

Newsletter



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Avocats • Lawyers

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Setting aside the municipalities' exemption from liability for firefighting

Section 47 of the Fire Safety Act grants an exemption from liability to municipalities that have adopted and followed a fire safety cover plan ["Plan"] setting protection objectives for the target territory. This exemption is not unconditional: the municipality can still be held liable if the damage is caused by its intentional or gross fault. Royal & Sun Alliance du Canada, société d'assurances c. Ville de Trois-Rivières, 2019 QCCS 3181, is an example of a case where the Court refused to allow the exemption.

In that case, an insurer and its insured were jointly claiming nearly \$1.2 million in damages as a result of a fire in the City of Trois-Rivières.

The plaintiffs argued primarily that the City had not complied with the measures in its own Plan by dispatching an insufficient strike force to protect the burning building and had therefore breached its obligations. The City, in defence, argued that it should benefit from the exemption and that there had been no fault on the part of its fire safety department since the firefighters had

employed the appropriate strategy and tactics to fight the fire.

The Court found that the City had not complied with the Plan, which provided that, for intermediate risks, such as that which the relevant building represented, the City had to make sure that 10 firefighters would be on the scene within 10 minutes from the transmission of the alert to the fire department. The evidence revealed that only six firefighters were on the scene within that period. The Court found that the Plan had not been respected due to a lack of



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A partner with RSS and a litigator, Benoît has considerable experience of the numerous aspects of civil and professional liability, especially in relation with sports and leisure.

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staffing, thereby depriving the City of the exemption. It was no longer necessary to prove the City's intentional or gross fault in order to trigger its liability: a simple fault was sufficient.

The plaintiff successfully argued that the City's failure to dispatch a sufficient number of firefighters in the initial strike force was such a fault. However, the Court also found that, despite this fault, as the fire was already quite advanced by the time firefighters arrived,

the City could not have saved the building and property. For this reason, the Court concluded that the City's liability should be 25% of the damages claimed.

Therefore, the adoption of a Plan does not by itself exempt the City from liability in all circumstances: the exemption will depend whether the City's fire department has strictly followed it.

Do not hesitate to contact RSS's lawyers practising municipal law or our insurance recovery group to know more.

