

Liability Insurance for the Ohio Sauerkraut Festival Insurance

A review of Village Government and Chamber of Commerce Considerations

Draft: September 14, 2019

Final: December 13, 2019

Executive Summary

The Waynesville Village Council's Community Events Committee (CEC) undertook the task of determining appropriate insurance requirements for local event hosts using Village streets for community events. The hosts apply for street closure and usage through a formal application process with the Village, which requires a statement of insurability.

For large events (over two blocks of street closure) the Village requires \$5M/\$7M of insurance per event. To assess the appropriateness of this requirement, the CEC conducted research on event risks and requested the consultation of a nationally-recognized insurance expert for festivals and similar events – Haas & Wilkerson Insurance.

The CEC focused its work on answering the following two questions, with the focus being on the annual Ohio Sauerkraut Festival:

- 1) What are the risks that the event sponsor should insure against?
- 2) What is the level of coverage the Village should require of sponsors of large events (greater than two blocks)?

The CEC study found that the Waynesville Chamber of Commerce does a good job identifying and mitigating risks for the Sauerkraut Festival. However, due to the large attendance at the Festival, crowd densities sometimes – at specific locations - become higher than is generally deemed safe.

Consultation with Haas & Wilkerson raised the question as to the adequacy of the Chamber's current insurance policy, mainly because of the very low insurance premium paid by the Chamber. The CEC did not have a copy of the Chamber's insurance policy to study if coverage was adequate. Haas & Wilkerson identified several liability areas that should be verified in future insurance policies used by event hosts.

Three recommendations are made in this report by the CEC for future large events held in the Village:

- 1) The \$5M/\$7M insurance coverage requirement is justified and should be continued,
- 2) Large event sponsors having events with large attendance, such as the Sauerkraut Festival, should concentrate on crowd flow control such that bottlenecks are not created,
- 3) Insurance against injuries caused by animals (dogs, horses, etc.) should be mandated and event sponsors should take steps to limit and/or control threats due to animals.

Two other important facts were determined by the CEC. The advertised attendance of the Sauerkraut Festival is very likely less than the 300,000+ stated by the Chamber of Commerce. Accurate crowd attendance may help reduce the insurance premiums for the event. Second, the annual insurance premium paid by the Chamber for the Sauerkraut Festival is much, much lower than what the Insurance consultant felt was reasonable. The reason may be that the coverage obtained by the Chamber is not adequate for this size festival, but the reason cannot be determined without studying the Chamber's insurance policy.

1 Study Purpose

1.1 Background

In the summer of 2017, the Village of Waynesville (“Village”) changed the procedure for local residents, businesses, and organizations to request street closures for the purpose of holding festivals, street fairs, etc. A new Special Event Permit Application was created to unify the process of information communication, planning, allocation of Village resources, application fees, insurance requirements, and similar event logistics for all entities wishing to hold an event.

One of the changes in the new procedure was to require the event host to hold insurance coverage of \$5M/\$7M for all events extending beyond two Village blocks. Previous requirements were \$1M/\$2M. The Village justified this level of coverage because it wanted the sponsors of large events to hold insurance coverage equal to what the Village purchases, which is \$5M/\$7M.

The Waynesville Chamber of Commerce (“Chamber”) questioned the increase in insurance coverage, with the event of interest requiring the higher coverage being the annual Ohio Sauerkraut Festival (OSF).

The Village Council’s Community Events Committee (“Events Committee”) began a process of researching insurance coverage to answer two questions:

- 1) **What are the risks that the event sponsor should insure against?**
- 2) **What is the level of coverage the Village should require of sponsors of large events (greater than two blocks)?**

By September 2018 information was obtained by the Events Committee that identified common event risks, insurance requirements of other events in the State, estimated crowd size at the OSF, and calculated crowd densities at the OSF. At that time the information did not persuade the Events Committee to recommend a different level of insurance for the OSF to the Village Council. However, it was decided that the Events Committee would seek the advice of insurance industry experts on the two questions stated above.

Beginning in late 2018 the Events Committee began seeking information from the insurance industry, specifically identifying and contacting insurance industry experts on events. This report summarizes the findings of the Events Committee during 2019.

1.2 Village Government Requirements

It is reasonable to ask why the Village Government mandates insurance coverage. Generally, municipalities in Ohio are substantially immune to liability lawsuits arising out of normal operations, and this is true for the Village during community events. However, the Village Government has a primary duty to ensure the health, welfare, and safety of its residents and others participating in community events. Should personal injuries or financial losses happen to those operating under the Village Government’s duty-to-protect umbrella, adequate resources should be made available to make the victims as whole as possible. To do its due diligence, the Village requires event sponsors to carry liability and other insurance in order to compensate victims for losses incurred during the sponsor’s event.

