



Occupiers Liability: Inside and Outside Hazards

By their very nature, University campus' have vast exterior areas, a multitude of building types, and every manner of entrants (invitees, licensees, contractual entrants and unfortunately, trespassers). To each of these is owed a different legal 'duty of care,' but all must be addressed in a prudent and reasonable manner. As well, individual Provincial statutes governing occupier's liability may have changed (extended and/or clarified) the common law rules respecting the duty an occupier owes to an entrant.

The corresponding duty of care applies regardless of whether you are the owner or a tenant of the property. However, the primary liability is typically incurred by the 'Occupier.' If an injury to an entrant occurs as a result of a lack of repair or failure of the Occupier to maintain the premises in a safe condition, the injured party may successfully recover their loss(s).

THE AREAS OF CONCERN AND FOCUS OF ATTENTION ARE GENERALLY (NOT COMPREHENSIVELY) AS FOLLOWS:

Interior Hazards

1. WALKING SURFACES /FLOOR COVERING

- Slip resistant and coefficient of friction suitable for the occupancy
- Entrances/labs/kitchens/locker rooms/bathrooms all retain their slip-resistance when wet
- Foul Weather mats at entrances
- Hallways and entrances of standard width
- Avoid transition for 'rough' to 'smooth' surfaces
- Tears, flaws, defects and wear must be attended to immediately

2. ADEQUATE SIGNAGE AND BARRIERS

- Notice of wet floors, whether routine cleaning or accidental spills
- Barriers from construction and maintenance operations
- Warnings of low ceiling, elevation change, surface transition and any obstruction

3. LIGHTING

- Adequate lighting in all areas accessed by entrants
- Battery operated emergency lighting for enclosed (dark) areas/stairs

4. STAIRS & STEPS

- Handrails provided as per building codes (See Note)
- Contrasting paint or coatings to allow distinction of elevation changes
- Non-slip treatment on treads
- Risers and treads of consistent dimensions

5. ELEVATORS

- Stop level with floor
- Smooth ride and stops

6. HOUSEKEEPING

- Prompt clean-up of spills and leaks
- Strategically placed electrical outlets to minimize use of extension and power cords
- Avoidance of oil-based cleaning products on dust mops
- Keeping aisles, doorways and stairways clear of obstructions

Prompt and decisive response to spills and deficiencies



Exterior Hazards

1. SIDEWALKS, ROADS, DRIVEWAYS AND PARKING AREAS

- Potholes, ruts and slab shifting tripping hazards must be repaired immediately
- Ice & snow removal plan prioritizing start points and executed promptly; clearly logged/documentated (*specimen document attached*)
- Proper drainage essential – from rainfall and landscape watering
- Adequate lighting and well lit, clearly marked crosswalks
- Signage and barriers from construction and maintenance operations
- Bicycle friendly storm sewer grates
- Speed bumps painted with contrasting colors
- Shared sidewalks (w/ bicycles) with posted rules and enforcement
- No 'Blind' corners or abrupt entrances/exits should be avoided
- Covers are secure on valve boxes

2. BUILDING EXTERIORS

- Ice & snow removal and salting of entrances, stairs and steps must be prompt with adequate documentation (*specimen document attached*)
- Stairs/steps at entrances well maintained to avoid tripping hazards
- Automatic revolving doors regularly inspected and adjusted
- Roof drains and gutters discharge away from walking and driving surfaces
- Guard rails on balconies meet building codes and bylaws (See Note)
- Roof access restricted where possible

3. ALLUREMENT (DANGEROUS THINGS TO WHICH CHILDREN ARE NATURALLY ATTRACTED)

- Remove if possible
- Fences and guardrails enclose the hazard
- Material piled and stacked to eliminate danger of rolling, falling or collapse

Prompt and decisive response to weather and deficiencies

Note: It should be noted that the most current Building Code requirements apply to the construction of new buildings and alterations or additions to existing buildings unless specifically required by local regulations or bylaws. Alterations and additions to an existing building must usually comply with all new requirements applicable to their scope as related to the intended use of the building.



Case Studies

CASE 1

As part of a course, students were asked to do canvas paintings and were given space on a wall to display their work. One student obtained a ladder from the hallway outside of the classroom and proceeded to climb the ladder to place nails in the wall. On the second trip up the ladder, it slipped out from under the student resulting in a crash to the floor. The student suffered lacerations to the face and broken teeth. The ladder was the top half of an extension ladder and did not have feet. It was reported that students had been advised not to use ladders unassisted. The student had medical coverage and only requested to be reimbursed for the portion of their loss not covered by their insurance. The student agreed upon a settlement of \$3500. It has been requested that the university secure ladders so that access is restricted.

CASE 2

Students were running along a section of university sidewalk when one student stepped into a hole in the sidewalk. The student's ankle skewed to one side, buckled and the student went forward onto both knees. The student awoke the next day with considerable pain in her ankle and reported the incident to the university. The sidewalk was constructed of interlocking bricks and several were missing. The student agreed to settle for \$2500.

CASE 3

A visitor to a university property was injured when the toilet seat they were sitting on skewed to one side and they fell to the floor. The individual suffered damage to one disc in their lumbar spine causing excruciating pain. Despite surgery, the individual continued to suffer some pain. It was found that the toilet seat was not properly fastened to the toilet as the porcelain was broken where the bolt was supposed to secure the seat to the toilet. The individual settled for \$25000.

Web Links

CURIE SERVICES

Aquatic Safety Audits

www.curie.org/drupal/aquatic-safety-audit

Premises Liability Inspections

www.curie.org/drupal/node/159

SportRisk Program

www.curie.org/drupal/sports-liability-assessments

Student Event Risk Management

www.curie.org/drupal/student-event-risk-management

OCCUPIERS LIABILITY ACTS

British Columbia

www.bclaws.ca/EPLibraries/bclaws_new/document/ID/freeside/00_96337_01

Alberta

www.qp.alberta.ca/documents/Acts/O04.pdf

Manitoba

<http://web2.gov.mb.ca/laws/statutes/ccsm/o008e.php>

Ontario

www.canlii.org/en/on/laws/stat/rso-1990-c-o2/latest/rso-1990-c-o2.html

Nova Scotia

nslegislature.ca/legc/statutes/occupier.htm

Prince Edward Island

www.canlii.org/en/pe/laws/stat/rspei-1988-c-o-2/latest/rspei-1988-c-o-2.html

