



Don't Let Slips & Falls Trip Up Your Safety Record!

With inclement weather comes an increase in “loss of balance” type incidents - slip and fall or tripping - affecting not only your customers, but also the general public and your employees. These exposures exist year round, whether it's a customer visiting your office to pay a bill walking over a slippery floor, or someone encountering a hazard created through equipment installations on public or private property. As most utilities have equipment installations throughout a community, **it's virtually impossible to eliminate all of these hazards. As such it becomes more important to ensure your organization is both:**

- a) **Responsibly reducing the hazards where possible and;**
- b) **Avoiding liability in the face of these common incidents.**

Avoiding Liability – The Municipal Experience

Municipalities have had experience with these incidents which have resulted in claims. To help manage the claims experience, we recommend MEARIE customers consider the approach Municipalities have taken, particularly in light of the following case:

The City of Hamilton has approximately 125,000 water supply installations which include a ground-level cap. These caps are normally flush with the ground, but it is not uncommon to have them pop up due to heaving of the frozen ground. Due to the sheer number of installations involved, the City established a policy to respond to pop-up complaints, but to not inspect them on a regular basis. There was a court case, *Vizbaras v. Hamilton (City)* 96¹, where the plaintiff tripped in their driveway over the city-owned cap of a service barrel leading to the City's water supply. The Court found that the City's decision to establish their non-inspection policy had been made in good faith and that this general practice among municipalities supported its reasonableness. In other words, the fact that the City had reasonably considered this hazard, had a firm policy, and were acting as other municipalities do, helped them defend

their level of liability (even though that policy did not include attempting to inspect each of the ground-level caps, which would have been unreasonable).

As part of your Risk Management activities, MEARIE recommends identifying the various common utility-owned equipment installations on public or private property and then, in respect of each type of equipment, develop and implement a corporate policy of either:

1. Respond only when a complaint occurs and not to inspect installations on a regular basis OR;
2. Inspect regularly and also respond when a complaint occurs

In either case, document compliance with the policy (the inspection policy should clearly define and quantify the frequency of what inspections are to be followed).

Your corporate policy should:

- Address any equipment installed on either public or private property
- Be detailed and specific as to determine which property is inspected, how often and what an inspection entails
- Describe what circumstances a property is not inspected frequently or is not inspected at all
- Demonstrate the policy was made in good faith and is not simply an attempt to avoid responsibility
- Provide the ability to document compliance with inspection requirements of the policy

The establishment and implementation of such a corporate policy could provide excellent defense in a liability claim.

With such a policy in place, implemented and properly documented, you may lessen claims and the legal costs

¹ “[Vizbaras v. Hamilton \(City\), 2005 49207 \(ON SC\)](#).” *Case Law Canada Globe 24h.*, 2005. Web. 23 Feb. 2015.

MEARIE incurs to defend such claims, which ultimately result in lower insurance premiums for your organization.

Reducing Slips & Trips on Your Premises

To reduce the potential for slip and fall-related injuries, often due to slippery conditions on your premises, a first step is to identify these exposures and then prepare to address them, if possible. **A reasonable effort and intent to prevent slips, falls and trips from occurring, showing due diligence, is required to reduce your liability if an incident occurs.**

As part of your corporate Operating Policies & Procedures, creating various policies such as “Sidewalk/Parking Lot, Inspection and Maintenance Policy,” is a good idea. Not only will the creation of a policy help you identify the hazards involved, in the event of a slip and fall type incident, **a defined corporate policy is required to invoke the “policy defense” when responding to legal actions against you.**

Such a policy should:

- Define the objective of the policy
- Identify the individual or department responsible for implementation of the policy
- Demonstrate the policy was made in good faith and is not simply an attempt to avoid responsibility
- Outline the frequency of inspection
- Provide the ability to document compliance with inspection requirements of the policy
- Define ice and snow winter maintenance procedures including documentation of sanding/salting/snow removal activities
- Identify the types of deficiencies to be addressed
- Outline documentation and record keeping processes including corrective actions taken or reasons for not taking action
- Include a follow up, re-inspection schedule and a system of prioritizing required actions

Priority can be assigned based on:

- Location and amount of traffic
- Users, (i.e. public or staff)
- Damage, degree of elevation change or separation
- Areas of previous incident or complaint

During regularly scheduled inspections of areas where foot traffic occurs, look for “accidents waiting to happen” resulting from: wet spots, loose surfaces (such as tiles, carpets or mats), general housekeeping or storage. For other locations that might be off your immediate premises, look for debris or loose grates near underground vaults, guy wires around poles and settling of trenching or excavations. These should be inspected, as well.

Where you have uneven surfaces, sidewalks, potholes or similar hazards on your premises or elsewhere, resulting from your operations, use highly visible marking such as spray paint, traffic cones or caution tape to warn of the hazard until it can be repaired. Once repaired a follow up inspection should be performed and documented to ensure there has been no settling, heaving or resulting uneven ground.



Any time your company is involved in trenching or digging, it is important to ensure surface repairs are completed, follow up inspections are documented and, if required, remediation is carried out. It’s important to ensure potential hazards are eliminated and that settling does not occur.

It’s all in the Documentation

The importance of documentation cannot be stressed enough in the defense of potential legal actions against you.

Create a specific way to keep track of the following:

- Inspection and maintenance forms
- Inventory and schedule of prioritized repairs
- Repair procedures & protocols
- Complaints or incident reporting and responses
- Sanding, salting & shoveling activities

Do you contract out your winter snow removal services?

Ensure your contract specifies the expected service level and response times, follow up and record keeping requirements. **As part of the contract include: indemnification or hold harmless agreements; insurance requirements; and be added as an Additional Insured on the contractor’s policy.** The activities of the contractor

should be documented in a maintenance log. Additionally, you should have a process in place for staff to respond to situations of ice and snow removal between service calls, documenting these actions.

Other Resources:

Prevent Slips and Falls in the Workplace

http://www.labour.gov.on.ca/english/hs/sawo/pubs/fs_falls.php

Fact Sheet Ministry of Labour

http://www.labour.gov.on.ca/english/hs/pdf/fs_falls.pdf

Sanding and Salting log - Ontario School Board Insurance Exchange

<http://www.osbie.on.ca/risk-management/at-a-glance/pdf/salt-sand-log-sheets.pdf>



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What to Do in the Event of an Incident

Incident reporting and investigation should be carried out and documented for every incident, no matter how minor the injury may seem, in accordance with your Operating Policies and Procedures. Reporting should include the following:

- Date, time and location of incident
- Description of conditions at time of incident (weather, light levels, surface conditions)
- Contact information of individual involved
- Individual's footwear, activity at time of incident and factual description of what happened
- Name and contact information of witnesses
- First aid or medical attention provided/required and/or refused
- Photographs of area and potential hazards or warning signs

Documentation resulting from investigating incidents **should be kept for a period of at least two years and one month from the date** of the incident, at which point the statute of limitations period has passed.

If an incident/accident **involves a minor, the documentation should be kept until two years and one month after the individual reaches the age of majority.**

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