



## **PRESS RELEASE**

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### **USER FEES, INSURANCE RATE INCREASES AND RECREATION FACILITIES IN ONTARIO**

Higher user fees and growing insurance problems are about to create major challenges for Ontario facility operators. Some insurance agents and sports organizations are already warning that today's trends pose a serious threat to amateur sport and recreation in Ontario.

#### **Short Term: a possible insurance crunch**

In the near future, insurance problems could have a major impact on sport and recreation. St. Catharines insurance broker Sheldon Rodgers is writing to politicians and working with the media to let people know how desperate the insurance situation has become. He says lawsuits are scaring municipalities and volunteers away — and insurance companies are pulling out of the sport, recreation and leisure business.

"The Township of Lasalle lost a lawsuit over an on-ice accident at their arena — the court awarded \$8 million in damages but the township had only \$5 million insurance," said Rodgers. "A volunteer soccer coach in southwestern Ontario was sued because a child fell off a fence the coach had said not to climb. The cost of insuring a player in a non-contact hockey league has risen to \$20 to \$25 per year, increasing the cost of playing.

"In the past two or three years, I have seen a clear trend in Ontario. There are more and more lawsuits in sport, recreation and leisure and people are suing everybody — facility owners, coaches, volunteers. This is discouraging municipal recreation programs and people have begun to refuse to volunteer or even help out with activities for fear of being sued.

"The crunch will come when the last few companies pull out of the business of insuring sport and recreation. All the domestic insurers have withdrawn since 1975 — if the foreign companies pull out, we will have no one to insure any recreational activity in Ontario. This puts more than 67,000 Canadian non-profit organizations at risk, most of them in Ontario."

#### **Medium-term: insurance + energy + cost-recovery — a perfect storm?**

In the medium term, rising insurance costs are likely to combine with increasing energy prices to drive up facility operating overheads and increase the desire of municipalities and other non-profit organizations to recover those costs in terms of user fees.

Energy costs are definitely going up. One of the first announcements made by the new McGuinty Government was an end to the 2002 electricity price cap in favour of a "price regime that better

reflects the true cost of electricity." The Canadian Gas Association's October 2003 prediction on natural gas futures is: "continued upward pressure on prices (which are) already at historical high levels."

Heating, cooling, ventilation and lighting costs are going to rise in recreation facilities all across Ontario and somebody has to pay the utility bills. Users and owners will both have to contribute to increased costs — but there is already a growing controversy in Ontario over user fees.

Rising user fees for gymnasiums in public schools spurred Basketball Ontario into action. After surveying 47 coaches across the province, the association compiled a number of horror stories including rental costs that increased exorbitantly, sometimes by more than 400 per cent in a single year."

Ten days before the 2003 municipal elections the Provincial Sport Organizations Council of Ontario (PSO) and Basketball Ontario issued an open letter asking candidates running for municipal office to address the important issues of recreational facility shortages and "radically increased" user fees throughout Ontario. The PSO Council warned that "the structure of community sport and recreation is crumbling under the recent fee hikes for access to space and lack of available community facilities."

The pressures that led to increased user fees in school gymnasiums are different from the increased energy and insurance cost pressures that may threaten to push up user fees in arenas, swimming pools and multiple-use recreation facilities. But the worst-case scenario — the cost-induced death spiral — is the same.

A *Voices for Children* report in 2002 gives an example of how a spiral can start, "When fees for school space were proposed in 1999, the cost to Scouting in Toronto was estimated to be \$213,000 a year. Three years later, Scouts are paying \$54,000 — not because the rates have dropped — but because groups have closed, volunteers have given up and they have lost their space in schools."

The fear is that if user costs rise to the point where users are discouraged from participating, the number of users will drop, making cost-recovery a self-defeating effort. School facilities, which must be maintained for educational use, may not be hurt by this as much as arenas and pools, which must continue to attract users to justify their existence.

### **O.R.F.A. and user fees**

The Ontario Recreation Facilities Association (O.R.F.A.) board of directors discussed insurance issues and the potential for rising costs driving up user fees at the October meeting in Thunder Bay. The consensus was that facility operators are likely to be caught in the middle of a conflict with municipalities that want to recover costs through user fees, users who can't or won't pay additional costs and their own fundamental belief that money put into recreation is not a cost but an investment in healthy individuals and a stronger society.

O.R.F.A. President Dan McArthur of Dryden said, "If costs such as insurance and energy can't be controlled, our users pay the price. The idea of available recreation for all is quickly relegated to the back seat in favour of those who can pay, and we are entering into the law of diminishing returns.

"It is a sad commentary on our times when I see on morning C.B.C. television news that a well respected cardiologist reveals the results of a study that recognizes a disturbing trend toward heart disease in teen aged Canadians as a result of elevated cholesterol directly related to the

increasing obesity in this age group. In the end, the taxpayer will pay in the form of elevated health care costs.

"Better that the government direct funding or control of costs toward provision of recreation that will help keep user fees down and make programming accessible to all in the interests of a healthy populace."

Incoming O.R.F.A. President Greg Wright of Northeastern Manitoulin and the Islands sees rising user fees as an additional barrier to sport and recreation for children from lower-income families.

"The social implications of rising user fees are very troubling," Wright said. "We already have children who aren't in sports programs because their parents are too proud to accept the financial support that is offered to them. And Ontario already has community groups with a two-tiered registration fee. Parents can pay a higher fee and opt out of the fundraising and volunteering normally required of them. Conversely, lower income parents can pay less, making up the difference by selling the tickets and working bake sales and physically supporting the organization. I believe that the only way to ensure that sport and recreation is available to everyone who needs to participate is by keeping user fees down."

### **Can anything be done to head off this impending storm of rising insurance costs and increasing user fees?**

Insurance broker Sheldon Rodgers believes that amending Ontario's Occupiers Liability Act and the Liability Act to restrict lawsuits is an important step. He believes lawsuits should be limited to gross negligence, removing the possibility of lawsuits resulting from simple negligence or the inherent risks of the sport or activity. He also advocates caps on maximum payouts for injuries resulting from gross negligence, unless it meets the necessary thresholds limits. Rodgers points out that new Australian legislation designed to reduce the costs of litigation and insurance to sport and recreation came into effect in October 1 2003. Rodgers concludes, "Yes, it can be done. All we need is the will of all politicians in the Ontario Legislature to amend the acts now in place."

Basketball Ontario's campaign on the impact of rising user fees in school gymnasiums has made progress. The campaign soon got the full support of Provincial Sport Organizations Council and a powerful GTA-905 based group called the Space Coalition. Two successful media events in April and May of 2003 drew public attention to the problems that rising fees were causing for sports. Eileen Watt, executive director of Basketball Ontario, said the campaign reached the Minister of Tourism and Recreation prior to the October election and has hopes that the Minister of Education will give some attention to the problems that rising gym fees are causing.

Incoming O.R.F.A. President Wright says facility managers across the province can reduce the upward pressure on user fees by controlling operating costs, maximizing revenue opportunities, and stressing safety.

"O.R.F.A. training opportunities can help our members implement best practices in the operation of their facilities. Facilities using best practices can reduce their exposure to liability improving the quality of the products and services they provide to our users," said Wright. "We can increase the government's comfort level with facility safety by proving that we are doing everything reasonable to make our facilities safe. The more confidence that our elected representatives have in the safety of Ontario facilities, the more likely they are to favour legislation that will reduce our exposure to liability related to sports and recreation."