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Municipal Duty to Inform: Extent and Limits

The spring of 2023 has been full of decisions about municipalities' duty to inform citizens. This is an excellent opportunity to review the extent of this duty, and the circumstances that may give rise to a municipality's civil liability.

On May 10, 2023, the Court of Québec, Small Claims Division,¹ upheld a citizen's claim following a fault committed by the City of Longueuil. In this situation, the owner of a plot of land was planning to build a residence on it. The citizen had a preliminary meeting with a permit and urban planning officer, who gave him a rough estimate of the cost of connecting to municipal services—in general terms, without confirming the location or characteristics of the systems in that area. Satisfied, the citizen bought a manufactured home. However, when the permit application was processed, the city discovered that the property was a long way from the public grid. This made the connection costs so high as to be prohibitive, effectively dooming the project.

The evidence shows that the initial information had not been properly verified. The citizen was not informed of the location of the sewers either, meaning that he did not have the chance to see a prohibitive risk to his project and understand the consequences. Meanwhile, the City possessed the information and was in a privileged position. It therefore committed a fault, through its employee, by failing to provide verified information or to give sufficient warning about the limits of the information it did provide.

While they have already been well established by the courts, the Court in this case summarized the duties municipalities have when it comes to the information they give to citizens.

- If someone is not required to provide information, but does so regardless with the knowledge that another person will rely on it to perform an important act, they are liable for the resulting damages if the information is erroneous due to their negligence.
- Municipalities are not obliged to inform the public about their by-laws, but can be held liable for misinformation provided by their employees.
- Employees who have privileged knowledge of a specialized field, and who are able to reassure citizens who have come to them for information, must act with the understanding that these people will rely on their competence and the information they have obtained.
- Providing incorrect information is not a fault in itself. It can only be considered a source of liability if the informant failed to act as a reasonable person of ordinary prudence and caution would have done.

In a Court of Appeal decision,² citizens criticized the City for failing to disclose the contents of a 1994 report revealing the presence of contaminants in the soil near their properties. Although it is possible to hold a municipality liable if it can be shown that it breached its duty of prudence and diligence to citizens by failing to make information public, particularly if it involves public health or safety, this was not the case here. Rather, the evidence revealed that the City did not wish to alarm citizens over a problem that was being taken care of and that did not affect the plaintiffs' property, health, or safety. In this situation, the City's decision not to share the information was of no consequence to citizens and therefore did not give rise to any liability on its part.

In sum, municipalities' duty to inform requires them to disclose verified information or to provide sufficient warning about the value of the information so that citizens can rely on it and make an informed decision. However, it does not oblige them to voluntarily reveal all the information they hold, especially when it pertains to a situation that is not dangerous or risky. Ultimately, prudence and good judgment are key.

¹ *Miyashita v. Ville de Longueuil*, 2023 QCCQ 2844. See also *Hébert v. Ville de Saint-Jean-sur-Richelieu*, 2023 QCCQ 4217, dated June 29, 2023.

² *Cormier v. Ville de Montréal*, 2023 QCCA 462.