

April 26, 2021

To: All Members of City Council

Re: Sidewalk Snow Removal and Report PW19022(c)

My name is Daniella Mikanovsky, and I am a graduating student of McMaster's Arts and Science Program. For my undergraduate thesis, I explored Hamilton's sidewalk snow removal policy. Supervised by Dr. John MacLachlan, I researched the existing bylaw, followed the discussions going on at City Council, and explored the equity challenges that our current system causes. Throughout my research, it has become abundantly clear to me that our snow clearing system is unjust.

I have attached my thesis in the case that you would like to refer to it. **I would like to summarize a few key ideas:**

- The [snow events](#) of this past winter have made it clear that our current bylaw system is not adequate to ensure safe sidewalks in Hamilton. Something needs to be done. If you vote to end this discussion, we will continue to have these challenges.
- Snow clearing increases mobility and access for marginalized members of our community. Disabled individuals and older adults are impacted the most by unclear sidewalks:
 - They may not have access to personal vehicles and so depend on sidewalks and access to public transit to move around for their daily activities.
 - If they were to experience an accident, they are more likely to have severe consequences such as severe injuries and chronic pain management.
 - They are more likely to depend on mobility aids such as wheelchairs, walkers, and canes, which can face increased difficulty when navigating through snow.
 - A current [study at McMaster](#) has found that Hamiltonian seniors view snow as a significant barrier to their ability to access public transportation.
 - The City of Hamilton has an [aging population](#) and a [higher rate](#) of disabled residents than the rest of the province, so their needs must be considered and taken seriously.
- Other groups of people are also disproportionately impacted by inadequately cleared sidewalks. This includes:
 - Other people who depend on sidewalks and public transit, such as lower income individuals, children, and teens.
 - People using other wheeled devices such as strollers (young parents) and carts (often lower income individuals who do not have a vehicle to drive to store)
 - According to a [study in Sweden](#), women are impacted more than men by unclear sidewalks. Women are more likely to walk in their community to run errands such as dropping children off at school and buying groceries, whereas men were more likely to travel to work in vehicles on major roads, which were cleared before sidewalks. In

the study, women were overrepresented in the number of winter slips and falls and had higher rates of injury. When the town prioritized sidewalk clearing before roads, they significantly reduced the number of emergency visits for slips and falls in the winter. It is conceivable that women are disproportionately impacted here too.

- When sidewalks are not properly cleared, it can make it difficult for all the people described above to go about their daily activities. The same cannot be said for motorists. When the city is prioritizing roads over sidewalks, the needs of motorists are being valued over the safety and wellbeing of these marginalized populations.
- Snow clearing increases walkability for everyone, which supports positive health outcomes.
- Snow clearing reduces health care costs associated with slips and falls and reduces pressure on our local hospitals. Even [before the COVID-19 crisis](#), our hospitals were frequently over capacity. When we pay for proactive measures, such as increasing safety on our streets, we will save costs to our healthcare systems.
- Snow clearing supports sustainable lifestyles such as using the bus, biking, and walking instead of driving, which we should support during the [climate emergency](#).
- The graph below shows the percentage of morning (6-9am) trips in each ward that depended on walking/cycling and transit. In the winter, all these travelers depend on clear sidewalks at some point in their journey, whether it be the walk to the bus stop or their entire trip. The data is collected from the [Transportation Tomorrow Survey 2016](#).
ND indicated no data, in which there were not enough data points to indicate a trend.

Percentage of Morning (6-9am) Trips taken by Foot, Bicycle, and Transit, per Ward (2016)															
Ward	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Walk/Cycle	27%	18%	17%	13%	7%	7%	8%	10%	9%	5%	2%	2%	11%	ND	ND
Transit	16%	18%	12%	11%	9%	6%	8%	7%	2%	4%	1%	1%	6%	ND	7%
Total:	43%	36%	29%	24%	16%	13%	16%	17%	11%	9%	3%	3%	17%	ND	7%

Some considerations:

- Ward 12, which currently is the only ward which offers snow clearing service on its sidewalks, has the lowest rate of trips taken by pedestrians.
- Of the councillors who voted NO to the Public Works Motion on April 19th, 2021 (Item 8.1), half of them represent wards in which one sixth of the population depends on sidewalks. That is not an insignificant number. Are you ignoring these constituents?

