the house and commenced an action against the vendor and the City. The Trial court's liability finding, apportioning the vendor with 75% of the liability and the City with the remaining 25%, was upheld at the Court of Appeal and Supreme Court of Canada. Although not discussed in great detail, the Court appeared satisfied that the City could reasonably foresee or contemplate that carelessness on its part could cause damage to the claimant; thus, proximity was established. The building inspector brought the issue of non-compliance with the "Stop Work Order" before Council which determined not to take further action. The majority of the Court accepted it did so on the basis of a plea from the then owner, a fellow council member, that it was his retirement home and any problems that might arise were his alone. It was noted that the building inspector had done all he could in discharging any duty to enforce the bylaw by reporting the matter to Council.

In *Manolakos*, which will be discussed in greater detail in the next section, the chief building inspector relied upon a rough sketch of a proposed retaining wall and waived the requirement for professionally prepared plans, and issued the building permit, expecting that the structural sufficiency of the wall would be verified by timely inspections in the field. As will be discussed, the Court found this to be reasonable. However, the City's building bylaw required that an

owner give the building inspector 24 hour' notice for a footings and forms inspection, prior to any concrete being poured. The owner's contractor failed to do so. Unfortunately, the footings and forms were not constructed in compliance with the applicable building code and resulted in damage. The Court still found the City partially liable for the damages resulting from the lack of inspection of the footings and forms, even though the contractor was also negligent.

In *Ingles*, the Court found that the Ontario building legislation created a building inspection scheme for the protection of public health and safety by enforcing safety standards for construction projects to be carried out by local governments. The building construction legislation is different in Ontario, as it is not permissive but is mandatory in requiring the enforcement of the building code by local governments. The Supreme Court of Canada followed its decision in *Manolakos* and held that a municipality's building inspector owed a duty of care in building permit-related inspections of renovations on a home and to exercise reasonable care in doing so. The Court concluded that, in the context of the Ontario legislative regime of the day, a *prima facie* duty of care was owed to an owner-builder. While this principal would not apply to all local governments in BC, it can likely be applied to local governments in BC who choose to regulate in regard to building construction.

In these three decisions, the Court accepted that municipalities could owe a duty of care arising from their conduct in performing building inspections. Rather than grappling with that threshold question, the Court focused on more nuanced issues: identifying to whom the duty was owed (the building permit applicant or subsequent purchasers), determining the applicable standard of care, and assessing the degree to which responsibility should be shared with the builder and the resulting impact of that apportionment.

What is less clear is how far the duty of the municipality extends. There is an arguable link from the building inspector to the current owner who is undertaking the construction, but the link becomes more distant in regard to future owners. Further, courts have also had to consider if the duty of care applies to neighbours and lawful entrants to the premises.

In the Ontario case *Mortimer v. Cameron,* 1994 CanLII 10580 (ON CA)*,* the Court extended the duty of care owed by municipal building officials to entrants to the premises in conducting building inspections, even if the inspection occurred years – or even decades – before. In that case, the Court held that the City carelessly granted a building permit for an exterior wall, which, 15 years later, resulted in someone who tripped, fell into the exterior wall with minimum force, which gave way, resulting in both Mortimer and Cameron falling ten feet to the ground causing serious harm to Mortimer. The Court in that case decided there was no reason why entrants to the premises should not be afforded a similar protection to that of owners, owner-builders, subsequent owners and tenants, and third party neighbours.

B. The Standard of Care

The first authoritative discussion of the standard of care applicable to municipal building officials in Canada was *Manolakos*. With respect to the examination of plans at the building permit application stage, the Court noted that the City had not required professionally prepared plans and specifications, instead accepting rudimentary sketches. The Court found that doing so was not unreasonable based on the many small projects that come to the City for approval and that must be processed with a reasonable measure of flexibility and efficiency and the Court found that it would be unreasonable to impose such a burden on the City. However, the Court went on to say that:

> "… it is incumbent on the city to at least examine the specifications and sketches. If an examination of these reveals that they may reasonably serve in the construction of a project, it would appear sensible to issue a permit. Inadequacy in the sense of insufficiency is one thing, however, inadequacy in the sense of an obvious departure from the standards required by the by-law is another. In the present case, it was clear from the specifications that the project was inadequately designed."

