

MAY I BORROW YOUR EQUIPMENT?

From time to time, municipalities are asked by other municipalities, non-profits and even for-profit entities for use of its equipment at no cost. I.e. to borrow its equipment. Usually, the type of equipment being borrowed is expensive, and has a specialized purpose. The reason for the request is to save the borrower money.

Why would a municipality agree to this type of arrangement? Three common reasons for loans of this nature are:

- To further a project that benefits the community (e.g. a special event needs a portable stage)
- To provide in-kind support instead of funding the organization's activity
- Because the borrower has a quid pro quo agreement that benefits both owner and borrower equally (e.g. you borrow my stage, I'll loan you my A/V equipment)

While these loans do make sense for the reasons listed above, as with every agreement there is risk that "something will go wrong". Or, as I like to say "No good deed goes unpunished."

In drafting a loan agreement it is prudent to consider what is likely to go wrong in various scenarios. You can then construct the agreement to enhance the chance of obtaining the best results, if something goes awry. What follows is a list of problems I have seen and how I would try to minimize the risk of each one.

1. Equipment is returned in significantly worse condition than when it was loaned. If you do not have a record of its condition when it was loaned – how do you prove the deterioration?
 - a. Make sure equipment condition is always described before being loaned.
2. The equipment is not returned on the date promised. Do you have a return date specified in writing? Is there any penalty for not returning it promptly?
 - a. Include pick up and return dates on the loan agreement. Require notification if the equipment cannot returned on, or before, the agreed date. Without notification, and mutual agreement on a different date, implement a fee for each date late.

To borrow:

*To take and use
(something that belongs
to someone else) with the
intention of returning it.*



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- b. Make sure the 'late fee' is appropriate to the value of the equipment. If your late fee is too low, it will not be seen as a great detriment to the borrower.
3. Damage occurs due to misuse or abuse by the borrower who then gets an unqualified person to make (unsatisfactory) repairs.
 - a. Require prompt notice of any damage or needed maintenance and advance notice of any routine maintenance or repairs.
4. Borrower is sorry about the damage, but says it was not a negligent act and they are unable to pay for repairs.
 - a. Provide advance notice borrower is responsible for cost of loss or damage of the equipment while in their care, custody and control. Also, suggest that they add it as borrowed equipment to their property insurance policy.

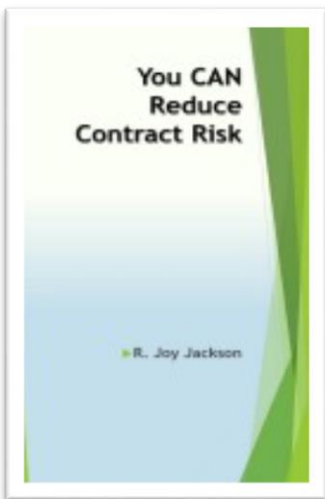
Less common issues include: unqualified people causing damage when operating the equipment, using the equipment for a purpose it wasn't designed for, loaning the equipment to a third party who then causes damage or fails to store it properly.

CONCLUSION

Whenever you loan equipment, be sure to use a written contract that clearly sets out your expectations and the responsibilities of the borrower. By doing them, you will have much better likelihood of receiving your equipment back on time, and in good condition.

FREE SAMPLE AGREEMENT

A free, sample equipment loan agreement is available to anyone who would like to use it. Please email joy at Cunnart.com to obtain a copy. For quick response, be sure to put **SAMPLE EQUIPMENT LOAN CONTRACT** in the subject line!



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