- In regards to our current system, the Snow Angels are unable to guarantee snow clearing service, and have had challenges in the past due to [lack of volunteers](#). It is unjust to impose bylaw fines upon residents who are unable to shovel their own sidewalks due to disability and lack the finances to contract this service.

Recommendations:

I strongly recommend that you reconsider last week's vote at the Public Works Committee. Unclear sidewalks have direct impact on many Hamiltonian's lives, and it is unfair that you continue to prioritize motorists and delay addressing this issue.

Whether or not you approve one of the scenarios from PW19022(c), although I recommend you do, I also wanted to make the following recommendations:

- Please investigate the healthcare data associated with slips and falls in Hamilton. Are we seeing significantly more accidents on our sidewalks in the winter? Can we compare this data with cities which have more comprehensive snow clearing, and might we be reducing social costs by slightly increasing our property taxes?
- Perhaps consider a pilot study, in which the City adopts snow clearing responsibility for a ward for two years. I understand that we have the ability to estimate costs based on Ward 12's service, but a pilot in a ward with more pedestrians will allow you to study the direct impact of snow clearing on the residents who depend on it. This study could be implemented in connection with CityLAB Hamilton and the post-secondary institutions, and could provide the Council with data that you might consider more 'statistically valid' than the 2020 Engage Hamilton results.
- If we cannot adopt an improved PW19022(c) scenario, please at least consider expanding Snow Angels with more staffed positions to increase the ability for the organization to guarantee service to those in need.

Thank you for your consideration. I sincerely hope you make the right decision and support safer sidewalks in Hamilton.

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Shoveling the Way for Hamilton's Sidewalks

Daniella Mikanovsky

ARTSSCI 4C06 Individual Thesis

Supervised by: Dr. John MacLachlan

April 2021



Pictured: Daniella (left) shoveling the snow with her sister Avigail, 2004.
Photo credit: Hagit Mikanovsky

Acknowledgements

First and foremost, I'd like to thank my thesis supervisor, Dr. John Maclachlan, for his support during this project. John's guidance has been essential to understanding the maze of municipal bureaucracy, and his reassurance was invaluable during the uncertainty brought on by COVID-19. Thank you for your ideas, patience, and supporting me in exploring an issue that was interesting to me.

I would also like to thank the Arts and Science Administrative team: Dr. Jean Wilson, Shelley Anderson, and Rebecca Bishop, for supporting me through my degree.

A special thank you goes to Councillor Maureen Wilson for taking the time out of her schedule to discuss Hamilton's sidewalk snow clearing and its impact on Ward 1. Thank you for your continued advocacy toward ensuring that Hamilton is a safe and equitable city for all of our residents.

As well, I'd like to acknowledge the support and hard work of my parents, Moshe and Hagit Mikanovsky. Thank you for supporting my academic path, and teaching me how to shovel snow. Thank you to my sister Avigail for keeping me sane throughout this virtual year.

Finally, I'd like to thank my youngest sister, Tali. On March 6th, I slipped on ice (oh the irony!) and broke the elbow on my dominant hand. When I could no longer type my thesis, I turned to dictation software, which proved to have a higher learning curve than I expected. Tali stepped up and acted as my transcriber. Without you this wouldn't have been possible. THANK YOU TALI!!

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Introduction

Growing up in Vaughan, I always loved playing in the snow. After really big storms, I would ‘help’ my parents with my toy shovel while they would do the real grunt work. It took some effort, but we would clear our driveway altogether. While we were hard at work, the city’s snowplow would come trundling along to push the snow off the sidewalk, leaving a clear path in its wake. The flashing yellow lights and tracks in the sidewalk were staple to my childhood winters.

That is why when I moved to Hamilton to attend McMaster, I was surprised to learn that the municipality does not provide snow shoveling services. When I signed my lease for my student house, my landlord included a clause making it my responsibility to clear the sidewalk in the winter. My housemates and I took this duty seriously, and worked together to clear our sidewalk. Not everyone seemed to have the same approach to snow clearing. After storms, I was regularly encountering uncleared and icy sidewalks in my neighborhood.

As an able bodied young woman, I did not find it hard to navigate the neighborhood in the winter. Yes, sometimes the sidewalks had snow or ice, but I had winter boots and good balance. It seemed like a nuisance at most.

