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<p>MUNICIPAL LANDS Acquisition, Management and Disposition Quinto M. Annibale Release No. 4, December 2024</p>
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What’s New in this Update:

This release features updates to Appendix IF. Issues in Focus, Appendix SLL. Selected Legal Literature, and Appendix WP. Words and Phrases.

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Highlights

APPENDIX IF. ISSUES IN FOCUS—Can a city disavow the actions of the prior township or chief building official (“CBO”), or is the City bound by the actions of the previous CBO and precluded from requesting additional development charges?—

The city could try to disavow the actions either under a statutory basis or through a defence to equitable estoppel. The city could attempt to argue that a reasonable interpretation of the amalgamating statute is that the city is not liable for the actions and conduct of previous officials and/or employees of the township. The argument, however, is weak and likely to fail based on the guidelines for interpreting amalgamating statutes, which is to look at the overall general purpose of the statute and all of the sections as opposed to one narrow section. On an equitable estoppel basis, the plaintiff would have to prove that he reasonably relied on the permits issued by the town, and the City is now estopped from pursuing those charges. It is quite likely that an estoppel argument will fail based on the fact that, generally speaking, municipal rights and powers cannot be lost through estoppel. As well, depending on the evidence at trial, the “clean hands” doctrine could operate to defeat any potential estoppel claims by the plaintiff.

APPENDIX WP. WORDS AND PHRASES—CONSTRUCTIVE TAKING—. . . [a situation where the] Town had, in effect, expropriated [owners’] property by rezoning it. *Index Investments Inc. v. Paradise (Town)* (2024), 2024 NLCA 25, 2024 CarswellNfld 210 (N.L. C.A.) at para. 66 O’Brien J.A.

APPENDIX WP. WORDS AND PHRASES—HIGH SHOULDER—. . . an accumulation of build-up of winter sand. High shoulders build up over the winter as a result of de-icing and snow clearing. *The Corporation of the Municipality of Marmora and Lake v. His Majesty the King in Right of Ontario* (2024), 50 M.P.L.R. (6th) 49, 2024 CarswellOnt 5834, 2024 ONSC 2254 (Ont. S.C.J.) at para. 6, 158 Doyle J.

APPENDIX WP. WORDS AND PHRASES—“SANITARY” WATER—. . . a euphemism for raw sewage. . . *National Steel Car Limited v. City of Hamilton* (2024), 2024 CarswellOnt 11050, 2024 ONSC 4120 (Ont. S.C.J.) at para. 5 Gibson J.