

## Melanie Briggs

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**From:** Shannon James  
**Sent:** Tuesday, March 16, 2010 2:31 PM  
**To:** Melanie Briggs  
**Subject:** FW:

Shannon James  
Risk Manager  
801-569-5147

PPlease consider the environment before printing this e-mail.

-----Original Message-----

**From:** Carl Parker [mailto:Carl@urmma.org]  
**Sent:** Tuesday, March 16, 2010 1:54 PM  
**To:** Shannon James  
**Cc:** Jim Riding; Jan Brimhall  
**Subject:**

Shannon,

Thank you for inviting me to walk through the Sugar Factory facilities with you. Please allow me to share with you some of my observations regarding the inspection.

As a representative of the City's third party liability carrier, my perspective is one of exposure to the general public. That having been said, I would like to make a couple of observations regarding your employees and volunteers access to the facility. Based on the conditions laid out below, I recommend that employees access to the Main Building and West Building be limited and to the extent possible prohibited. While it is very difficult in the State of Utah to pursue an employer liability case beyond Worker Compensation, it is not impossible and I feel it may be possible to breach gross negligence given the level of exposure present. With regard to the volunteers at the facility, all volunteers need to be properly classified as outlined in the Volunteer Act. It seems to me that this would be very difficult given the nature of bringing in different 'actors' for different productions as they would constantly change. The children, spouses and friends of the volunteers are not covered under the Act and would be treated as members of the general public.

I will attempt to outline some findings for each building on the property. I believe the patrons of the Playhouse are 'business invitees and the standard of care owed to them is an 'absolute obligation to repair any dangerous conditions on the property and to warn any business visitors of hidden defects that have not been repaired'. The entire facility remains an attractive nuisance. Trespassers continue to access the building resulting in vandalism which could lead to the total destruction of the facility (fire) and increased liability of personal injury to both themselves and others in the community.

**Main Building:** The parking lot is in very bad condition. The asphalt is uneven, broken and missing. I noted holes covered with metal grates which are in disrepair or missing, leaving deep holes exposed.

Obstacles and tripping hazards such as sewer clean out pipes, debris, damaged parking barricades were common. This is the area you invite the public to access and the hazard would be multiplied after dark when a play was over. The west side of the main building was in very poor condition. I noted the handrails and guard rails are not maintained to the proper standard. Large tanks, barrels and buckets contain unknown materials many of which could be toxic given their age. Any spill or release of these materials could have a devastating effect on anyone in the facility and possible the surrounding public. Access by any individual to some of the upper areas of the building pose a significant falling danger and should be strictly limited immediately.

Playhouse: The viewing area is built up on platforms built of plywood and cement block. I noted holes and displacement in the wood structure which pose significant tripping hazards. The steps from one level to another are not uniform and pose a particular tripping hazard to the elderly as they have a difficult time differentiating the height.

Paints, thinners and stains which are very flammable were not secured and pose a hazard to the whole facility. A large freestanding masonry wall towers over the playhouse, as does a very large tank with unknown contents. Failure of either or both would be devastating.

Asbestos is present throughout the building and any disruption could cause a release of the toxin to unsuspecting visitors.

West Building: The bat problem is significant as is the structural integrity of the building. I recommend no one be allowed into the building without first consulting with an expert in both structure engineering and animal waste.

North Building: I found this facility to be in reasonable condition and see no reason it cannot continue to be used as a public works facility.

Community Garden;

The location poses a significant hazard to your elderly public. The soils are contaminated with heavy metals and the hazards surrounding the garden plot are many. Personal security of the elderly need to be addressed.

In conclusion, I feel the facility poses a significant risk the general public in its current condition and the risk of injury to employees, volunteers and the public is great. The financial exposure to the City cannot be understated.

Carl Parker

Loss Control Manager