Then, I read an article written by a classmate for *The Silhouette*. In the article, he explained the equity issue that improper snow clearing presents (Tse, 2019). If just one house fails to clear its sidewalk, it could make the whole block inaccessible to disabled people and older adults. That seemed pretty unfair to me. That winter, I started noticing the issues more often. If there was a bylaw in place to ensure that people were clearing their sidewalks, it did not seem to be working.

Uncleared sidewalks are an equity issue. When sidewalks are snowy or slippery with ice, they can be dangerous to anyone, but they disproportionately impact certain communities, particularly older adults and disabled individuals. For these individuals, winter sidewalk conditions can inhibit active mobility, access to public transportation, completion of daily tasks such as shopping or doctor’s appointments, and even cause life-threatening accidents (Morales et al., 2014; Ravensbergen, 2020).

The issue of snow removal in Hamilton has been discussed by City Council on four different occasions since amalgamation. The most recent iteration, beginning in early 2019, is the first to include the Equity, Diversity and Inclusion lens (Dreschel, 2020).

For my Level IV thesis, I decided to follow Hamilton’s snow clearing debate through the municipal decision making process. I developed a series of articles, titled *Shoveling the Way for Hamilton’s Sidewalks*, which are intended to explain the issue to the public. In order to maintain a news-article style, the articles include embedded links in the place of formal citations, and strive to avoid complicated terminology. I will be submitting these articles to *Raise the Hammer*, a digital publication dedicated to the improvement of Hamilton’s urban community (McGreal, 2004). A brief summary of the articles follows:

1. **Equity Concerns with Hamilton's Snowy Sidewalks:** This article introduces the basics of Hamilton's sidewalk clearing policy, explains the access concerns associated with it, and highlights some of the marginalized communities impacted by improper snow removal.
2. **Snowy Sidewalks in Hamilton's Council Chambers:** This article explores the proposed solutions being debated by City Hall and explores the differing opinions held by proponents and opponents of comprehensive snow clearing.
3. **Hamilton's Snowy Sidewalks and the Law:** This article discusses the details of the Snow Removal Bylaw enforcement and investigates a legal issue related to landlord-tenant responsibilities in snow clearing.
4. **Conclusions and FAQ:** This article recommends next steps for City Council to take, and responds to some common questions and misconceptions related to Hamilton's snow clearing policy.

Shoveling the Way for Hamilton's Sidewalks

Article 1: Equity Concerns with Hamilton's Snowy Sidewalks

About the series

Shoveling the Way for Hamilton's Sidewalks is a series developed for my undergraduate thesis. I am studying Arts & Science with minors in sustainability and community engagement at McMaster, and I'm interested in how we can develop sustainable, equitable communities. When it snows in Hamilton, the city does not shovel most of the sidewalks. The responsibility for this falls on Hamiltonians. I decided I wanted to explore the issue further for my fourth year thesis. The goal of this series is to share the information that I learned with the Hamilton community.

Snow and ice are realities that must be dealt with in every Canadian city. The City of Hamilton has proudly achieved upstanding ratings for its level of clearance on roads. At the same time, a long standing debate has been taking place in regards to the sidewalk snow clearing. While some other Canadian municipalities clear sidewalks, such as [Burlington, Guelph, London, and most of Toronto](#), this is not the case here.

In Hamilton, individual property owners are responsible for clearing the public sidewalk on their properties. The City of Hamilton clears along city properties such as at public schools and City Hall, as well as at transit stops. The City also shovels all of the sidewalks in Ward 12, the former town of Ancaster, which continues the service that community received before Hamilton's amalgamation. This is funded by an additional fee paid by residents in their taxes.

The [Snow Removal Bylaw](#) enforces responsibility of all other public sidewalks to occupants and property owners in Hamilton. If snow or ice isn't properly cleared within 24 hours of the end of a snow event, the occupant or owner could receive a fine. As well, the city run-program [Snow Angels](#) pairs low-income seniors and disabled residents with volunteers to help clear their snow. When we consider these two populations, it is significant that 30% of Hamilton's population are [older adults](#), and this population is expected to grow. As well, 18% of Hamilton's population [lives with disability](#), and this rate is higher than the rest of the province. Therefore, these communities are significant, and their interests should be considered in our snow removal and other municipal policies.

What is the Problem?

