

# No good deed goes unpunished

By Drew Brien

When it rains, it pours. (At least that can be the case living in the Pacific Northwest.) All that rain has to go somewhere and can sometimes wreak havoc. As a homeowner if you experience land movement or flooding on your property as a result of rainwater run-off, one of the first places you may go to for assistance is the City in which you live. It's common for our Members to have homeowners asking for assistance for a variety of reasons, and what may seem like a helping hand and a quick fix upfront, may not always be the case.

In one specific case, homeowners purchased property on a hillside and in a private residential development. They were aware that this private development would expand further up the hill with additional homes and paved roadways. When the development did expand up the hill, so did the paved roadway that ran along the top edge of the homeowner's property. The winter after the development's expansion brought heavy rains. The homeowner's started to notice excessive amounts of water sheeting off the roadway and saturating their hillside. It wasn't long before the hillside gave way and tons of dirt slid toward their residence, causing concern.

Fearing the hillside would further give way, the homeowners went to the City to ask for help. They attended several City Council meetings asking for assistance from the City, even though this was on private property and in a private residential development. The Member visited the homeowner's property to help determine a solution, after which the Member installed a six-inch corrugated flex pipe above ground, running from the top to the bottom of the hill. (The intention was that it would help prevent further saturation of the hillside.) Unfortunately, several months after the Member installed the pipe, there was a second landslide.

The homeowners blamed the City for the recent landslide. They quickly sought legal representation and claimed that the pipe was negligently designed and installed. Eventually, a lawsuit was filed and at the center of the lawsuit was the pipe installed by the Member.

WCIA filed a Motion for Summary Judgment, however the Judge let a claim of negligence against the Member move forward. Essentially, if we step in to provide any sort of help, we will then be held to standard engineering practices. In this specific situation, once the Member placed the pipe on the hillside, they were now collecting and channeling the water. It is also important to note that a roadway itself is not considered a channelization device.

In the end, the claim presented by the homeowners was resolved in mediation.

What can we learn from this case? It's great to have good intentions, but institutions (like our Members) need to also have processes in place that put boundaries on when "helping out" can become a liability. If no assistance had been provided, if no pipe was installed, this would have remained a private issue of the homeowner.