



## Responsibility of Hosting a Party by Dennis M. Foerster

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In January of this year employees and directors of a golf club in Ontario were charged under the Ontario Liquor Control Act with having over served patrons. Although this is not a criminal charge these individuals and the golf club could face very hefty fines.

There is also the risk of civil liability. Restaurant and bars are under a duty to ensure that they do not over serve their patrons. Should they breach this duty and the patron is injured or injures a third party in a motor vehicle accident the establishment may be sued in negligence. There is well established case law that in such circumstances the establishment, the owners and even the servers will be liable.

There is recent case law which may expand this duty to those who host private parties. Cases that have been litigated involve both social events in private homes as well as office parties put on by employers. In certain circumstances where you have invited people to your home and it is known that drinking will occur, you as the host of the party may be under a similar

duty to that of a restaurant or bar. The event taking place at your home places you in a position of control of the activities that take place in your home. To allow someone to drink, whether your alcohol or theirs, to the point of intoxication and then to allow them to leave in their own vehicle may attract a finding of liability if an accident occurs and someone is seriously injured.

This is a very controversial area of the law. The theory is that in certain circumstances you as a host of a bar bear some responsibility for the amount of alcohol your guests consume. If you are supplying the alcohol, there is a more serious chance of liability. The controversy among the public is whether or not the guest is solely responsible for having consumed alcohol and then decides to drive his or her vehicle when intoxicated. Regardless of the controversy do let your house party be the test case.

The legal issues to be determined in such a scenario are the amount of control the

host had over the event, whether the host provided alcohol and whether or not the host knew or would have reasonably known that the guest was intoxicated. The courts are trying to determine the foreseeability of the tragedy which eventually unfolded.

This development in case law to expand the responsibilities of hosts of private parties shows how the law evolves as social attitudes change. There was a time, not that long ago, that drinking and driving did not have the negative stigma that it does today. Now, given very successful advertising campaigns over the last 30 years, there has clearly been a shift in public attitudes on this subject.

If you are hosting a party and there will be alcohol served, you should inform your guests that they should take a taxi home or come by taxi if they intend to drink. If your guests want to leave and you know or suspect that they are intoxicated, then you should advise them to take a taxi or call a cab for them. The best thing that you can do is to ensure that arrangements are made before

the gathering that everyone has made arrangements to make sure they will get home safe without driving their vehicle while intoxicated.

Employers who supply alcohol at a social event for their employees or simply a venue should have a clear policy in place. Some employers simply advise the employees beforehand that taxis will be made available at no charge. Employers who do not address this issue when organizing or planning staff events leave themselves open to civil liability.

Although there are potentially severe legal consequences for the driver if an accident occurs while driving when intoxicated nothing can remedy the results of a serious accident where someone is seriously hurt. It not only makes good sense to be responsible whether attending or hosting a social event there may be consequences if you choose not to be responsible.