

Questions and Answers for RFP 201501574

Question 12:

The draft contract provided with the RFP does not directly address limitations of liability related to pre-existing site conditions, and issues not discoverable without invasive testing (e.g. oil tank leaks, soil / water contamination, septic tank performance, etc.). Can CMHC clarify how liability is or is not intended to be limited for the Proponents under this contract?

Answer 12:

If there is a pre-existing site condition (e.g. such as an environmental damage) which exists prior to the proponent's takeover/assumption of control over the property, liability would not be attributable to the proponent because it is not related to or caused by a proponent's provision of property management services - it is pre-existing.

At the time of property inspection prior to property takeover from a Lender, the proponent should exercise its judgment to determine/recommend any tests which may be necessary (whether invasive or not) to inspect a specific property. Any environmental damage discovered (if it exists) would not be attributable to the proponent.

Where environmental damage begins to occur during a proponent's management and control of the property and is attributable to the proponent's actions or omissions, the \$2 million Errors & Omissions insurance a proponent is required to have should address this issue and provide coverage. The proponent is free to obtain additional insurance coverage should it determine that it is necessary for additional protection: "It shall be the sole responsibility of the Contractor to decide whether or not any other insurance coverage, in addition to the insurance requirements stipulated herein, is necessary for its own protection or to fulfill its obligation under the contract. All insurance policies shall be provided and maintained by the Contractors at its own expense."