More recently, in *Ingles*, the Supreme Court of Canada affirmed that, in general terms, the standard of care will vary according to the likelihood of a known or reasonably foreseeable harm, the seriousness of the potential harm, and the burden or cost associated with taking steps to prevent the injury. The Court noted that if the inspector has been put on notice that the project may be defective, that the contractor has demonstrated a disregard for applicable building regulations such as by not obtaining a building permit or not calling for the appropriate inspections, such that serious harm could result if the work done is defective, the standard of care will necessarily be higher. The Court further observed that this standard must be evaluated in light of the range of statutory powers granted to municipal building inspectors under the applicable legislation.

IV. NEGLIGENT MISREPRESENTATION

Negligent misrepresentation can often arise in relation to claims involving building permits and inspections. In *Queen v. Cognos Inc.*, 1993 CanLII 146 (SCC), the Supreme Court of Canada set out the elements necessary to prove negligent misrepresentation:

- A duty of care exists based on a special relationship between the representor and the representee;
- The representation must be untrue, inaccurate or misleading;
- The representor must have acted negligently in making the misrepresentation;

- The representee must have relied, in a reasonable manner, on the negligent misrepresentation; and

- Reliance must have been detrimental to the representee in the sense that damages resulted.

Should any one of these elements not be proved by the plaintiff, the claim will fail.

In *Hercules Management Ltd. v. Ernst & Young*, 1997 CanLII 345 (SCC), LaForest J. stated that a "special relationship" exists where:

- The defendant ought reasonably to foresee that the plaintiff will rely on their representation; and

- Reliance by the plaintiff would be reasonable in the circumstances of the case.

In other words, the proximity analysis in negligent misrepresentation claims turns on the relationship of reliance. Without evidence of reliance, there is no proximity, and therefore no duty of care arises.

V. DEFENCES OR POLICY CONSIDERATIONS THAT NEGATE THE DUTY OF CARE

The second branch of the *Anns* test, as articulated in *Kamloops*, permits the court to consider whether the scope of the duty of care, the class of persons to whom it is owed, or the damages recoverable for a breach should be restricted or negated. Factors that may limit or entirely negate a duty of care owed by a municipal building authority include immunity for policy decisions, the use of disclaimers, statutory protections under the *Local Government Act*, a purchaser's knowledge of the defect, the conduct of the plaintiff or a third party, and applicable limitation periods.

A. Immunity for Policy Decisions

As briefly discussed above, municipalities enjoy statutory immunity from policy decisions. In *Just v. British Columbia,* [1989] 2 SCR 1228, it was claimed that the provincial Department of Highways was negligent in failing to properly maintain a section of the Sea to Sky highway where a boulder tumbled down onto the claimaint's car. The primary issue was whether the decision not to physically scale the scope in question was a policy or operational decision in nature.

This concept was further discussed in *Nelson (City) v. Marchi*, 2021 SCC 41. The Supreme Court of Canada outlines factors to help frame the analysis for whether a government's decision is policy:

- The higher the level of the decision-maker, the more likely it will be that the decision is one of policy. If the decision-maker's role includes the assessment

and balancing of public considerations, the more the decision will attract immunity;

- Policy decisions will usually have a sustained period of deliberation and are intended to have broad application. In some cases, policy decisions are made after public debate with input from different levels of authority;

- Decisions regarding budgetary allotments for departments are more likely to be classified as policy decisions. However, the mere presence of a budgetary or financial implication does not automatically make a decision a policy decision since most governmental decisions, including most operational decisions, involve some consideration of a department's budget; and

- The more a government weighs competing interests and requires making value judgments, the more likely a Court is to provide immunity, since the Court cannot substitute its own values in the place of the government. However, decisions made on the basis of expert or professional opinions with technical and general standards may be more operational in nature.

The decision of a local government to decide to regulate building construction by adopting a building regulation fits squarely in the ambit of a policy decision. In *Kamloops*, the Court held that once the City had made a policy decision to regulate building construction, the City owed a duty to enforce the bylaw provisions to prevent injury to persons such as third party purchases, and these are operational decisions. Courts have not had trouble in concluding that the building inspector's decisions and conduct in carrying out the bylaw, such as how they conduct inspections, are operational decisions. Therefore, these decisions would not be immune from liability and the local government could be found negligent in how they enforce their bylaws.

