

Documentation

How Documentation Can Save
Municipalities Money

Spring 2014

LAS Partnership

- Why? Municipalities must be aware of new and emerging risk management issues
- Together we can promote education, knowledge, and best practices, about municipal risk
- Partnership includes presentations at various LAS events and other forums to encourage learning related to organizational risk management



*Through education,
there is an opportunity
to make a positive
difference in every
municipality across
Ontario.*

In the world of litigation

It's not what you did...

It's what you can **PROVE** you did

If a Claim Goes to Court

- The main body of evidence in any proceeding is based on the documents
- The defendant must present the documents to prove that the standard of care was met
- The plaintiff's council will challenge the documents

Legal Perspective

- Courts have adopted the attitude that

if something is not recorded, it did not happen.

- The onus is on the organization to keep good records
- Staff should be advised that any notes or records are a potential legal document

Plaintiff vs Defendant

The evidence of a plaintiff will likely be preferred as their recollection of conditions will be based on memory from a traumatic event in comparison to the recollection of maintenance staff who complete the same work on a daily basis over large areas over a long period of time

Creating Your Documents

- Documentation should be created to achieve the objectives
- Customized checklists and reports specific to each facet of operation
- Use Association documents where possible
- You want actions completed to be specific

Creating Your Documents (contd.)

- Your inspection & maintenance documents have to stand on their own and pass the “test of time”
- They may be called on at a later date
- Plaintiff’s lawyers spend a significant amount of time understanding and reconciling documentary evidence

Implementing Documentation Practices

- Completing documents should be part of staff training
- Documentation should be considered part of the job.
- The job is completed when the records are completed.
- Documentation is crucial to the defence of the municipality

In Closing

- Documentation is crucial to the defence of the municipality
- Memories fade over time
- Provides a basis to refresh memories to the events of a particular day
- Evidence often more credible if it is corroborated by a documentary record