Research by the Events Committee determined that the Village Government should require the following risks to be covered by event sponsors’ insurance:

- Injuries and losses to event volunteers, visitors, vendors, and bystanders

- Loss to property owners along the streets closed for the event
- Loss to property owned by volunteers, visitors, vendors, and bystanders

1.2.1 Protection Against Personal Injury Lawsuits

The event sponsor should carry insurance to address law suits and injuries occurring to any event participant, as well as bystanders on property adjacent to the event (e.g. people on properties along Main Street during the OSF). The amount of insurance should be sufficient to cover individual injuries, as well as injuries to large numbers of people from mass casualty events. The crowd densities occurring at some events, such as the OSF, elevate the probabilities of multiple casualties occurring for a single injury-causing event.

1.2.2 Loss Protection for Property Owners

Event sponsors should carry insurance to cover damage/destruction of property to land owners adjacent to the streets closed for events. The amount of damage should be sufficient to cover multiple properties incurring damage.

1.2.3 Loss Protection for Property Owned by Event Participants

Event sponsors should carry insurance to cover property losses to the property of event participants. This should include vehicles, vendor booths/tents, or theft of money or other valuables.

1.3 Chamber of Commerce Insurance Costs

The Waynesville Chamber of Commerce approached the Village Council in the summer of 2018 requesting a reduction in the insurance coverage the Village required for the OSF (\$5M/\$7M). The Chamber stated that they carried a base insurance coverage of \$1M/\$2M for their annual operations and then added riders to cover the OSF. The rider premiums cost \$500 per \$1M of additional insurance, so increasing coverage from \$2M to \$7M increased premiums by \$2,500 (5 x \$500). The Village Council declined to allow lower event coverage for the OSF and requested the Events Committee to continue investigating event insurance coverage.

Research by the Events Committee to ascertain typical insurance premium costs for events similar to the OSF resulted in costs of about \$0.10 per festival attendee. Thus, for the Chamber's estimated crowd size at the OSF of 300,000 people, the rule-of-thumb for insurance costs would be \$30,000. For comparison purposes, the insurance industry estimates that a rock and roll concert with alcohol served would carry insurance premiums of \$1.00 per attendee.

The large difference between what the Chamber actually pays for insurance premiums for the OSF (\$2,500) versus the insurance industry's rule-of-thumb for a 300,000 person event (\$30,000) has several possible causes: The Chamber is getting a very good rate; The Chamber is not buying adequate insurance coverage for this type of event; The insurance coverage assumes the OSF attendance is much less than 300,000. Without access to the Chamber's insurance policy for the OSF, the reason for the low insurance premiums is not known. However, it could be cause for requesting more information from the Chamber about the OSF insurance coverage.

2 Council Community Events Committee Research – 2018

In 2018 the Events Committee began researching the risks associated with events such as occurs in the Village. These events include: 1-day antique shows on 1 block of Main Street, "Second Saturday" street

fairs on 1 block of Main Street, the annual 4th of July Parade utilizing many blocks of streets in the Village (and sponsored by the Village), the OSF, Christmas in the Village occurring on 2 blocks including Main Street.

After several months of research on events, such as those occurring in Waynesville, several risks were identified that affect the event sponsor, and potentially, others connected with the sponsor (such as vendors, entertainers, volunteers, and local government agencies). These risks include, but are not limited to:

- Personal injury from accidents and assaults
- Financial loss from accidents, cancellations, disruption of services
- Property loss, including building and vehicle damage, theft, vandalism, fire

2.1 Personal Injury Risks

Personal injuries can occur for many reasons. At events similar to Waynesville's events, the most likely personal injuries are falls, burns, illnesses (food), vehicle accidents, weather-related, and crowd stampedes/crushes. Other possible risks include dog/animal bites, and spread of infectious diseases. In the past few years injuries due to intentional external factors have occurred at festivals, including vehicles into crowds, bombings, and mass shootings.

Waynesville event sponsors have done a good job at mitigating risks, including taking steps to protect against intentional external actors. The event sponsors and the Village also are proactive at mitigating potential accident causes including fixing sidewalk problems, street uneven areas, low-hanging obstacles over sidewalks, electrical distribution exposure, and weather-related items such as wind-blown tents/booths.