Therefore, in deciding whether or not to adopt a building regulation that would allow it to enforce the Code, the municipality must first ensure that it has the capacity to properly enforce its own building regulation if adopted.

An example of the successful application of policy-decision immunity is *Lyons v. Grainger*, [1994] O.J. No. 47 (Gen. Div.) (QL), where the defendant municipality was relieved of liability arising from the issuance of a building permit and the inspections conducted during construction. The municipality had adopted a policy of neither requiring nor reviewing plans, nor conducting inspections, for lot grading or surface drainage. The Court noted that acts or omissions grounded in policy do not expose a municipal authority to liability; however, if an operational act is performed carelessly, liability may arise for resulting damage. The Court further held that the municipality's practice of conducting only three cursory inspections by a part-time inspector, and the limited qualifications and experience of the chief building official and inspector, were policy decisions determined by the resources available to the municipality. The municipality was not entirely shielded from liability, as the trial judge determined that these considerations should inform the standard of care reasonably expected of the Township.

Ultimately, the Court found that, given the chief building official's working conditions and level of expertise, it was not unreasonable that he failed to detect errors in the professionally engineered building plans used to construct the home

The BC Court of Appeal has considered the question of policy decision immunity in relation to building permits in *Parsons v. Finch*, 2003 BCCA 409. Parsons purchased a lot in Richmond and after obtaining permits, proceeded to build a home and workshop. During some upgrades to their home a few years later, the Parsons discovered that their home was settling unevenly on the property. Under the City's building bylaw no building is permitted to be constructed except in conformity with the Code and the bylaw. Under Part 5.12 of the bylaw, however, the building inspector "shall require professional design and a field review" in respect of a building permit for structural components. "Professional design" must be carried out by licensed architects or professional engineers who are registered with their professional governing bodies. The Parsons claimed that the City of Richmond was negligent in failing to carry out proper inspections of the property, in relying on the certification of an independent engineer, and in not ensuring compliance with the building code and related statutes and bylaws. The City said that it was exempt from a private law duty of care to the plaintiffs as the decision to utilize the professional design provisions was a policy decision and the City followed its policy. The Court held that the decision of the City to utilize a "professional design" process expressed in the bylaw was a policy decision and the City was therefore immune from liability for any damages stemming from this decision. The action was dismissed.

However, courts in BC have been hesitant to apply this principle to cases where there is vagueness and uncertainty of the inspection system. In *Strata Plan NW 3341 v. Canlan Ice Sports*, 2001 BCSC 1214, the owners of a condominium project alleged negligence against the municipality for failing to adhere to its own regulatory bylaw in inspecting and approving the development. Less than a year after the completion of the development, the owners noticed water leakage and during the repair process, deficiencies in the structural design were uncovered. The municipality's regulatory standards were required to be consistent with the Code, including Part 5. The building department did not undertake any processes to ensure compliance with most of Part 5. The department practice of not including inspections relating to Part 5 was explained as being the result of the difficulty involved in assessing performance-based objectives and due to the fact that building envelope failures were not seen as a problem. The municipality argued that It chose not to implement procedure designed to enforce Part 5 of the Code as a policy decision due to its small budget and minimal number of permits issued each year. The court stated that the incongruity in this position is that the Municipality purported to make provision for the administration and enforcement of the said building code" without any reservation of responsibility for individual parts. The Court took issue with the lack of formal boundaries in respect of the inspector's responsibility. The municipality was found liable for a portion of the damages. The municipality had improperly approved the plans for the development, as the plans did not meet the requirements of the Code. The Court held that once the municipality made the policy decision to inspect, it could not then choose to avoid parts of its regulation. The municipality owed a duty of care to the owners, which was breached.

