



## 1995 ruling tied cities' hands on propane tanks

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Municipalities have no business making rules about the safety of propane facilities because the province already does, Ontario's highest court ruled in 1995.

Toronto officials say the 1995 Court of Appeal ruling prevented the city from doing more to prevent propane explosions like Sunday's devastating blast at Sunrise Propane in Downsview.

After a November 1986 propane explosion levelled a Weston Rd. taxi garage, York passed a bylaw that propane tanks couldn't be placed within 100 feet (30 metres) of a building and limited the size of permissible tanks.

Superior Propane Inc. and the Propane Gas Association, supported by the Ontario government, took York to court.

York won, a divisional court panel ruling 2-1 there was "no operative conflict" between the bylaw and the provincial rules.

In his dissenting opinion, however, Justice Allan Hollingworth said "all matters" relating to energy supply are exclusively a provincial jurisdiction. Cities can make rules on planning matters, but Hollingworth said the York bylaw "was concerned with safety provisions, not planning."

That view won the day when the case went on to the Ontario Court of Appeal, where a three-judge panel ruled in 1995 Hollingworth had it right after all.

The York bylaw, the appeal panel ruled, amounted to a "comprehensive scheme" to regulate propane, and "these matters are not subject to legislative authority by municipalities."

While the York bylaw wound through the courts, the former City of Toronto passed a bylaw on propane facilities. After the 1995 ruling, the city repealed it.