



Risk Management

by Michael Gentile, J.D.

Legally speaking, ice and snow poses a dilemma for hotel managers

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In many northern climates, the winter months bring an additional maintenance challenge to hotel owners and managers. That challenge is how to deal with the ice and snow that accumulates on one's premises. Ice and snow on hotel property is not only a customer service issue but it is a legal issue as well.

An experienced manager at such a property knows full well how to deal with the situation. That manager is also familiar with the expense associated with snow removal. But unless the property is a ski resort that relies on the snow for its guests, there may be the temptation to phase out the snow removal expense. After all, it will melt eventually. But read on.

It will become clear that snow removal, like insurance, can be an expense that will save money, if not the property's existence in the long term. And if your hotel is located in an area where snow removal is not an issue, read on to see what you may be missing.

General rule

Generally speaking, a property owner is not responsible for injuries to persons caused by the natural accumulation of ice and snow. This means that if snow has fallen or ice has formed naturally and someone slips and falls in that environment, the property is not responsible for the injuries since it had no duty to remove the ice or snow at that point. However, if steps are taken to remove the ice and snow that cause a dangerous condition, the property owner can then expose themselves to potential liability. Therefore, it would seem to make sense then to do nothing and not expose oneself or premises to liability. Oh, but if it was only that simple. There are three very good reasons why this is not a viable option.

Customer service

By leaving the ice and snow on hotel property, an owner or management team may not expose themselves to liability, but they certainly are not enhancing the image, cleanliness or safety of the property. Making guests trudge through snow and ease their way across icy parking lots and entry ways may encourage them to stay elsewhere the next time they seek accommodations in your area. As in other maintenance situations, it's just not good business. This point is only magnified by the fact that guests and employees alike can be injured due to the hotel's failure to maintain its property.

Notice

In terms of legal requirements, there is a concept in negligence law called "notice". That is to say that once a property owner or manager has notice of a dangerous condition on the premises, a duty is created to remedy that condition to make it safe for persons reasonably expected to be on the premises. These are obviously guests, patrons, employees, contractors, sales-people, etc. who have reason to be on the premises. Just as you would not allow a dangerous condition to continue to exist inside a hotel, you are equally responsible for that condition on the property that occurs outside the building.

Public sidewalks and other areas

An area where a hotel may not have a choice but to remove ice and snow is public sidewalks, driveway aprons and other areas of the property that are used by the public in general. Many, if not all localities now have ordinances requiring property owners to remove ice and snow from public areas. These ordinances often have time limits, anywhere from 12 to 24 hours after the snow has fallen, to clear these public areas. Failure to do so may result in a fine, or in some cases, the local government will remove the ice and snow from the area and bill the property owner for the cost. Who knows what that could cost?

But the effect of these ordinances can be even greater. Ice and snow that is allowed to build up on sidewalks often forces people to walk in the streets, exposing them to other dangers. In a case in western New York, where snow is legendary, a business owner did not keep his sidewalks clear for some time and they became impassible. People were forced to walk in a busy street. One evening as four teenagers were walking in the street in front of this business they were struck by a passing automobile, killing three of these young people. As a result the business owner is now being pursued on criminal charges for the deaths as well as civil actions for wrongful death. All of this could have been avoided if reasonable precautions were taken to remove the snow.

What to do?

To avoid liability for ice and snow on your premises, have a plan in place for snow removal. In most cases that involves a snow plowing contractor who agrees to come on to your property when snow exceeds predetermined levels. This contract should include snow removal in public areas that abut your property for which you may be responsible. Make sure the contractor is aware of local ordinances affecting snow removal and also make sure the contractor does not pile the snow up on the property in such a way as to cause sight problems for motorists or persons leaving your property. Finally, if there is not sufficient snow or ice to be plowed, make sure that those responsible for maintenance onsite are aware of the responsibility to keep the public walkways safe in addition to those close to the front door.

If you are in an area where it snows frequently, then you know snow is a fact of your personal life. You must also be sure to make it a part of your business life. ✧

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