Snow clearing in Hamilton is an equity issue for two main reasons. First of all, occupants who cannot physically clear snow by themselves and cannot afford to pay for a snow clearing service may be more impacted by bylaw fines. This could include disabled people, older adults, and even single parents - consider, can you leave your young children alone inside while shoveling the snow for an hour? The city claims to address this issue by supporting the Snow Angels program. However, in some years, the program has been unable to meet the demand due to a [lack of volunteers](#), and the program cannot guarantee service to all applicants.

The second issue is the challenge presented when sidewalks aren't properly cleared. Bylaw enforcement is reactive instead of proactive, which means that bylaw officers respond when citizens report a problem, instead of monitoring the streets and issuing tickets. Compare this to parking enforcement, which is proactive: bylaw officers monitor roads and issue tickets when they see illegal parking. When the bylaw is not strictly enforced, residents may neglect their responsibility to clear snow or ice. As well, some residents may not be aware of their responsibility to shovel the sidewalk. In the end of the day, these situations result in sidewalks remaining icy or covered in snow. By passing the burden of shoveling sidewalks to Hamiltonians and failing to enforce it properly, the City is neglecting its responsibility to ensure safe, clear paths.

When sidewalks aren't cleared properly, they challenge the mobility and safety of pedestrians. Ice and snow can make it difficult to travel to one's destination, discourage activity, and cause slips and falls. Some members of our community are impacted by icy sidewalks more than others:

- People who depend on public transportation and don't have access to cars spend more time on Hamilton sidewalks, and are therefore more exposed to the challenges presented by it. This includes children and teens, lower income individuals, [older adults](#), and people with disabilities.
- People who would be at greater risk of severe injury if they were to fall are impacted by unshoveled sidewalks. Older adults and some disabled people could face extra complications if they were to experience a fall, such as longer healing time from injuries or chronic pain management.
- People who use mobility aids and/or wheeled devices such as [wheelchairs](#), walkers, strollers, carts, canes, and crutches face more difficulty in moving around when there is snow and ice on their path.
- According to a [study in Sweden](#), women are impacted more than men by unclear sidewalks. They are more likely to walk in their community to run errands such as dropping children off at school and buying groceries. Furthermore, women were overrepresented in the number of winter slips and falls. When the town prioritized sidewalk clearing before roads, they significantly reduced the number of emergency visits for these types of injuries.

For all of these groups, when sidewalks don't get cleared, people may be stuck in their homes unable to complete their daily tasks. Alternatively, they might be exposed to dangerous conditions when they walk on snow/ice or try to avoid it and walk on the road. When Hamilton clears roads within 24 hours and doesn't ensure that sidewalks are safe, it sends a message to citizens: the interests of motorists are valued above pedestrians.

For the past decade, city council has been debating whether the municipality should take on the responsibility of clearing sidewalks. Passionate voices within the community have been [advocating](#) for the city to be taking swift action. In the next installment of *Shoveling the Way for Hamilton's Sidewalks*, we will explore the long path that snow clearing has taken at City Hall.

Article 2: Snowy Sidewalks in Hamilton's Council Chambers

About the series

Shoveling the Way for Hamilton's Sidewalks is a series developed for my undergraduate thesis. I am studying Arts & Science with minors in sustainability and community engagement at McMaster, and I'm interested in how we can develop sustainable, equitable communities. When it snows in Hamilton, the city does not shovel most of the sidewalks. The responsibility for this falls on Hamiltonians. I decided I wanted to explore the issue further for my fourth year thesis. The goal of this series is to share the information that I learned with the Hamilton community. In 'Article 1: Equity Concerns with Hamilton's Sidewalks', we explored the basics of Hamilton's snow removal policy, why there are access concerns associated with it, and highlighted some of the communities impacted by unshoveled sidewalks.

Snow removal has been a recurring issue in Hamilton's City Hall. The topic was [last discussed in 2014](#), and in 2019 it returned to Council Chambers to be debated once more. The question on the table: Should the City adopt responsibility for clearing more sidewalks?

Back and forth reports between City Staff, the Public Works Committee and City Council have been exploring [three options](#) for a potential new snow clearing policy. The most recent report, which was to include public engagement, was delayed by the [launch of Engage Hamilton](#) and more significantly due to COVID-19. All of these delays meant that the [final report](#) to council arrived too late for program implementation for next winter (2021-22).

