

NEWS

LAW

More on residents' responsibility for clearing snow and ice

Thanks to Carol, a reader who e-mailed me with a question arising from my last column.

I wrote about sidewalk safety and referred to the Kelowna and West Kelowna bylaws that require us to keep the sidewalks in front of our homes clear of snow and ice.

I pointed out that with legal responsibility comes legal liability if someone is injured because of a failure to obey the bylaw.

I suggested that if we don't like the responsibility of keeping the public property in front of our homes safe, we should encourage our municipalities to increase taxes so that they can afford to plow and sand our sidewalks like they plow and sand our streets.

Carol is a diligent homeowner who accepts her civic responsibility. She will be out there with her shovel two or three times per day, if necessary, to keep the sidewalk that wraps around her corner lot clear of snow.

Carol asked what happens when the snow plow comes along, dumping chunks of ice and snow from the road onto the sidewalk that she has so diligently kept clear.

The ploughed chunks of ice and snow are very heavy and quickly harden to the point of requiring a pick-axe to get through.

Carol can manage keeping the sidewalk clear of snow as it naturally accumulates, but is physically incapable of clearing the mess dumped there by heavy machinery.

Adding insult to injury, even if she was physically able to, there is another bylaw that prohibits Carol from pushing the piles back onto the roadway.

What else is she to do with the ugly mix of gravel, salt, ice and snow?

Push it onto her property so that the thawed mess will wreck her carefully manicured yard?

It is clear to me that



ACHIEVING JUSTICE

Paul Hergott

the people drafting the West Kelowna bylaw were intending it to deal with snow and ice that had accumulated naturally.

Here are the words of that bylaw: "...shall remove all snow or ice from all sidewalks...within 24 hours from the cessation of a snowfall or storm event which caused such accumulation."

British Columbia law requires that we give bylaws a "benevolent" interpretation, though, and a court may well interpret the bylaw to require removal of the snow plow mess.

The Kelowna bylaw wording is slightly different: "...shall remove snow, ice or rubbish from the sidewalk...within 24 hours of the accumulation of such snow, ice or rubbish."

There's not a lot of naturally accumulating rubbish.

Regardless of the precise wordings of the bylaws, the municipalities are leaving it up to homeowners to deal with the snow plow messes.

There are areas along my own street where the plow has buried the sidewalk.

Perhaps the municipalities have given clear instructions to the snow removal contractors to ensure their plow operators don't create the problem that Carol has raised. Perhaps the contractors are specifically instructed to leave snow plow debris on the road, being careful that it doesn't get deposited on sidewalks.

Perhaps clear instructions to avoid dumping plow debris onto sidewalks shouldn't be required. Perhaps it's a mat-

ter of common sense. Alternatively, perhaps plow operators would like to slap me up-side the head to help clue me in that it's unavoidable.

Whatever the case, homeowners have a moral (in my view) and likely a legal obligation under the bylaws to keep the sidewalks in front of their homes safe, i.e. clear of ice and snow.

I have a suggestion. How about hiring someone to take a pick-axe to

that frozen mass of snow-plow debris and haul it away and send the bill to the municipality.

If the municipality doesn't reimburse you, bring a small claims action naming both the municipality and the snow removal contractor.

However you slice it, the municipalities are responsible for clearing ice and snow off the roadways.

The way they are going about it is resulting

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HOWEVER YOU SLICE IT, THE MUNICIPALITIES ARE RESPONSIBLE FOR CLEARING ICE AND SNOW OFF THE ROADWAYS.

in plow debris being deposited onto sidewalks. If they dumped the debris

on your front porch, you would certainly be entitled to bill them for its removal.

How is that different from dumping it on an area that you are responsible for keeping clear?

I could be wrong, of course, in which case you will not be reimbursed the expense of fulfilling your moral and legal duty and you will also be out the modest expense of pursuing a small claims action. You will have made the

sidewalk in front of your home safe for folks like my father, though, and will have learned a lot about our legal system.

This column is intended to provide general information about injury claims. It is not a substitute for retaining a lawyer to provide legal advice specifically pertaining to your case.

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ARE YOU READY?

Happy New Year!! We made it to 2013! Many believed January 1, 2013 would not come. Yahoo News commissioned a worldwide survey on the topic. The survey found that one in ten people they interviewed agreed with this statement: "The world was going to end in 2012."

For the past couple of years, prophet pundits from all over the globe, and their books, videos, websites and blogs, predicted that the world was going to end December 21, 2012. The 12-21-12 doomsday prediction was based on a number of theories. Perhaps the most popular theory was linked to an ancient calendar, established by Mayan astronomers and mathematicians, which stopped at December 21, 2012. No detailed explanation was given for their calendar's abrupt ending. How are we to interpret this state of affairs? To many, the end of the calendar signaled the end of time as we know it and the destruction of the world as we know it. Another ancient text, the Egyptian Book of the Dead, predicted a cataclysmic end to the earth. Those studying this ancient text were inspired to predict the end of civilization as we know it on December 21, 2012, when the earth would be shaken to its core by an unprecedented occurrence. In one scenario, the earth would be hit by a mysterious planet. The impact of the mystery planet coming into contact with the earth would be to either reverse the earth's spin or change the angle of the earth's poles. In another scenario, our sun would emit solar flares with a frequency and strength never experienced before. The solar flares would cause the molten core of the earth to reverse its rotation which would, in turn, cause havoc on the earth's outer crust. If any of these events occurred, the earth would be changed forever and most all of us would lose our lives.

