



Outside user liability

By Ken Fingler, Risk Manager, HED Insurance

Municipalities are opening up their facilities for an increasing number of public use activities. While it is very beneficial to the community to have facilities such as skating rinks, curling rinks and community halls readily available for public use, there are some potential risks that need to be addressed.

Municipalities and facility operators are exposed to liability risks associated with renting out their facility to outside users mainly because the facility operator has limited control over what the outside user does in the facility during the rental period.

Should an accident occur due to the operation of the outside user, liability should fall on the outside user, however, the municipality would also be drawn into a claim.

A lawsuit brought by the injured party would undoubtedly firstly name the outside user, but would also name the facility operator/committee and the municipality. Should the outside user not have adequate liability insurance or assets to cover the damages, then the facility operator and/or the municipality could end up paying for the entire loss.

Example scenario

You rent out your community hall for a fund raising social event. During that event a guest slips and falls on liquid that was spilt on the floor, and suffers a serious injury and sues for the damages.

The injured party will undoubtedly sue. The lawsuit will name the social host as the primary responsible party but will also name the hall owner and operator, being the hall committee and/or the municipality.

The social host may have been negligent for not cleaning up the spill and would likely be held liable for the injury. However, if the host does not have insurance and/or any assets to cover the loss, the courts will be looking for someone else to pay.

If even a small amount of responsibility can be attributed to the hall committee because they did not supervise the event properly, or for any reason whatsoever, then due to the legal principle of 'joint and several' liability, the hall committee and the municipality could be held responsible for the entire claim.

HED, the AMM Insurance Program administrator, has long recommended that all

outside users should be required to carry liability insurance. The municipality and/or facility operator should not be held responsible for the actions or negligence of outside user groups. Yet, if this rental process isn't handled carefully, that is exactly what could happen.

In many cases, outside user individuals may have coverage available under their homeowner's insurance for low risk events such as birthday parties, anniversaries or wedding showers.

Higher risk events such as socials, weddings and fundraisers where liquor is served will generally not be covered under homeowner's insurance. As well, many organized groups have liability insurance for the group that would cover these rental activities.

Requiring proof of insurance coverage from the renter, with the municipality added as an additional named insured, would ensure that the municipality would be protected from claims arising out of the renter's actions.

Those renters that do not have liability insurance should be required to purchase insurance for the event. This coverage is

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available through a few insurers although it is not always easy to obtain and is often expensive.

In response to numerous requests from Manitoba municipalities for an easier and more economical system, HED has developed an **Outside User Policy** that includes the availability of liability insurance for the user group that can become part of your facility rental agreement.

This liability coverage can be implemented immediately along with the signing of the rental agreement. The premium is collected at the time of rental and coverage is implemented as soon as a copy is faxed to HED.

Why should your municipality adopt this facility rental process?

1. Without confirmation of insurance for the user group, the municipality and facility committee could be held responsible for liability and damage resulting from the actions of outsider users.
2. Large claims will negatively affect municipalities' self-insurance loss pool. Liability claims can be much larger than you may think. A recent court case awarded a slip and fall claimant over \$1.5 million dollars. The claimant was a visiting doctor who had polio as a child but did not have symptoms for years. The slip

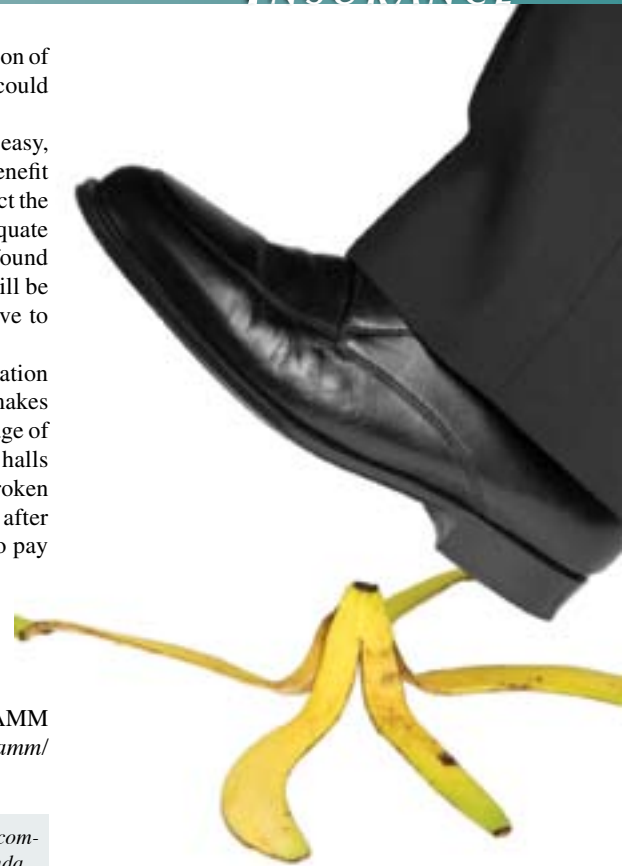
and fall injury resulted in a reactivation of the polio symptoms and the doctor could no longer work.

3. Offering liability insurance in an easy, affordable format will not only benefit the municipality, but also help protect the outside user if they do not have adequate insurance. Even if the renter is not found to be liable for the accident, they will be drawn into the lawsuit and will have to pay for a legal defense.
4. This process and the rental application form contain a clause that clearly makes the renter responsible for loss/damage of the facility property. Many times halls have found damages such as a broken toilet or a missing fire extinguisher after an event with no one responsible to pay for the damages.

A copy of the Outside User Policy, the application form and the guidelines were recently sent out to all Manitoba municipalities.

These forms are also posted on the AMM Extranet site: <http://www.hedinc.com/amm/login.asp>.

If you or your facility manager/operator/committee have any questions, please call Linda Baker at HED Insurance at 1-800-665-8990 ext. 7220 for further information.



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