On [April 19 2021](#), the Public Works committee was presented with the following options for a potential new snow clearing policy (see Figure 1):

1. Do nothing. This business as usual approach involves the city continuing its service to the 397km of sidewalks being cleared on city owned properties, schools, transit stops and in Ward 12. This has an annual cost of \$2.1 million.
2. The city adopts responsibility for clearing sidewalks along all transit routes. This includes 1180km of sidewalks.
 - a. If the city clears to snowpack, which clears snow to a packed condition on the sidewalks, the annual cost increases to \$4.4 million and will cost the average household \$12 a year in property taxes.
 - b. If the city clears down to bare pavement with the application of salt, the annual cost increases to \$4.83 million and will cost the average household \$13 a year in property taxes.
3. The city adopts responsibility for clearing all municipal sidewalks. This includes 2,445km of sidewalks.
 - a. If the city clears to snowpack, the annual cost increases to \$8.07 million and will cost the average household \$26 a year in property taxes.
 - b. If the city clears down to bare pavement with the application of salt, the annual cost increases to \$9.07 million and will cost the average household \$30 a year in property taxes.

CITY OF HAMILTON

SIDEWALK SNOW CLEARING SCENARIOS

April 2021
Daniella Mikanovsky

Snowpack = Clearing without salt application
Bare pavement = Clearing with salt application

SCENARIO 1: BUSINESS AS USUAL

Continue regular service, in front of:

- ✓ City properties
- ✓ Transit stops
- ✓ Schools
- ✓ Ward 12

397KM

\$2.1M

Estimated cost



15% of Hamilton's Sidewalks

SCENARIO 2: CLEAR ON MAJOR ROADS

Clear along all public transit routes:

- ✓ sidewalks along priority 1 & 2A roadways.

1,180KM



48% of Hamilton's Sidewalks

2A: SNOWPACK

2B: BARE PAVEMENT

Estimated cost

\$4.44M

\$4.83M

Average increase to property tax

\$12

\$13

SCENARIO 3: CLEAR ALL SIDEWALKS

- ✓ Clear along all sidewalks

2445KM

100% of Hamilton's Sidewalks



3A: SNOWPACK

3B: BARE PAVEMENT

\$8.07M

Estimated cost

\$9.07M

\$26

Average increase to property tax

\$30

Average property tax is based on a home valued at \$300,000.

Snow clearing machines cannot scrape snow down to the pavement. For this reason, in all of these scenarios the snow plows would only activate after 5cm of snowfall. In the snowpack scenarios, they will clear down to a packed condition, which is not bare pavement. If there were dangerous slippery conditions, such as after an ice storm, the city would apply deicing materials. Otherwise, a snow-packed scenario would not include the application of road salt. In snowpack scenarios, residents will still be expected to clear when it snows less than 5cm, which would be enforced by bylaw officers. It is important to note that wheeled devices like wheelchairs and strollers can still struggle in snowpack conditions.

On the other hand, the bare pavement scenario includes the regular application of road salts in order to achieve a bare pavement condition. However, the city is hesitant to clear to bare pavement because of the [environmental concerns](#) associated with road salts.

There is hope that the council will be able to come to a positive decision on this soon. At the April 19th meeting, Ward 3's Councillor Nann presented a motion to adopt scenario 2A, to clear sidewalks along transit routes to snowpack. This was voted down and did not pass. Councillors will continue the debate at the next council meeting. If they do not overturn the vote, the snow removal debate will be put on hold until the [next municipal election](#).

If Council decides to go forward with adopting a snow clearing policy, it will take several months for staff to secure a contract with service providers. In the best case scenario, the city begins clearing sidewalks in the 2022-2023 winter. That will only be possible if the City Council overturns the April 19th vote and comes to a decision soon.

Throughout the past several years, community voices have been advocating that the city take proper action to address the equity issue that community members face when sidewalks aren't properly cleared. The [Disability Justice Network of Ontario](#) has been especially [influential](#), launching the #SnowandTell twitter campaign and a [petition](#) urging council to do better. The delays in decision making has resulted in a lot of frustration and disappointment from activists.

So why is this taking so long? There are several beliefs held by councillors and the people they represent which have lengthened this debate. Those who support the city adopting a new snow clearing policy hold some of the following beliefs:

- Snow clearing increases mobility and access for marginalized members of our community.
- Snow clearing increases walkability for everyone, which supports positive health outcomes.
- Snow clearing reduces health care costs associated with slips and falls, and reduces pressure on our local hospitals.
- Snow clearing supports sustainable lifestyles such as using the bus, biking, and walking instead of driving, which we should support during the [climate emergency](#).

