

▼ AUTO INSURANCE

# Spouses may have to sue each other to get a fair settlement

**Y**ou and your husband are running an errand. Your husband is driving on the roads are icy. Your husband isn't driving for the conditions. He ploughs into the back of another vehicle at a red light. Your neck seizes up something terrible and you end up with a pounding headache that just won't quit. You know from having read my newspaper column that you should seek legal advice to ensure you are not taken advantage of by the insurance company. You and your husband have been paying for vehicle insurance for years. You expect that the



ACHIEVING JUSTICE

**Paul Hergott**

insurance company will have no problem providing you with fair compensation for your injuries. You obviously have not read enough of my columns. The lawyer advises you that your insurance is meaningless. Rather, it is your husband's insurance that matters, because he is the one who caused your injuries. You are told that in order to achieve fair com-

pensation, you will need to pursue a claim against your husband. If the insurance company doesn't treat you fairly, you will have to actually sue your husband to force them to. What? How is that for putting a chill on chit-chat around the dinner table. What about your relationship with your mother-in-law, who is likely to treat you with even more contempt with a lawsuit hanging over her son's head. What has the lawyer been smoking? But it's true. And, if you think about it, it makes a whole lot of sense. In our society, those who are careless and cause injury have a legal

responsibility to compensate the victims for their losses. It doesn't matter if there is a family relationship involved, the responsibility is there.



**THOSE WHO ARE CARELESS AND CAUSE INJURY HAVE A LEGAL RESPONSIBILITY TO COMPENSATE THE VICTIMS.**

Apart from insurance, it wouldn't make sense for a wife to sue her husband because his carelessness caused her injury, though, because his assets

are typically her assets and vice versa. But with insurance, it makes lots of sense. You see, your husband has liability insurance just like every other British Columbia driver. Good money has been paid, in premiums, for that insurance. The insurance company collects insurance premiums from millions of British Columbia drivers. And those premiums are used to fund claims made by the injured victims of careless driving. It doesn't matter to the injured victim happens to be a family member of the careless driver. The policy, which has been bought and paid

for, requires the insurance company to take financial responsibility for your husband's careless driving. It makes no difference that the injured victim is his wife. The only way to force the insurance company to pay fair compensation is to do so by way of a lawsuit, which may result in a trial. Once again, that's the case regardless of whether or not there is a family connection between the negligent driver and the injured victim. Your husband will not be bothered by it at all. If a lawsuit is required, he will simply hand over the legal paperwork to the insurance company who will look after everything. I know from the fact

that I am continually giving advice about this stuff that the reality of how automobile insurance works is not common knowledge. I wonder how many legitimate injury claims are not made because of ignorance. I also wonder how many millions of dollars insurance companies save on an annual basis because of that ignorance. *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. Paul Hergott is a lawyer at Hergott Law in West Kelowna.* paul@hlaw.ca

▼ COUNCIL

# Councilor sees her proposal for new paid parking in West Kelowna stall

**JASON LUCIW**  
STAFF REPORTER

The proposed addition of 71 paved parking stalls on Gellatly Road has prompted one West Kelowna councillor to bring up the touchy subject of paid parking. The matter came up during this week's council meeting after staff unveiled a draft design for this year's upgrades to Gellatly Road, from Powers Creek Bridge to the Cove Resort. Coun. Rosalind Neis noted that currently no fees for parking are

charged anywhere in the municipality, yet the fees would be a great source of revenue. "There are very few communities that allow free parking 24/7," mentioned Neis. Engineering director Gary O'Rourke mentioned that staff has entertained the idea of pay parking, but discussions had never developed to the point that a presentation to council was in order. "But, certainly that is an option that can be adopted and applied at any time," said O'Rourke. Administrator Jason

Johnson added that council was welcome to make a motion asking staff to develop a business plan, laying out the costs and benefits of a pay for parking program. Neis responded immediately, "I'll ask for that right now." Neis said she suspected paid parking would cost little to administer. "Ticket dispensers don't require any personnel other than to refill (them) and bylaw officers drive by (Gellatly Bay) on a routine basis." However, no other member of council would

second her motion calling for staff to develop the business plan. Mayor Doug Findlater said the idea seemed premature, but council would most likely entertain the idea in the future. After the meeting, Neis mentioned that pay parking was an idea she's considered bringing forward in the past, not just for Gellatly Road, for the whole municipality. "We are losing potential revenue because we don't have any parking requirements or limits or other ability to generate income. There are very few



*Rosalind Neis*

cities our size that don't generate that revenue in some way through parking, whether it's metres or dispensers." Neis said it's been

a privilege for people to park around town for free for so long. "It's a wonderful thing to have, but given the (cost) realities of our municipality, I think we need to start generating income from all sources, wherever we can find it." West Kelowna's annual citizens' surveys indicated that people are in favour of user fees over taxation, she noted. "Parking, in a sense is a user pay service." Neis said there should also be a small charge to use the boat launch in Gellatly Bay.

Council could then adopt a bylaw guaranteeing that all revenue generated from the boat launch fees and parking along Gellatly Road would be earmarked specifically to go back into upgrades along the waterfront. "For improvements of any kind, like park benches or beautification of the area." Neis said it was her opinion that residents would be more accepting of the charge if they understood where the money was going. jluicw@kelownacapnews.com

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▼ COUNCIL

# Budget calls for \$63 hike

**BUDGET FROM C3**

finances, licenses and service agreements with other governments. Foreexample, the Westbank First Nation will pay an estimated \$840,000 for fire protection services from West Kelowna and almost \$300,000 for recreation services such as the Mount Boucherie arenas, Johnson Bentley pool, youth and seniors centres.

Those revenues offset some of the impact on the expenditure side, where the biggest ticket item is protective services. RCMP and fire fighting services cost West Kelowna \$9.2 million. The provincial government has also provided West Kelowna funding to offset some of the costs of policing, easing the transition from rural to incorporated status. Parks and recreation

account for the second biggest bill. They cost about \$5.2 million annually. "That's normal. In most municipalities protective services, that is policing and fire, account for the greatest expenditures. Parks and recreation are second. That's normal too in most municipalities." jluicw@kelownacapnews.com



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