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Our Reference #: M-2021-10649

August 27, 2021

His Worship Fred Eisenberger
Mayor
City of Hamilton
71 Main Street West, 2nd Floor
Hamilton, ON
L8P 4Y5

Email: mayor@hamilton.ca

Dear Mayor Eisenberger:

Thank you for your letter of June 23, 2021, regarding municipal insurance costs and joint and several liability (“JSL”). I appreciate your taking the time to write on this important topic and certainly sympathize with your frustration in having scarce tax dollars diverted to insurance premiums.

JSL, which forms part of Ontario’s civil liability framework, applies to many sectors including municipalities, professional bodies and consumers.

Municipalities have shared with the government concerns about increasing insurance costs and the impact they can have on property taxes and public services.

As you note, in 2019 the government held consultations on municipal insurance costs and JSL with municipalities across Ontario. During these consultations we received useful data from a number of municipalities, including a substantive submission from Hamilton. However, despite the significant amount of material that was received, there remains a lack of evidence that would allow us to confidently draw a causal connection between JSL and municipal insurance costs. For example, there are a number of factors – many of which your 2019 submission notes, such as the current hard insurance market, a lack of competition in the market, and the dramatically expanding scope and scale of environment-related claims (e.g., floods, ice storms) – that make it difficult to know whether JSL materially affects insurance costs.

As a result, we continue to explore how to address these serious issues in a way that balances the concerns of municipalities with the severe consequences that a change to JSL could have for plaintiffs, such as victims of catastrophic accidents.

This will be an ongoing conversation. We need to be confident, if we are to consider changes to the liability framework, that insurance rates would actually fall.

Sincerely,

A handwritten signature in black ink that reads "Doug Downey". The signature is written in a cursive style with a large, stylized 'D' at the beginning and a long, sweeping underline.

Doug Downey
Attorney General