On the other hand, there are valid arguments against the city adopting a comprehensive snow clearing policy:

- Hamilton's property taxes are already quite high, and we should avoid increasing them further. People who are fine with clearing their sidewalk don't want to pay more taxes.
- The City should instead focus on increasing enforcement of the Snow Removal Bylaw.
- Rural residents will have to pay increased taxes without the benefits of cleared sidewalks, as there aren't as many sidewalks in these wards.
- Some residents are concerned that the machines used to clear sidewalks will damage their properties, including breaking fences, parked cars, driveway curbs or ripping out grass (sod) along the sidewalks.
- Some residents are worried that the city would not be able to clear sidewalks as well as promised or worry that the costs would be higher than anticipated.

Given these two competing sides, councillors have not come to a consensus on whether or not the city should adopt any new snow clearing policies. The issue is on its last legs, and meanwhile this past winter had nearly [2000 complaints](#) associated with snowy sidewalks. With every winter that passes without adopting better policies, the challenges created by snow persist. In the next installment of *Shoveling the Way for Hamilton's Sidewalks*, we will explore how the system in place interacts with the law and impacts landlords and tenants.

Article 3: Hamilton's Snowy Sidewalks and the Law

About the series

Shoveling the Way for Hamilton's Sidewalks is a series developed for my undergraduate thesis. I am studying Arts & Science with minors in sustainability and community engagement at McMaster, and I'm interested in how we can develop sustainable, equitable communities. When it snows in Hamilton, the city does not shovel most of the sidewalks. The responsibility for this falls on Hamiltonians. I decided I wanted to explore the issue further for my fourth year thesis. The goal of this series is to share the information that I learned with the Hamilton community. In 'Article 1: Equity Concerns with Hamilton's Sidewalks', we explored the basics of Hamilton's snow removal policy, why there are access concerns associated with it, and highlighted some of the communities impacted by unshoveled sidewalks. In 'Article 2: Snowy Sidewalks in Hamilton's Chambers', we looked into the new snow clearing proposals that the City Council is debating and why this topic is so divisive.

In preparation for my thesis, I called Hamilton's bylaw office and asked some questions about how the Snow Removal Bylaw works. Here's what I learned.

First, a concerned resident calls the Hamilton bylaw office. This person reports the location where they saw ice or snow that was not properly cleared. If it has been more than 24 hours since the end of the snow event, the office will dispatch a bylaw enforcement officer.

When the officer arrives, if they find that the sidewalk is indeed unsafe, they will give the unit a warning, known as an Order to Comply. The order informs the occupant that they need to clear the snow/ice within a certain time frame.

The officer later returns to follow up. If the occupant cleared the sidewalk, there is no further action to be taken, unless the officer wants to charge for their time with a fine. If the sidewalk hasn't been cleared yet, the officer issues an additional fine and calls the city to clear the sidewalk. This fine is applied to the unit's property tax.

As a renter who has a note in my lease that requires me to clear the snow, I wondered how this would impact people in my situation, since my landlord is responsible for the property taxes. I asked the bylaw office call operator, and she said that the tenant would have to pay the value of the fine to the landlord. She elaborated that any issues in this case are taken up by the Landlord Tenant Board (LTB).

Hoping to verify this, I started researching how issues of snow clearing applied to tenants. According to the [Residential Tenancy Act](#) (RTA) established in 2006, it is the landlords responsibility to make sure that the [property is safe](#), which includes [snow and ice maintenance](#). In the introduction to the RTA, it also says that any part of a lease that violates the RTA is not valid and should be [voided](#).

This would suggest that when a landlord includes a statement in the lease to transfer responsibility of snow clearing to the tenant, this statement is in contradiction with the RTA and therefore should not be valid.

In a [2009 case to the Ontario Court of Appeals](#), three judges made a decision on this very topic. A few years prior, a Ms. Montgomery slipped on ice leading to her rented apartment and was injured. Her lease included a statement that it was her responsibility to keep the walkway clear of ice and snow. She sued her landlord, Mr. Van, for her injuries, and the trial court ruled in his favor given the statement in the lease. She appealed to the Ontario Court of Appeals, where the judges referred to the contradiction from the RTA that I just explained. They decided that the original statement in the lease was invalid, and so the judges ruled in Ms. Montgomery's favor.