B. Disclaimers

It has been held that a plaintiff cannot later challenge the validity of a disclaimer of liability contained in a building permit application form on the basis that the municipality lacked authority to include such a waiver, where the plaintiff has acquiesced by signing the form without objection. However, to be effective, the disclaimer or waiver must contain language that expressly exempts the municipality from liability for its own negligence or that of its employees. Where the disclaimer does not expressly refer to negligence, the court must determine whether the language used is sufficiently broad, in its ordinary meaning, to encompass negligence on the part of the municipality and/or its employees, with any ambiguity on the point to be resolved against the municipality. Once a waiver or disclaimer of liability for negligence is established, the final step is to assess whether any other causes of action may nonetheless survive the waiver or disclaimer and permit recovery of the damages in issue.

The wording of the disclaimer is paramount in determining what liability exactly the local government is being relieved of. For instance, in *Dha v. Ozdoba*, [1990], 39 C.L.R. 248 (B.C.S.C.), the municipality argued that it was relieved from the duty of care otherwise owing to the plaintiff owner-builder on the basis of a disclaimer that the municipality stamped on the approved structural drawings for the building in question. However, because the disclaimer did not address the obligations of the municipality under its own building bylaw or the Building Code, the municipality still owed a duty of care to the claimant.

C. Statutory Protections

In response to the Supreme Court of Canada's decision in *Kamloops* and the anticipated increase in negligence claims against local governments, BC amended the *Municipal Act* (now the *Local Government Act*) to insulate the municipalities from liability for failure to enforce their building bylaws, which resulted in s. 742 and 743.

Sections 742 and 743 of the *Local Government Act* state:

> 742 A municipality or a member of its council, a regional district or a member of its board, or an officer or employee of a municipality or regional district, is not liable for any damages or other loss, including economic loss, sustained by any person, or to the property of any person, as a result of neglect or failure, for any reason, to enforce, by the institution of a civil proceeding or a prosecution,
>
> (a) the Provincial building regulations,
>
> (b) a bylaw under Division 1 [Building Regulation] of Part 9 [Regional Districts: Specific Service Powers],
>
> (c) a bylaw under section 8 (3) (l) [fundamental powers — buildings and other structures] of the Community Charter, or

(d) a bylaw under Division 8 *[Building Regulation]* of Part 3 of the *Community Charter*.

743(1) If a municipality or regional district issues a building permit for a development that does not comply with the Provincial building regulations or another applicable enactment respecting safety, the municipality or regional district must not be held liable, directly or vicariously, for any damage, loss or expense caused or contributed to by an error, omission or other neglect in relation to its approval of the plans submitted with the application for the building permit if

(a) a person representing themselves as a professional engineer or architect registered as such under Provincial legislation certified, as or on behalf of the applicant for the permit, that the plans or the aspects of the plans to which the non-compliance relates complied with the then current Provincial building regulations or other applicable enactment to which the non-compliance relates, and

(b) the municipality or regional district, in issuing the building permit, indicated in writing to the applicant for the permit that it relied on the certification referred to in paragraph (a).

(2) Subsection (1) does not apply if the municipality or regional district knew that the person making the certification referred to in that subsection was not, at the time of certification, registered as a professional engineer or architect under Provincial legislation.

(3) If a municipality or regional district makes an indication in accordance with subsection (1) (b), it must reduce the fee for the building permit to reflect the costs of the work that would otherwise be done by a building inspector to determine whether the plans or the aspects of the plans that were certified to comply do in fact comply with the Provincial building regulations and other applicable enactments respecting safety.

In *Kaiser v. Bufton's Flowers Ltd.,* [1994], 97 B.C.L.R. (2d) 166, aff'd [1995], 2 B.C.L.R. (3d) 85 (C.A.), the Court of Appeal ruled on the impact of s. 294(8) of the *Vancouver Charter*, which is similar to s. 742 and 743 of the *Local Government Act* in the context that Vancouver failed to require the house owned by the plaintiffs to be equipped with sprinklers which was required by the building bylaw. The Court of Appeal observed that the applicable section of the *Vancouver Charter's* purpose was to protect the City against liability arising out of the common law and ought to be given effect. This same principle could likely be applied in regard to sections 742 and 743 of the *Local Government Act*.