The OSF has one primary characteristic that increases personal injury risk, and that is the large number of attendees and resulting areas of high crowd density.

2.1.1 Crowd Density Predictor of Crush Incidents

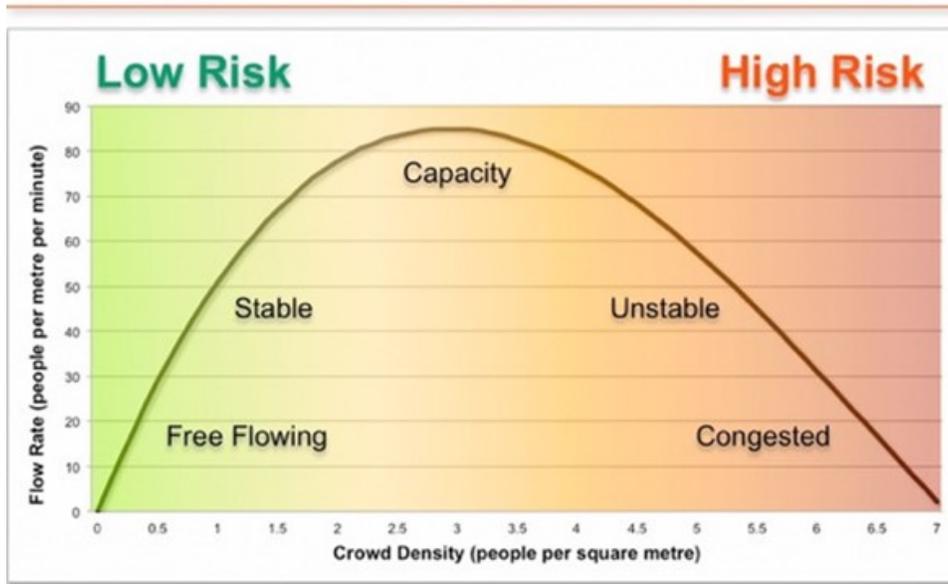
Many experts in crowd management conclude that crowd density is a strong indicator of potential injury risk. Much research has been done and published on the physics of crowd densities and their probability for causing injury. The figure on the next page summarizes the ability of a crowd of people to move (flow) as a function of crowd density, and breaks the graph into regions of crowd stability. Most studies characterize crowd flow as a function of crowd density as follows:

- ≤ 1 person/square meter = free flowing
- 1 - 2.5 persons/square meter = stable
- 2.5 – 4 persons/square meter = desirable upper limit
- 4 – 5.5 persons/square meter = unstable
- > 5.5 persons/square meter = congested and potentially dangerous

The Community Events Committee in 2018 evaluated crowd densities at the OSF and calculated that the average crowd density for a well-attended Sauerkraut Festival (300,000 attendees) was 3 persons/square meter. However, it was noted that there are a few areas within the OSF that have crowd densities of 4-5 persons/square meter. This usually occurs when lines form for certain food booths, or some interruption occurs to the flow of the crowd. Each of these changes in the crowd flow creates a bottleneck because the crowd is constrained – the booths prevent the crowd from expanding

outward to get around the bottleneck. Most studies place a threshold of 5 persons/square meter for safe crowd densities. At or above this density, the potential for personal physical harm, and/or psychological behavior risks increase substantially, especially when an unanticipated, quick trigger occurs, such as a fall, loud noise, or other perceived/real threat. Bottlenecks at the Sauerkraut Festival have been observed to cause crowd densities approaching 5.

Crowd Density v Crowd Flow Rate



The Sauerkraut Festival, pictured above, is estimated to have an average crowd density of about 2-3 people per square meter.

2.1.2 Crowd Density Magnifies External Threats

High crowd densities (5 or above) cause loss of individual mobility control and magnify the effects of threats to people. Crowd surges can occur, during which the individual cannot control his own stability, flow, and ability to move away from threats. An external, unanticipated trigger can cause a crowd surge, which results in some people falling and getting trampled, and then other people falling over them. Other injuries from high crowd densities and triggering events include being crushed against barriers (walls, fences, structures, doorways) or being forced into unsafe areas (fires, hot surfaces, sharp objects such as corners and glass).

2.1.3 Crowd Density Affects Emergency Response Times

Crowd densities affect the response times of on-foot emergency responders. One study estimated that emergency response teams move relatively freely through crowds up to 2 persons/square meter. However, at crowd densities of 3 persons/square meter, the response team's movement slowed by a factor of two. At 4 persons/square meter, the response team speed decreased to only one-third the unimpeded rate.

