

To: MIABC Conference Attendees
From: Scott Twining, Stefanie Gladders, Brandon Piva, Rosalyn Lau
Date: April 8, 2026
Re: Fire Department Liability - Standards, Risk & Resilience in Municipal Practice

Overview

This session examines key areas of municipal fire department liability, including negligence and misrepresentation, recent legislative changes, and practical risk management considerations. Case law and a real-world case study will illustrate how liability is assessed and mitigated.

Guest Presenter

Ernie Polsom, FireWise Consulting Ltd.
Case Study: Rocky View County, Alberta

Key Liability Risks in Fire Services

1. Negligence (Primary Exposure)

To establish negligence, a claimant must prove:

- i) **Duty of Care**
- ii) **Breach of Duty**
- iii) **Causation**
- iv) **Damages**

Duty of Care

- Public duties do not automatically create private law duties.
- Municipal fire services are expected to deliver a **high standard of service**, consistent with available resources.

Breach of Duty

- Determined based on **standard of care**, often requiring expert evidence.
- Standard varies depending on:
 - Resources
 - Local conditions
 - Volunteer vs. professional departments
- Courts recognize operational realities:
 - Volunteer departments are judged on doing their **best with available resources**.
- Common failures:
 - Poor planning or size-up of fire
 - Inadequate equipment or mapping
 - Tactical errors leading to worsened outcomes

Causation

- “But for” test v. material contribution test
- Fire scenarios are complex and dynamic, making causation difficult—but not impossible—to prove.

2. Misrepresentation

Liability may arise when:

- A municipality **voluntarily provides information**
- It knows the recipient will rely on it
- The recipient **acts on that information**

Key risk areas:

- Dispatch communications
- Informal advice outside statutory authority
- Conflicting or inaccurate information

Legislative Update: Fire Safety Act (In Force August 1, 2024)

The *Fire Safety Act* replaces the Fire Services Act and introduces significant changes:

Key Shifts

- **Increased Local Responsibility**
 - Elimination of the “local assistant to the fire commissioner” role
 - Greater accountability placed on municipalities and regional districts
- **Mandatory Designations**
 - Fire inspectors and investigators must be appointed
 - Required to meet *provincial training standards*
- **Proactive Compliance Model**
 - Focus on inspections of *higher-risk buildings*
 - Emphasis on prevention and monitoring
 - *Negligent inspection* can create liability exposure
- **Expanded Authority**
 - Fire chiefs can now order *tactical evacuations* where there is immediate risk

Risk Management Implications

- Potential *increased liability exposure* for local governments
- Need for:
 - Clear policies and procedures
 - Proper training and certification
 - Documentation and decision-making protocols
- Regional Districts may rely on provincial support or assume full responsibility depending on capacity

Key Takeaways

- Liability is highly **context-dependent**, especially regarding available resources.
- Courts balance **public duty** with **operational realities**.
- The Fire Safety Act shifts more **risk and responsibility** to local governments.
- Strong **training, documentation, and governance frameworks** are critical to managing exposure.