Many of these doomsday websites warned people to get ready for the inevitable disaster. The website maintained by an amateur French astronomer, convinced the earth would be struck by a body from space, begged his countrymen to flee to the mountains before December 21st hits. It seems that some people heeded the advice given on doomsday websites. Network television featured footage of elaborate homes under construction in the depths of the earth. These structures were guaranteed to shelter the rich and famous in the coming cataclysm.

I have tried to follow the debate on the subject. I have read many internet articles or blogs on doomsday December 21, 2012. The authors of some of these blogs were absolutely convinced that the world was going to end on December 21st. They argued passionately for their beliefs, citing all the facts and circumstances they could muster. They pleaded with their audience to get ready for that fateful day. Others were absolutely convinced that world was not going to end. These blogs ridiculed the arguments put forward by the doomsday prophets and urged people to do nothing. Doomsday 2012, they argued,

was based on dubious interpretations of ancient texts and very bad science. It was a mind-numbing experience. I shook my head and hoped for a good word. The good word came after I finished reading what I believed was a very well written internet article or blog that did a great job of debunking the December 21, 2012 doomsday predictions. Internet blogs or articles typically provide a space for readers to put their comments on the article. I scrolled down the Comments section which followed the subject article. A single sentence comment caught my eye. The comment: "The world ends for people every day - we die." Its author was absolutely right. People have predicted, and will continue to predict, that the world as we know it will end, how it will happen, and urge action. Others will inevitably rise up and challenge these predictions and urge people to do nothing. This debate has a best before date. It is all over the day after the doomsday date. The seers and their followers are humiliated and forced to rationalize the failure of the earth to destruct. Those who opposed the prophets of doom say: "I told you so! Why did you listen to these people? See—the world did not end—it's business as usual."

The author of that single line comment exposed the madness of this debate. Those who predict the precise date of the end of the world write checks with their mouths that cannot be cashed. They try to play God and fail miserably. Those that ridicule the doomsday prophets and urge inaction are in denial of a profound truth, the world may go on but they won't. Both the prophets of doom and their opponents need to face the inevitable: the end of their world, a completely sure thing. Shouldn't they prepare for it? But how does one get ready for that day? Is there a bunker anywhere that is deep enough to escape the end of their world? What are they going to do about it? What are you going to do about it?

I know what I'm going to do about it. I'm getting ready. I'm getting prepared! I am not going to ignore or deny my end. I am not going to try to play God and predict the day of my end. I am going to turn to God and to God's word. God's word reveals that God has been busy getting ready for the end of my world for me. Jesus, the Son of God, became human and touched every aspect of human life. The Son of God, present at the creation of the universe (John 1:1-5), became one of the created. Jesus was just like you and me in so very many ways. However, His divinity shone through His preaching, teaching and miracles.

Jesus did speak about the end of the world and judgment. He declared the end of the world was coming; however, that end was and still is in God the Father's hands - and in God's time. Jesus' most important message to His disciples was that His world was going to end, in Jerusalem and on the cross. Jesus declared that this world and all the people in it were a mess. He declared that someone had to pay for all the human carnage, the hurt we

have and continue to inflict on creation and one another. Someone had to pay for the horrific consequences of human beings trying to play God or denying God's existence. Jesus promised that He would pay for our sin by His death on the cross. He promised that from His death would come His resurrection to eternal life. He promised forgiveness of sin, resurrection and eternal life to all who believed He was the Son of God, who died for their sins, and was raised to new life. (John 11:25-26) His disciples denied it. "You are the Son of God, you can't die!" was the Apostle Peter's response. The Jewish religious authorities saw Jesus as a colossal threat to their power, privilege and very existence. They wanted to bring about the end of Jesus' world as soon as they possibly could and prayed for the right moment to come along so that they could strike Him down (John 11:53). Jesus' world ended on the first Good Friday and He was resurrected on the first Easter Sunday. Jesus promised to be present among those who gather to worship Him (see Matthew 18:20 and 28:20).

I get ready for the end of my world through faith in the end of Jesus' world when He walked this earth (in His humanity) and His resurrection (in His divinity). This faith is a gift from God. It is formed by God through the power of God's living word over my mind, body and soul. God uses His word and the Word made flesh, Jesus) change, shape, and mold my mind. Therefore, to get ready I need to be immersed in God's word and open to God's work in me.

Are you ready? Do you want to get ready? You will need to make this New Year's resolution; Resolved: "I'm not going to deny my end, fear it, or obsess on it. I am going to confront the end of my world. I am going to get prepared. I am going to God's house and I am going to hear God's word. I will be open to being changed, shaped and molded by God's word."

You can be immersed in God's word at a church near you. We gather to hear God's word and celebrate Christ's presence every Sunday at 9:00 AM (Contemporary) and 10:30 AM (Traditional). You are welcome! See you soon.

In Christ,
Pastor Ed Skutshek



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