D. Conduct of the Plaintiff or Third Party

The scope of the duty of care owed by a local government in relation to negligent conduct by the plaintiff or a third party was considered by the Supreme Court of Canada in *Manolakos*. While the Court observed that *Kamloops* involved a third party purchaser who had no involvement in the actual construction of the building and therefore could not be contributorily negligent, it concluded that the contractor's failure to request the required inspection—responsibility for which was assigned to the owner under the bylaw—did not place the owner outside the ambit of the duty of care owed by the City. The owner's negligent breach of the bylaw did not prevent them from relying on the municipality to ensure compliance with the building bylaw. The Court reasoned that municipalities employ building inspectors precisely because it can be expected, in the normal course of events, that contractors may fail to comply with certain aspects of building bylaws. However, the Court also noted that such conduct may serve to limit the City's liability.

As previously discussed, while the conduct of the plaintiff may serve to limit the damages attributable to the municipality, *Manolakos* demonstrated that the scope of plaintiff conduct capable of excluding a duty of care otherwise owed is narrowly circumscribed. This principle was further reinforced in *Ingles*, which held that it is generally inappropriate to conclude that a plaintiff's conduct removes them from the scope of the duty of care otherwise owed. The Court held that the assessment of whether a duty of care exists should be confined to the concepts of foreseeability and proximity, with the legality or morality of the plaintiff's conduct being extraneous to the analysis. A plaintiff's conduct will only provide a complete defence for a municipality in the rarest of circumstances, specifically where it can be shown that the owner or builder knowingly flouted the provisions of the applicable building regulations or the directives of the building inspector. Duty of care will be excluded only where, due to the owner or builder's conduct, the building inspector was effectively unable to take reasonable measures to ensure compliance with applicable construction standards, such that the court could conclude that the plaintiff was the sole source of their own loss. The term "flouted" is understood to require conduct far beyond mere negligence by the owner or builder. Examples include situations in which the owner or builder never applied for a building permit, submitted false plans or documents in support of a building permit application, failed to notify the municipality of the need for an inspection, or provided notifications so late that even a full exercise of the powers granted under the governing legislation could not reveal hidden defects.

E. Limitation periods

In BC, limitation periods are set by the *Limitation Act,* S.B.C. 2012, c. 13. Section 6 states that a claim must not be commenced more than two years after the day on which the claim is discovered. A claim is discovered by a person on the first day on which the person knew or reasonably ought to have known all of the following:

- That the injury, loss or damage had occurred;

- That the injury, loss or damage was caused by or contributed to by an act or omission;
- That the act or omission was that of the person against whom the claim is or may be made; and
- That, having regard to the nature of the injury, loss or damage, a court proceeding would be appropriate means to seek to remedy the injury, loss or damage.

Due to the nature of defects in buildings and constructions, it can be years, or even decades before the damage is discovered, which can mean that legal proceedings can be taken against a municipality for inspections done or permits issued decades before. In order to address this, the *Limitation Act* sets an ultimate limitation period which states that a court proceeding must not be commenced with respect to a claim more than 15 years after the day on which the act or omission on which the claim is based took place. There are exemptions to the ultimate limitation period, but none are likely to apply in respect of a negligence claim regarding building regulations.

Further, the *Local Government Act* sets out the following limitation period for all actions against municipalities and regional districts:

> Limitation period for certain actions
>
> 735 All actions against a municipality or regional district for the unlawful doing of anything that
>
> (a) is purported to have been done by the municipality or regional district under the powers conferred by an Act, and
>
> (b) might have been lawfully done by the municipality or regional district if acting in the manner established by law
>
> must be commenced within 6 months after the cause of action first arose, or within a further period designated by the council or board in a particular case, but not afterwards. (underlining added)

VI. TAKEAWAYS FOR LOCAL GOVERNMENTS

Municipalities exercising their permissive authority to regulate building construction must appreciate that once they assume responsibility for inspection and enforcement, they may owe a duty of care to property owners to perform those functions competently. The key implications are:

- Municipalities should ensure that building bylaws accurately reflect the capacity and expertise of their staff;

- Consistent inspection policies, proper documentation, and detailed record-keeping are essential for defending future claims;
- Training and certification of building officials under the *Building Act* mitigate risk and ensure compliance with statutory requirements;
- Clear communication with property owners and builders, including written disclaimers about the limits of municipal responsibility, should be incorporated into permit processes; and
- Councils and staff must understand the limits of immunity and the continuing importance of operational diligence once inspection functions are undertaken.

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