Agenda

- Special Events
- Key Considerations
- Occupiers' Liability Act
- Legal Considerations
- Partnerships
- The Importance of Documentation
- Outdoor Patios
- Claims

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What's So Special About Special Events?

- Changes to risk profile
- New visitors
- Partnerships with unknown entities
- Disruptions: traffic, pedestrian, usage, transit

By-laws and Planning

- By-laws will govern behaviour and support Special Events Plan.
- Confer with city staff well in advance to establish how this will change.
- The events should dovetail with the mandate of the municipality to improve the community and local businesses.
- Planning with partners – must comply with all by-laws.

Key Considerations

- Agreement with organizer
- Slip-and-fall hazards
- Alcohol
- Road closures?
- Security
- Key audience? Family vs. snowmobile racers
- Responsibility for training
- Volunteer Supports

Occupiers' Liability Act

3. (1) *An occupier of premises owes a duty to take such care as in all the circumstances of the case is reasonable to see that persons entering on the premises, and the property brought on the premises by those persons are reasonably safe while on the premises.*

The ABCs of Liability

Typically, it is up to the plaintiff to prove 3 things:

- Was there **A** duty of care?
- Was that duty **B**reached?
- Did that breach of duty **C**ause the plaintiff's injuries/damage?

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Who is the Occupier?

"occupier" includes,

(a) a person who is in physical possession of premises, or

(b) a person who has responsibility for and control over the condition of premises or the activities there carried on, or control over persons allowed to enter the premises,

despite the fact that there is more than one occupier of the same premises; ("occupant")

Agreement

- Scope of agreement – limitations
- Timeline – including planning
- Roles and responsibilities
- Insurance requirements
- Additional Insured
- Staffing and Volunteers

Bodily Injury

Bodily Injury Liability: To pay on behalf of the "Insured" all sums which the "Insured" shall become obligated to pay by reason of the liability imposed upon the "Insured" by law or assumed by the "Insured" under an insured contract as defined below, for compensatory damages because of bodily injury, sickness, disease, shock, mental anguish, mental injury, assault and battery sustained during the policy period by any person and death at any time resulting therefrom.

Property Damage

Property Damage Liability:

To pay on behalf of the "Insured" all sums which the "Insured" shall become obligated to pay by reason of the liability imposed upon the "Insured" by law or assumed by the "Insured" under an insured contract as defined below, for compensatory damages because of physical injury to or destruction of tangible property including loss of use of tangible property which has not been physically injured or destroyed, sustained during the policy period and caused by an accident or an occurrence which means an unexpected event or happening or a continuous or repeated exposure to conditions resulting in unexpected damage, provided the "Insured" did not intend or anticipate that damage would result. For the purposes of this insurance "electronic data" is not considered tangible property.

Personal Injury

Personal Injury Liability: To pay on behalf of the "Insured" all sums which the "Insured" shall become obligated to pay by reason of liability imposed upon the "Insured" by law for compensatory damages because of injury sustained by any person or persons caused by false arrest, detention or imprisonment, malicious prosecution, libel, slander or defamation of character, humiliation, discrimination, wrongful entry or eviction or invasion of privacy including injury derived from an "advertisement" committed during the policy period.

Who is the “Insured?”

…and Why Does it Matter?

If you are designated in the Declarations as:

a. An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are the sole owner.

b. A partnership, limited liability partnership or joint venture, you are an insured. Your members, your partners, and their spouses are also insureds, but only with respect to the conduct of your business.

c. A limited liability company, you are an insured. Your members are also insureds, but only with respect to the conduct of your business. Your managers are insureds, but only with respect to their duties as your managers.

Outdoor Patios

Special Considerations

- Like a special event, a change in risk – for both the restaurant/bar as well as the municipality: a change in roles and responsibilities.
- Possible sidewalk re-routing means possible interaction between pedestrians and automobiles.
- Consider alcohol and how that changes/increases liability.

Inspections & Checklists

- Inspections should be carried out regularly by qualified staff
- Inspections should be fully documented – and customized to the different scenario
- Checklists should be more than a just ticked off box
- Make it the start of a “documentable” action plan!

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Documentation is Evidence…

- that contracts, waivers or signs existed
- of standardized policies & procedures to establish acceptable standards
- of checklists/logs recording regular equipment and site inspections and maintenance performed
- that established procedures were followed in a consistent and uniform manner

Claims

Breach of Contract

- Claim against the municipality and organizer for breach of contract
- Importance of verbal agreements vs. written agreements
- Claim was statute-barred and doubtful that it would have been successful regardless
- Duty to defend?

Martin v. Barrie

- Patron injured on snowslide attraction
- Defendant was able to show they had “reasonable” practices in place to prevent injury
- Court did not expect perfection
- Plaintiff did not win an award for her damages because the Defendant was able to provide solid, documented evidence of their good-faith efforts

Love Parade Disaster

- July of 2010, a stampede at a music festival caused the death of 21 people and 652 injuries.
- Criminal charges were brought against 10 employees of the city as well as the organizer.
- Eventually the trial was thrown out as negligence couldn’t be proven.

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Festival Camping

- One woman killed and two injured when a truck drove through an encampment.
- The driver of the truck blamed the parking and security agents who directed him to park on a slippery slope.
- No one was present when it was time for him to leave.

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