

# THE ADVISOR

Legal Issues of General Interest to Individuals

## AND TO ALL A GOOD NIGHT ...

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A lot has happened to lawyers and the Christmas spirit since Dickens wrote *A Christmas Carol*. A social host (someone who serves alcohol without profit) now has to think about how a party for employees or friends can be planned to minimize the risk of an unwanted lawsuit if anything goes awry with a guest who overindulges and causes harm to him or herself or others. Let us explain.

A number of years ago, the Supreme Court stated that commercial hosts (those who serve alcohol for profit) could be held partially responsible for over-serving patrons who later hurt themselves or others as a result of their intoxicated state. A number of cases were successfully litigated against commercial servers of alcohol. It was not long before the courts took the next step and held an employer responsible for an injury caused to another by an intoxicated employee. The next logical extension was lawsuits against a social host for injuries stemming from the over-consumption of alcohol on their premises. Bah, humbug!

### When might a host be liable?

A host may not only be responsible for injuries caused away from the host's premises, but also for accidents that occur on the premises at the time of the party.

Premises includes a location rented for an event. Examples include situations where someone falls and is injured because of an unsuspected hazard. What is a hazard? It could be something as simple as a loose board, a turned up carpet, an uneven sidewalk separation or an icy step. Hosts are always legally required to make sure the premises are safe for guests. The steps required to make them safe may become more onerous when alcohol is involved. Things such as good lighting, clean walks and warnings of anything unusual become even more important at parties.

No case in Canada has yet been successful against a social host. However, the ongoing battle against drunk driving and the increasingly liberal approach of the courts in attaching blame to parties other than the individual who directly causes the injury, means that a social host cannot ignore the risk. A social host is well-advised to take reasonable steps to see that guests do not cause harm to themselves or others where alcohol is involved. If a court finds that reasonable steps were not taken, the host could be required to pay monetary compensation to an injured person.

### What can a host do to reduce the risk?

What is or is not "reasonable" fluctuates with societal views and expectations and the particular facts of each case. What was reasonable a year ago may not be reasonable today, and what is reasonable in one case

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may not be reasonable in another. There is a clear risk associated with the serving of alcohol. The purpose of this article is not to put a damper on your holiday fun, but to allow you to feel more at ease in hosting your social events this year by considering the tips listed below. Although there is no complete list of things you should do to avoid risk, following these suggestions will help reduce the risk of unwanted consequences. After all, Ebenezer Scrooge enjoyed the holidays himself once he was shown the way to celebrate it right!

1. Limit the amount of alcohol available at the event
2. Provide a cash bar with instructions to the bartender not to serve anyone who appears intoxicated
3. Provide food
4. Provide soft drinks or non-alcoholic punch
5. Serve coffee and tea often and early
6. Consider providing entertainment away from the consumption of alcohol.
7. Do not serve any alcohol to minors
8. Have your guests deposit their keys with you when they first arrive and monitor their leaving
9. Insist that anyone you think may be intoxicated be driven home by a sober person
10. Offer to call taxis or provide taxi "chits" to and from your event for your guests
11. Offer the couch to the overindulgent guest
12. Do not overindulge yourself; maximize your ability to make reasonable observations and decisions.

As the law evolves to address societal demands, new legal interpretations will develop in response. We are living in a society where individuals seek to attach blame to others to avoid responsibility for their own actions. By being proactive and planning ahead, you can reduce the risk of an unwanted visit by the ghosts of parties past, present and future, and enjoy a safe and joyful holiday season.

This article is prepared by lawyers in the Personal Services Group of Field Atkinson Perraton. It is intended to provide general information on areas of law that affect individuals. This publication is based on the law at the date of publication and is not intended to provide legal advice on any specific fact situation. Please consult a lawyer before acting on the information provided.

Our experienced professionals are happy to meet with you at your convenience to discuss your individual circumstances. For further information on this topic please contact **Ian R. MacDonald (232-1760)** in Calgary or **Sharon Stefanyk (423-3003 or 1-800-222-6479)** in Edmonton.

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