For emergency vehicles, their speed became less than on-foot responders once the crowd density increased above 1.5 persons/square meter.



A photo of a typical Saturday afternoon crowd at the Sauerkraut Festival. The crowd density in this photo is between 2 and 3 people per square meter.

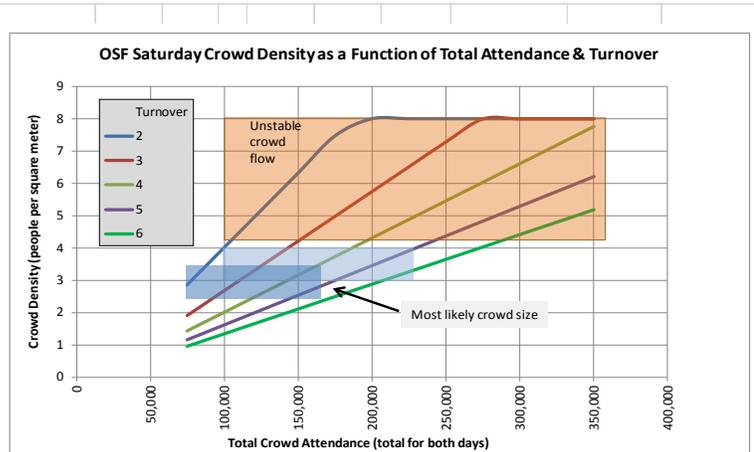
2.1.4 Estimated OSF Crowd Densities

As mentioned earlier, substantial effort was done by the Events Committee in 2018 to estimate crowd densities at the OSF. By using the total square footage available for participants (vendors, volunteers, and visitors) at the festival, along with estimated crowd “turnover” (how many times each day the crowd attendance renews itself) crowd densities were calculated for various projections of total festival attendance (for the whole weekend – Saturday plus Sunday).

The Events Committees research also found and used photographs of various crowd densities to estimate what occurs at the OSF.

Using these tools, the graph shown at right was created.

To read this graph, two assumptions are first selected: total festival attendance, and crowd turnover per day. For example, assuming a total attendance of 250,000 for the weekend, and a turnover rate of 4/day, the crowd density of 5.5 persons/square meter is calculated. This would suggest an unstable crowd flow continuously at the OSF, which is not what is observed (except at a few bottleneck locations). So, either the assumption of crowd turnover of 4/day or the total attendance, or both appears to be inaccurate assumptions.



Using photographs and observation, it is estimated that the overall OSF crowd density is 2-3 persons/square meter, and crowd turnover is estimated at 4/day (every 3 hours). This results in an estimated total OSF attendance of 150,000, not 300,000 as has been stated by the Chamber for many years.

2.2 Financial Loss Risks

Financial losses resulting in law suits can occur for many reasons. Severe weather can cause broken merchandise, damaged structures, and damage from water. Cancellation of an event also can result in law suits for financial damages. Thus, claimed causes can be both failure to anticipate severe weather, and actions taken because of severe weather (canceling/closing the event).

Financial losses also can occur from theft, vandalism, or other intentional acts.

Currently, the Village doesn't require that event sponsors carry insurance to cover financial losses such as these. Of particular interest is that in the case when an event has to be canceled due to severe weather, Village government personnel are active participants in that decision.

2.3 Property Loss

Event insurance must also protect the property owners adjacent to the event. Examples include property owners along Main Street for the OSF, the annual Antique Show, Second Saturdays, and Christmas in the Village. In addition to real property, damage to vehicles and personal property for adjacent residents should be covered.

3 Industry Expert Recommendations

In late 2018 the Events Committee began researching the insurance industry to identify insurance companies that were experts in event insurance. The goal was to find one or more companies with documented experience in assessing risks and required insurance coverage for events similar to those held in Waynesville.

3.1 Companies Identified

After several weeks of on-line research, four companies were selected for contact. The companies were:

- Allen Financial Insurance Group
- Arceri & Associates
- Haas & Wilkerson
- K&K Insurance Group, Inc.

Each has a national reputation for insuring community events. On-line questionnaires about the OSF were completed and submitted to each company. Two of the companies responded to the submittals.

