Re: Your potential liability of not enforcing Ontario Building Code regarding Radon Gas

We are the Canadian Association of Radon Scientists and Technologists (CARST). We work closely with Health Canada and our Members, and indeed Governments across Canada, to bring awareness to the Canadian public of the dangers of exposure to Radon Gas. Radon is the second leading cause of lung cancer. We feel it is important for us to bring to your attention the possibility of liability based on your Officials interpretation of the Ontario Building Code when issuing your permits, as it relates to "soil gas" in general and Radon Gas specifically.

We attach hereto for your information a "Legal Opinion" on this issue. We would urge you to take the following actions to limit your liability:

1. Have your legal team review the attached legal opinion of Fasken Martineau DuMoulin LLP (FMD) and bring a report to Council.
2. Ask your Chief Building Officials to report to Council on this matter.
3. Ensure that current standard practices do not expose your municipality to liability
4. Review changes to current standard permit practices to ensure your residents are protected and that your Municipal Corporation is not negligent.

This is a fast emerging subject of interest amongst Canadians and for good reason. Radon is a naturally occurring radioactive gas that comes from the breakdown of uranium in soil and rock under our buildings. Radon is present at low levels outdoors but can become a problem when too much accumulates inside our buildings. The health risk associated with elevated radon levels inside buildings is lung cancer. According to Health Canada, approximately 3,200 Canadians die each year from radon induced lung cancer with approximately 850 of those deaths occurring in Ontario.

The Canadian Association of Radon Scientists and Technologists (CARST) was established in 2011, to provide a bridge between policy makers, radon professionals, private industry and homeowners to support the effective and responsible management of radon levels in Canadian homes, schools and workplaces. The successful management of radon in buildings consists of numerous components such as testing and effective follow-up mitigation steps. Another aspect in successfully managing radon occurs at the time of construction of a building. The Ontario Building Code (OBC) includes measures to be taken into account at the time of construction to ensure the safety of the occupants after they occupy the building.

CARST members have worked with builders and building officials alike throughout Ontario in determining the best way to protect occupants from the radiation associated with radon. Through this work, we have become aware of inconsistencies regarding the application and interpretation of the OBC in various municipalities across the province. Based on our findings, we feel that it is prudent for your municipality to undertake a complete review of the requirements of the OBC with respect to buildings practices that are currently being conducted in your community.

If upon review of the attached you require additional information and/or support, please feel free to contact us directly at info@carst.ca . We are aware of radon mitigation programs being implemented in Guelph, Central Elgin, Elliott Lake, and Thunder Bay to lower radon levels in new buildings constructed in their municipalities. These municipalities may be willing to share the knowledge and experiences acquired in ensuring occupants are not exposed to elevated radon concentrations in new buildings.

For CARST Board of Directors,

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