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Region, Milton at fault for crash

Just as winter arrived, Ontario municipalities were sent a message that it may not be enough to simply salt an icy road. They must take steps to prevent ice from forming in the first place or risk serious legal and financial consequences.

In a recent 3-0 decision, the Ontario Court of Appeal upheld a judgment that found Halton Region and the Town of Milton at fault for an April 1, 2003, accident that injured Milton resident Patrizia Giuliani on an icy stretch of Derry Rd.

Snow began falling around 4 a.m. that morning. By the time Giuliani set out for work at 7 a.m., the road had become icy from traffic compacting the snow. Giuliani lost control of her car and collided with an oncoming vehicle.

The municipalities argued they had complied with Ontario's minimum maintenance regulations for highways, which were introduced to provide towns and cities with a defence to lawsuits arising out of winter road conditions. The regulations give a municipality four hours to treat a road after learning it has become icy.

But Justice John Murray, ruling at a trial last year, said the situation in Milton that morning fell outside the scope of the regulations and the municipalities could not rely on them as a defence. Where Halton and Milton went wrong, he said, was in failing to monitor weather forecasts and in not sending out road crews earlier to prevent ice from forming. Prevention was the key issue.

In dismissing an appeal from the municipalities recently, Associate Chief Justice Dennis O'Connor said he agreed with the thrust of Murray's decision. But while the province's road maintenance regulations don't spell out measures that must be taken to avoid ice buildup on roads, that doesn't mean municipalities are completely without regulation on that issue, he added.

Municipalities are required generally to take steps to keep highways in a reasonable state of repair, O'Connor noted, while Halton Region has its own performance standards that require monitoring weather reports and salting roads to form a "brine sandwich" to avoid the formation of ice.

"I point this out simply to indicate that the (transportation) minister could have created a similar standard to address the situation in this case, had he or she chosen to do so," said O'Connor, writing on behalf of justices Harry LaForme and Douglas Cunningham.

At the trial last year, Murray found the municipalities and Giuliani were each 50 per cent at fault for the accident. The speed limit was 80 km/h and Giuliani was driving between 55 and 60 km/h.

She argued the Region should be found 90 per cent at fault.

The appeal court called it a "difficult" issue, but declined to interfere with how Murray apportioned blame.

—Torstar News Service

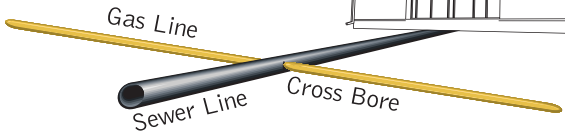
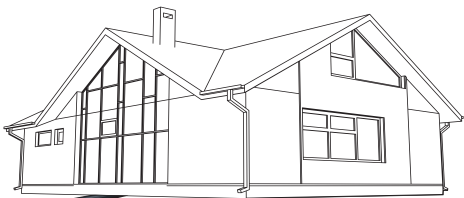
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