The Ontario Court of Appeals sits at a higher level than the Landlord Tenant Board. This means that the precedent set by the Court of Appeals applies to the court cases seen by the LTB. Therefore, if there was ever an issue in Hamilton where a landlord required the tenant to clear snow, and a fine was issued, and *the two parties decided to go to court over it*, the LTB should rule in the tenant's favor.

Based on what I described above, landlords really should not be able to make their tenants clear snow in the lease. It is part of their responsibility as landlords to address this maintenance. If the landlord wants to transfer this responsibility to the tenant, they would need to sign a contract separate from the lease. However, both landlords and tenants are not educated on this, and so we see violations take place.

Last year, the [Spectator reported](#) that neighborhoods near McMaster University and Mohawk College had the most Snow Removal Bylaw violations in the city. There could be several reasons for this. The initial response by some critics was that students are lazy and don't take care of their municipal responsibilities. However, consider perhaps that residents are more likely to report violations when their neighbours are students. Furthermore, a City of Hamilton [program](#) enforces proactive bylaw officers to monitor in these specific neighbourhoods, which means there may be more officers looking for infractions in these neighborhoods. Therefore, this data may be skewed against the students. Finally, these neighbourhoods have a high population of renters. This last point is quite relevant when considering the legal issues described above. Absentee landlords combined with a high turnover of renters can result in situations where snow clearing is unjustly offloaded onto tenants, and tenants aren't aware of this responsibility or their rights.

It is important that knowledge of this loophole in the RTA become more well known. It is critical that tenants become aware of their rights, and landlords take responsibility for their obligation to maintain safety. Even the bylaw office call operator I spoke to was unaware, and her advice contributes to this misinformation.

Right now, the issue of sidewalk clearing between landlords and tenants only remains while the city continues to maintain its current status quo. As conversations continue in City Hall, there is

hope that this issue may become irrelevant as the city begins to strive towards equity and clearing its own sidewalks.

Article 4: Conclusions and FAQ

About the series

Shoveling the Way for Hamilton's Sidewalks is a series developed for my undergraduate thesis. I am studying Arts & Science with minors in sustainability and community engagement at McMaster, and I'm interested in how we can develop sustainable, equitable communities. When it snows in Hamilton, the city does not shovel most of the sidewalks. The responsibility for this falls on Hamiltonians. I decided I wanted to explore the issue further for my fourth year thesis. The goal of this series is to share the information that I learned with the Hamilton community. In 'Article 1: Equity Concerns with Hamilton's Sidewalks', we explored the basics of Hamilton's snow removal policy, why there are access concerns associated with it, and highlighted some of the communities impacted by unshoveled sidewalks. In 'Article 2: Snowy Sidewalks in Hamilton's Chambers', we looked into the new snow clearing proposals that the City Council is debating and why this topic is so divisive. Finally, 'Article 3: Hamilton's Snowy Sidewalks and the Law' explores the enforcement of the Snow Clearing Bylaw and how it can affect landlords and tenants.

As an urban city in Canada, Hamilton has a duty to make sure that its sidewalks are safe after snow and ice events. The Snow Removal Bylaw seems to be an [inadequate](#) method for ensuring clear sidewalks, which is why the City Council is debating revising the policy to adopt more responsibility. The failure of the April 19th vote is a concerning reminder that many of our councillors value financial savings over the equal access of our citizens. I highly recommend that they consider overturning this vote and revisit the issue. If we want to strive towards equitable, accessible and healthy communities, we need to consider investing in public services such as snow clearing.

To wrap up this series, I wanted to respond to some common questions I've heard related to snow clearing in Hamilton. If you have any more pressing questions, please feel free to reach out to me at [REDACTED]

Q1: What is the policy on snow clearing right now ?

A: The [Snow Removal Bylaw](#) enforces responsibility of shoveling of public sidewalks to occupants and property owners in Hamilton. Property owners or occupants must clear the snow on the public sidewalk attached to their property within 24 hours of a snowfall event. If you are aware of a neighbor who cannot physically clear the sidewalk themselves, consider offering some neighborly help!

Q2: Why don't all the sidewalks get cleared?

