

**LOOSE
LIPS**



**SINK
TOWNSHIPS**

Reducing Risk Arising from Communications with the Public

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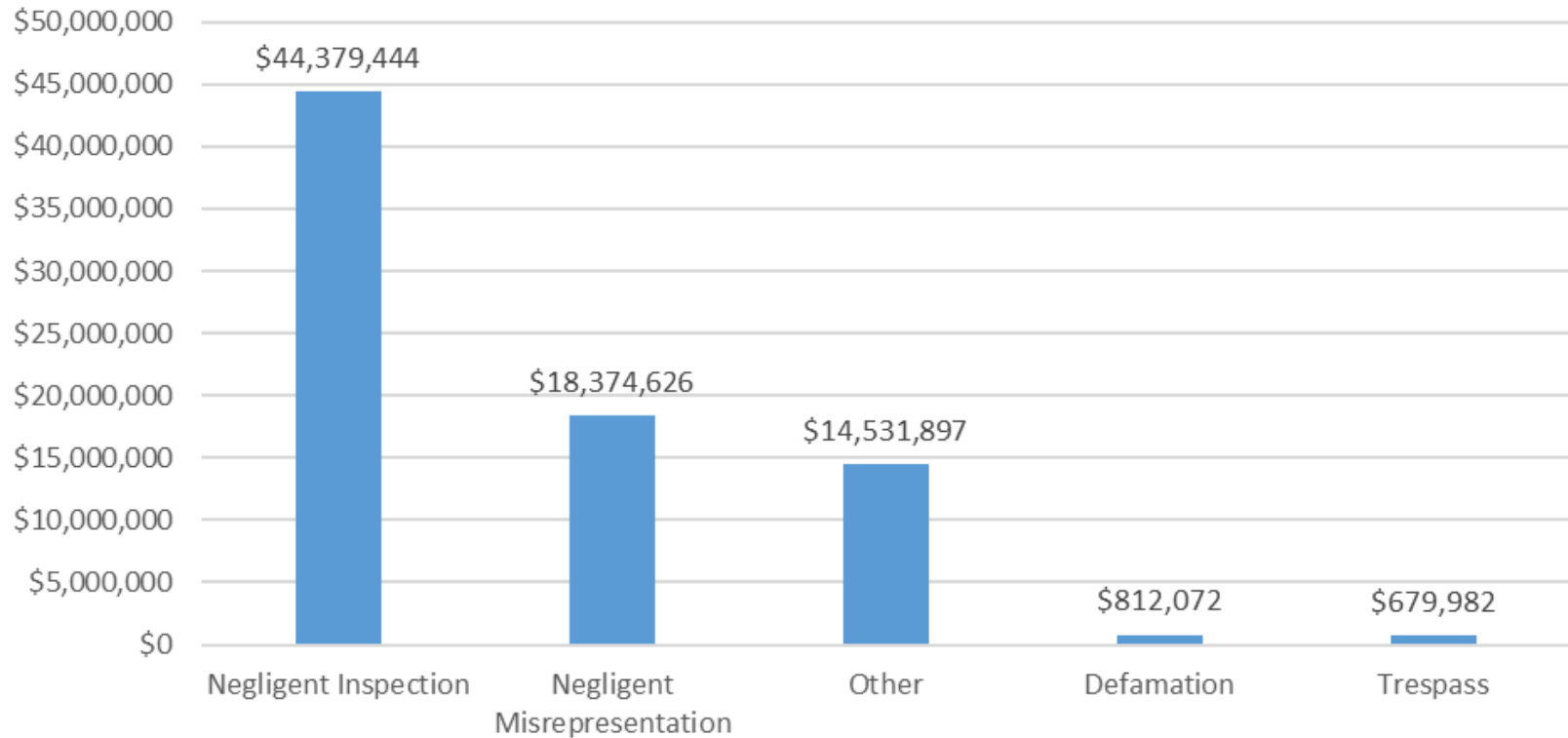
Where does the liability exposure of
elected officials arise?



Communications



Cost of Error & Omission Claims 1990-2022



Cost of Claims

- **Direct cost** = lawyer's fees and disbursements, and possibly, the cost of settlement
- **Indirect cost** = local government time and resources
- **Intangible cost** = the stress felt by the local government staff and elected officials who may be involved in the litigation.



Negligent Misrepresentation



Negligent misrepresentation requires...

1. “Special relationship”
2. Untrue, inaccurate or misleading statement
3. Insufficient care in making the statement
4. Reasonable reliance
5. Resulting damage or loss





Where the party seeking information has an economic interest tied to the response.

Negligent misrepresentation

Examples :

- Information relating to future plans
- Contracts or tender documents
- Interpretation of bylaws
- Subdivision requirements



Negligent misrepresentation

Examples :

- Building regulations
- Business regulations
- Municipal assets or property for sale



Defamation is...



Publication by which other persons are likely to be induced to shun, avoid, ridicule or despise him



Defamation requires...

- Words used had a negative impact on the plaintiff
- Words referred to the plaintiff
- Communication made to third party



Real life examples...

- Accusing a mayor to have been misusing taxpayers' money to further his own career.
- Accusing a police officer of being drunk on duty.
- Calling another council member a “sick son of a bitch”.
- Suggesting another council member is one of the “biggest jokes” to have been elected in a long time.



Communications can create
unreasonable expectations.



Under promise + over deliver
= reasonable expectations



Risk Management Tips for Communications

1. Have a communication plan.
2. Be 110% sure, or qualify your answer.
3. Understand who the party is and what is important to them.
4. Don't make promises you can't keep.
5. Develop an invariable practice.



Risk Management Tips for Communications

6. Keep good notes.
7. Write confirming letters/emails.
8. Remain professional and take the high road.
9. Avoid doing or saying anything that you would be embarrassed to see show up in an affidavit before a judge.



...and never hold a meeting with a
developer at a White Spot.





Now, As Always, You Can
ASK US ANYTHING

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