



PROFILE OF . . . NORMAN M. ROTHWELL

We are pleased to introduce Mr. Norman Rothwell of Lindsay, Ontario. He was born, raised and educated in Eastern Ontario, and joined the Royal Canadian Air Force in 1942.

In 1948 he joined the Toronto Elevators Ltd. working for their Agricultural Division. When they acquired Hogg & Lytle, he transferred to that division to develop the farm and turf seed business. In 1969 he resigned to join National NK seeds and their Eastern Canadian Manager. Three years later he founded Rothwell Seeds Ltd., at Lindsay Ontario, a busi-

ness he still runs. The company specialization and emphasis is on proprietary varietal distribution which means he controls the sales of many of the grasses in use today, of these grasses are some 15 Kentucky Bluegrass varieties including Glade, Scenic, Parade and Challenger. In the creeping Bents he lists Adelphi and most notable Penncross. In the perennial rye grasses All Star, Birdie II, Pennant and Ranger plus several Tall Fescues, Chewings Fescues, Colonial Bents, Hard Fescue, and Sheeps Fescue.

He is the past president of the Canadian Seed Trade Association and a Canadian Director and past president of the American Seed Trade Association. Last but not least he is a past president of The Lawn Institute, a position he held for five years. The only foreigner (his words) to be named to that Association.

Norman has a commitment to making North America green and with environmental problems as they are today this is a very large order. It is a commitment the Sports Turf Association is able to not only relate to but also rally behind.

Norman Rothwell was recently made the Canadian Director of the Lawn Institute.

ROB THIBODEAU (Continued from page 3)

in the position where my client has warned the users with a large properly placed sign visible to all users if the potential hazard or danger cannot be removed. An example of this is the situation found in most hockey arenas where bleachers for fans are placed so close to the boards that people standing on the first level of the bleachers can actually reach over the plexiglass. If this cannot be altered, clear notices should be placed.

7. You should work closely with your coaches and other permit users, clubs and leagues to require them or convince them to inspect the facilities that they are about to use before each and every one of their games and events. The establishment of this double inspection system will ensure that complaints, potential hazards and dangers are checked by at least two individuals on almost a daily basis and hopefully will reduce both the frequency of the injuries and the possibility of litigation arising therefrom;
8. You should upgrade the design and capabilities of all older facilities and playing surfaces and, if this cannot be done, limit the use of these older facilities in order to protect against injuries and potential litigation;
9. You should keep detailed records of the amount of funds spent on repair, maintenance and inspection and a comparison should be available to Defence Counsel of the money expended by the Parks and Recreation Department in the previous year and as a comparison to other Municipal departments and to the overall budget available to the Municipality;
10. You should establish, implement and adequately supervise a complaint system in order that oral or written complaints received from residents or users of the facilities are directed to a specific individual who then has not only the responsibility to properly and adequately record the complaint but to direct the work necessary to investigate and resolve the problem to the right individual. Once again records of the resolution of the

problem should be kept;

11. You should ensure that you have a detailed, complex accident investigation and reporting system in place for all accidents occurring during the use of your facilities. A detailed report should be completed as to the circumstances of the accident and statements taken from all witnesses, including Municipal employees as soon after the accident occurs as possible. All accidents should be immediately reported to the insurance adjuster in your area who acts for the Municipality so that he can determine if the insurer should be put on notice and if he should conduct further investigation.

These are some of the suggestions that in my experience benefit greatly the defense of a Municipality in actions arising from accidents occurring on playing fields and in facilities.

I advise however that I am not a great believer in the establishment of written policies and procedures either contained in a manual or provided to your employees. Plaintiff's solicitors always litigate against Municipalities with a two-pronged approach. If proper records are not kept, they will claim you are negligent and therefore liable because you have failed to properly record your inspection, maintenance and repairs and therefore the implication is that you did not have a system in place. The other prong of the approach is that if you do have a system as suggested by myself in this paper, they will look aggressively for any mistakes that you made in following your own system and argue that because you failed to follow your own system or breached one of your own guidelines you are therefore negligent. I would prefer to be in the latter situation, however, I do not wish to freely provide the Plaintiff's solicitor with ammunition for his argument that we are in breach of our own guidelines. The establishment of written policies and procedures is in my opinion neither necessary nor desirable from a Defence Counsel's standpoint.

Finally, a note on the practical aspects of litigating actions against Municipalities arising from injuries sustained on