3.2 Selection of Haas & Wilkerson

After further communications and research, the company Haas & Wilkerson was selected as the company to work with to answer the two main questions posed by the Committee:

- 1) **What are the risks that the event sponsor should insure against?**
- 2) **What is the level of coverage the Village should require of sponsors of large events (greater than two blocks)?**

Haas & Wilkerson were selected because of their extensive insurance history with large events such as state fairs and festivals, their reputation within the insurance industry, their demonstrated ability to communicate promptly and well, and their agreement to provide the answers we were seeking.

3.3 Information Sent to Haas & Wilkerson

For Haas & Wilkerson to provide answers to the Events Committee's two questions, they required considerable information about the OSF, the Chamber, the Village, and other events held in the Village. Over the course of a several months, the following information was provided to Haas & Wilkerson:

- Answers to a new 10-page questionnaire about the OSF
- Description of the legal identity of the Chamber and the OSF
- A copy of the OSF vendor agreement
- Information on the liability insurance the Chamber requires of OSF vendors
- Typical OSF entertainment schedule
- Copy of the Village/Chamber site agreement
- Site plan for the OSF
- Photos and videos of typical OSF crowds and vendors
- Financial statement (income/expenses) for the Chamber
- 3-year loss history for the Chamber
- Dates, themes, attendance of Christmas in the Village and Hearth-Warming Holidays
- Estimate of typical weekend visitor attendance in the Chamber area

3.4 Haas & Wilkerson Insurance Recommendations for the Ohio Sauerkraut Festival

On September 10, 2019 Haas & Wilkerson provided answers to the Events Committee to the two questions asked.

For the first question, “What are the risks that the event sponsor should insure against?” they mentioned that, besides typical personal injury coverage they would recommend insuring against injuries/losses from: Entertainers/performers, Assault & Battery, Abuse & Molestation, Athletic/Sporting Participants, Animals. They also commented “A festival will have most of these exposures during their event and if these exclusions apply, the festival would be responsible to pay all legal costs and liability cost for an incident.” The recommendation that insurance against damage from animals seems to be pertinent because of the increasing number of dogs (“support dogs”) being brought to the festival. To date, only a couple times are known where a dog/dogs had bad behavior, but the potential for injury is certainly there.¹

For the second question. “What is the level of coverage the Village should require of sponsors of large events?”, they stated: “The \$5-7M coverage limits are within line to other festivals your size.”

Haas & Wilkerson also provided a preliminary estimate of what the premium for their recommended insurance would cost to cover the OSF. Their premium estimate was \$27,000.

4 Conclusions and Recommendations

4.1 The Village Should Continue to Require \$5M/\$7M coverage

The research conducted by the Village Council’s Event Committee found that the OSF is very safely run and the sponsor has taken many strong steps to ensure the safety of festival participants. However, it was also found that, at times, and at a few specific locations, crowd densities at the OSF can approach or even exceed safe levels. Also, although the Chamber volunteers attempt to prevent disruptions to the smooth flow of the crowd, blockages occasionally occur due to individuals with petitions or evangelizing, quickly creating a bottleneck and abrupt increases in crown density. Thus, the probability of injury in these areas of high crowd density is higher than desired.

Insurance industry expert review of the OSF resulted in the conclusion that the Village’s required \$5M/\$7M is in line with other festivals of similar size.

Based on these findings and other information, the Events Committee recommends staying with the insurance coverage requirement of \$5M/\$7M for large community events.

4.2 The Village Should Consider Requiring Coverage for Other Risks

The insurance industry expert recommended that several areas of risk be addressed, if the current insurance policies don’t already cover those areas. These areas are listed in Section 3.4. A focus on these areas may be especially important for the OSF: Assault & Battery and Animals. Research done by the Events Committee also highlighted a potential need for “cancellation insurance” to cover potential law suits if the OSF should be cancelled, or severely shortened, due to bad weather or other reasons.

¹ Update after the first draft was written: At the 2019 Sauerkraut Festival a dog bite occurred and was reported to police.

4.3 The Village Should Require Festival Sponsors to Control Crowd Density Maximums

High crowd densities (exceeding 5 persons / square meter) significantly increase the probability of injury if something causes the crowd to react differently than expected. There are at least one, and probably 2-3 areas within the OSF that have crowd densities approaching or exceeding 5. It is recommended that the Village investigate advising or requiring event sponsors to take steps to keep crowd densities less than 5 persons / square meter.

Update (after the 2019 Sauerkraut Festival). Many political contractors were present this year seeking to get signatures on political petitions. Despite Chamber volunteers' requests to stay out of the crowd flow, many of the petition contractors engaged Festival visitors in the crowd flow. When these engagements occurred in the areas of higher crowd densities, temporary bottlenecks occurred and crowd densities quickly increased.