A: There are several reasons for this:

- Some people may be physically unable to clear their snow and cannot afford to pay someone to do it for them. The Snow Angels program may be able to help in this situation, but is not always able to (see article 1).
- Some people may struggle with clearing sidewalks for other reasons, such as young children at home, busy work schedules, etc.
- Absentee landlords who do not maintain their properties may be to blame in some areas.
- Some people are not aware of their responsibility to clear the sidewalks.
- Some contractors do not adequately do their job when shoveling the sidewalks that they were hired to clear.
- Some people might actually be negligent!

Either way, it is the City's responsibility to ensure that sidewalks are clear, and at the moment, many pedestrians struggle to travel when there is snow/icy conditions. This is not fair.

Q3: Why doesn't the city increase bylaw enforcement instead?

A: This could be one approach to making sure sidewalks are cleared better. However, there are some legitimate reasons not to support such an approach:

- Some people physically cannot clear their sidewalks, cannot afford to pay someone to do it for them, and may not qualify to be served by Snow Angels. Even if someone does qualify, Snow Angels cannot guarantee service. Should residents who can't clear sidewalks be punished with fines for something out of their control?
- Increased enforcement also requires a bigger budget for municipal bylaw enforcement, so taxes would still need to be increased.
- There is concern about increased enforcement and how this might impact marginalized and poor members of our community.
- Some people believe that it is more favourable to use proactive action (clearing sidewalks) to maintain our public good (safe sidewalks) rather than punishment (bylaw enforcement).
- Others believe that the city should not be passing on its responsibility to maintain sidewalks to residents.

Q4: What do the proposed tax increases mean?

A: The proposed tax increase scenarios described in 'Article 2: Snowy Sidewalks in Hamilton's Council Chambers' are based on the average property value of \$300,000. To clarify, tax increases would be as follows:

- Scenario 2a: 0.3% increase to annual property tax
- Scenario 2b: 0.3% increase to annual property tax (higher than 2a at a smaller decimal point)
- Scenario 3a: 0.7% increase to annual property tax
- Scenario 3b: 0.8% increase to annual property tax

Q5: Why should I care about sidewalks being cleared?

Even if you personally don't feel unsafe when sidewalks are slippery or covered in snow, that doesn't mean everyone feels this way. Don't you think it's important that the city ensures safe sidewalks for people like your great uncle who [uses a wheelchair](#)? Or for your neighbor's child

who is [visually impaired](#) and can't walk with her guide dog to school? Or the young moms pushing strollers... the kid with a sprained ankle on crutches... the working young adult who has to pull the groceries home in a cart... don't all these people deserve safe sidewalks, all year round?

Q6: Why should I support an increase in my taxes for sidewalk clearing if I don't mind shoveling my sidewalk?

A: If you are shoveling your own sidewalk, consider - wouldn't it be handy to have machines handle the snow on *really* heavy snowfalls? Think back to the multiple storms we had in February 2021. With these larger snow events, municipal snow clearing can help with the gruntwork. Even if you have a snowblower, wouldn't it be nice to not have to bundle up to do it yourself?

On a different note, though, even if you are doing a good job at clearing your sidewalk, it doesn't mean everyone else is doing the same: refer to Q5.

Q7: Why should I support an increase in my taxes for sidewalk clearing if I pay for a snow service already?

A: The tax increase is, in all likelihood, cheaper than the snow service you are paying for. Ward 8's Councillor Danko brought up a story at the April 19th public works meeting: In order to make a little more cash during the winter, his son knocked on neighbor's doors after a storm and offered to clear their sidewalks for \$10. The councillor ended up having to do all the shoveling. In just three snowfalls, Councillor Danko's neighbors would potentially be paying more than any of the proposed tax increases.

At the same meeting, a city staff member indicated that this past winter would have triggered 24 snow clearing instances. Do the math. Maybe you could save some money by having the city do it instead?

On a different note, though, even if you are doing a good job at clearing your sidewalk, it doesn't mean everyone else is doing the same: refer to Q5.

Q8: Why should I support an increase in my taxes for sidewalk clearing if I don't have any sidewalks?

A: Do you or any of your family members ever travel into areas where you might need to walk on a sidewalk? If you do, don't you want the city to ensure that the sidewalks are safe?

If you don't walk on sidewalks in the City, then it is understandable that you might oppose such a program. This is one of the challenges that Hamilton faces as a city amalgamated from both urban and rural communities. However, I'd like you to consider the response to Q5.

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