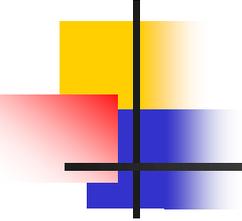


Shared Use Facilities and Associated Risks

SPIAO Webinar
September 16, 2021

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Paterson, MacDougall LLP

pmlaw |

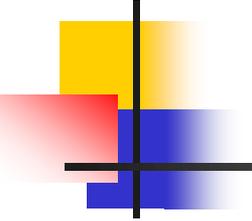


Definition of 'occupier'

“**occupier**” includes,

- (a) a person who is in physical possession of premises, **or**
- (b) a person who has responsibility for **and** control over the **condition** of premises **or** the **activities there carried on, or control over persons allowed to enter the premises,**

despite the fact that there is more than one occupier of the same premises;

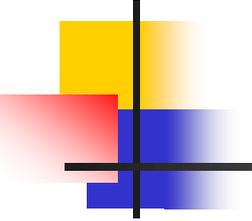


The general duty

Occupier's duty

3 (1) An occupier of premises owes a duty to take such care as in all the circumstances of the case is reasonable to see that persons entering on the premises, and the property brought on the premises by those persons are reasonably safe while on the premises.

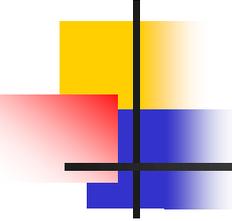
(2) The duty of care provided for in subsection (1) applies whether the danger is caused by the *condition* of the premises or by an *activity* carried on on the premises (emphasis added).



The lesser duty of care

Risks willingly assumed

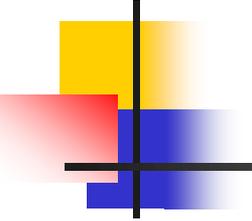
4 (1) The duty of care provided for in subsection 3(1) does not apply in respect of risks willingly assumed by the person who enters on the premises, but in that case the occupier owes a duty to the person to not create a danger with the deliberate intent of doing harm or damage to the person or his or her property and to not act with reckless disregard of the presence of the person or his or her property. (Rest of section 4 omitted)



New Notice requirement for injuries caused by snow or ice

Notice period — injury from snow, ice **NEW******

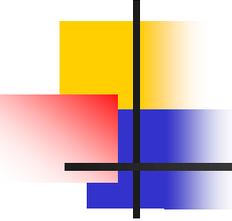
6.1 (1) No action shall be brought for the recovery of damages for personal injury caused by snow or ice against a person or persons listed in subsection (2) unless, within 60 days after the occurrence of the injury, written notice of the claim, including the date, time and location of the occurrence, has been personally served on or sent by registered mail to at least one person listed in subsection (2).



s.6.1 cont'd

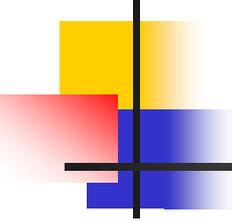
(2) The persons referred to in subsection (1) are the following:

1. An occupier.
2. An independent contractor employed by the occupier to remove snow or ice on the premises during the relevant period in which the injury occurred. 2020, c. 33, s. 1.



s.6.1 cont'd

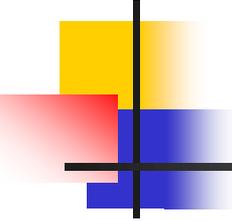
- (3) An occupier that receives notice under subsection (1) shall personally serve a copy of the notice on, or send the notice by registered mail to,
- (a) any occupiers of the premises during the relevant period in which the injury occurred; and
 - (b) any independent contractor employed by the occupier to remove snow or ice on the premises during the relevant period in which the injury occurred.



s.6.1 cont'd

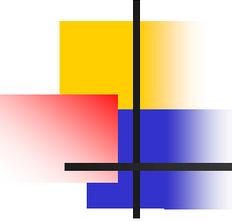
(4) An independent contractor employed by an occupier to remove snow or ice on the premises that receives a notice under subsection (1) shall personally serve a copy of the notice on, or send the notice by registered mail to, the occupier that employed the independent contractor.

(5) Failure to give notice in accordance with subsection (1) is not a bar to the action in the case of the death of the injured person as a result of the injury.



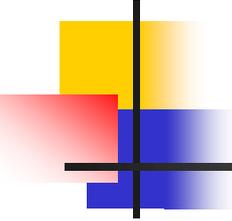
s.6.1 cont'd

(6) Failure to give notice in accordance with subsection (1) or insufficiency of the notice is not a bar to the action if a judge finds that there is reasonable excuse for the want or the insufficiency of the notice and that the defendant is not prejudiced in its defence. 2020, c. 33, s. 1.



s.6.1 cont'd

(7) For greater certainty, the limitation on bringing actions after the 60-day period set out in subsection (1) no longer applies if notice is provided in accordance with that subsection to any person listed in subsection (2), even if the action is to be brought against a person that did not originally receive the notice.



Skateparks



Ontario Place has a skate park with signage along the lines of:

- Be responsible – the park is not supervised
- Safety First – helmets & protective gear recommended
- No homemade rails or other props
- No gum, food or drinks on skatepark surfaces
- Current COVID Restrictions apply to park usage
- A number was provided at which to report damage

MACNEIL & DODD SKATE PARK

RULES

1. This is an unsupervised skate park. Use at your own risk.
2. The Operating Hours are 7:00 a.m. – 9:00 p.m. or dusk.
3. This is a high risk activity that can result in injury. Adult supervision is recommended at all times for children under the age of 12.
4. Wear the Gear, helmets, gloves, knee pads, wrist guards, footwear, highly recommended.
5. The Township is not responsible for any loss, damage or injury that may occur during the use of the skate park.
6. Wet or icy conditions are dangerous. Stay off, stay safe.
7. This is a shared facility. Respect all others. Take turns.
8. Food and drinks are to be kept off the skate surface.
9. Don't litter, vandalize, spray graffiti or change features.

For emergencies call 911

To report damage: recreation@northdumfries.ca
or 519-580-0476

MacNeil & Dodd Skate Park, Cowan Park,
North Dumfries Community Complex, 2958 Greenfield Road, Ayr



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NORTH DUMFRIES