Attachment 1 – Insurance Companies Contacted for Consultation – Web Site Descriptions

Allen Financial Insurance Group - Allen Financial Insurance Group (AFIG) is a national provider of specialty insurance products and programs. If you are acquainted with us, you already know how different we are. We have provided preferred policies and services through affiliates and our national producer network since 1971. Our best known programs include policies for the Entertainment, Recreation, Special Events, Tattoo – Medi-Spa, Agribusiness – Equestrian & Sports. We also provide comprehensive risk management and consulting services. Art Festivals, Bazaars, Carnivals, Circus, County Festivals and Fairs, Country Western Events, Rodeos, Corn Maze, Cultural Events, Exhibitions, Festivals, Fireworks Displays, Harvest Festivals, Parades, Haunted Houses, Music Festivals, Oktoberfest, Pumpkin Patch, Tractor Pulls.

Arceri & Associates – Since 1963, we've specialized in FAIR, FESTIVAL, & PARADE Insurance. As an *independent agent*, we're able to negotiate on your behalf with multiple insurance carriers and brokers to guarantee you'll receive the best possible coverage at the best possible price

Haas & Wilkerson - Haas & Wilkerson Insurance is a Midwestern, third-generation, family-owned insurance agency that takes great measures to care for our clients, helping protect their assets, and mitigate risk. We have decades of experience and take a relationship-based approach. This allows us to offer trusted guidance and appropriate, tailored, and cost-effective insurance solutions. Haas & Wilkerson Insurance specializes in the festival industry offering a variety of coverage solutions for food, music, cultural festivals, and more. We can provide a solution that best fits your needs. Get added bonuses of coverage analysis, loss control, contract analysis, risk management procedures, and recommendations. With access to exceptional markets, our Festivals division has the expertise necessary to provide you with the quality insurance representation you deserve.

Kansas State Fair, Ohio State Fair, Eastern Idaho State Fair, Michigan Festivals & Event Association, Pennsylvania Amusement Parks & Attractions Association.

K&K Insurance - K&K Insurance Group, Inc. (kandkinsurance.com) is a leading provider of specialty insurance products and services to the sports, leisure and entertainment industries. For over 65 years, K&K Insurance has been recognized as the leading provider of sports, leisure and entertainment insurance products. As one of the largest Managing General Underwriters in the United States, we perform a variety of traditional insurance company functions on behalf of the insurance companies we represent, allowing us to provide exceptional service in: program development; sales & marketing; underwriting; policy issuance & administration; loss control; and claims. The company offers over 70 specialty programs for risks including: arenas, aquariums and zoos, bowling and billiard centers, camps, campgrounds, convention centers, entertainers, exhibitors and vendors, facilities, family fun centers, festivals, fairs, franchised powersport dealerships, gaming risks, health clubs, horse and dog tracks, intercollegiate sports, K-12 insurance, professional and amateur sports, martial arts, gymnastics and dance studios, motorsports race team and tracks, outfitters & guides, skating rinks, special events, sports facilities and stadiums.

Attachment 2 – Final Evaluation by Haas & Wilkerson – Email

RE: Ohio Sauerkraut Festival - Chamber loss history

davestubbs001@y.../Inbox



Carol Porter <carol.porter@hwins.com>
To: David Stubbs <davestubbs001@yahoo.com>

Sep 10 at 4:52 PM ● ★

[Print](#) [Raw message](#)

Hi David,

The \$5-7M coverage limits are within line to other festivals your size. You will also need look at the assets of the Board Members that may need to be protected, to help guide you through the coverage limit question.

David, I cannot speak on the Chambers' insurance coverage, as I have not received a copy of the Chamber's current policy. I can tell you that many event policies exclude the following exposures:

- Entertainers/performers
- Assault & Battery
- Abuse & Molestation
- Athletic/Sporting Participants
- Concerts
- Amusement Devise
- Animals

A festival will have most of these exposures during their event and if these exclusions apply, the festival would be responsible to pay all legal costs and liability cost for an incident. Our festival policy does not contain these exclusions.

I would be happy to review the Chambers' policy if you can get your hands on it. I won't do anything further unless I hear from you!

Carol Porter, CPCU | Producer
913.676.9258 direct | 913.749.4758 fax
carol.porter@hwins.com

Haas & Wilkerson Insurance
4300 Shawnee Mission Parkway, Fairway, KS 66205
