TORONTO

REPORT FOR ACTION

Proposed City of Toronto Support for Live Music Venue Insurance

Date: March 11, 2021
To: Economic and Community Development Committee
From: Acting General Manager, Economic Development and Culture and Chief Financial Officer and Treasurer
Wards: All

SUMMARY

Even before the COVID-19 pandemic, live music venues in Toronto had been facing an increasingly challenging situation for many years. Rising land values, rents, and property taxes along with the pressures of development in the downtown core had shuttered many venues. Now, live music venues are facing a new threat - the inability to renew their commercial liability insurance.

Although insurance coverage rates had been increasing significantly over the past several years, in 2020 some venues were confronted with vast increases in quoted premium rates and deductibles compared to 2019. Other venues, with no recent claims against their policies, have been unable to secure commercial liability coverage at any cost despite their brokers having contacted many insurance carriers. This is due to several factors: first, live music venues may increasingly be viewed by insurers as "high-risk" businesses because they operate at night and serve alcohol; second, insurers are seeking to limit their own risk after being hard hit by paying out on pandemic-related claims and other global natural catastrophes; finally, at least one major global insurer has ceased to underwrite policies for businesses in the hospitality and entertainment industries, leaving a vacuum on the supply side.

Industry experts are urging governments to take action to address this pressing issue. In a recent report prepared by Nordicity for the Canadian Live Music Association, one of the top recommendations to support the industry in recovery is to establish a group insurance program tailored to live music venues. The Nordicity report suggests that such a program would represent a low-cost, high-impact way to support both the reopening of the sector as well as its long-term sustainability. Accordingly, to address this urgent need from the sector, this report proposes that the City of Toronto work with its insurance broker to create a City-backed insurance program for live music venues.

To develop this program, the City would work with its insurance broker to convene a panel of potential insurers who could provide commercial liability coverage for live music venues that meets the City's minimum insurance requirements. Venues would be marketed as a group to leverage buying power and access discounted premium rates, reducing the potential strain on venues. The City would support the program by stepping in to cover the cost of a one-time quarterly premium installment in the event a venue is unable to pay. The venue would be required to repay the cost of the missed premium payment to the City, and could only take advantage of this arrangement once over a two-year period, minimizing the potential financial risk to the City. The City's backing of this program will encourage insurers to offer more flexible and affordable policy terms than those currently available in the market, creating an important lifeline to sustain Toronto's vibrant live music venues.

RECOMMENDATIONS

The Acting General Manager, Economic Development and Culture and the Chief Financial Officer and Treasurer recommend that:

1. City Council direct the General Manager, Economic Development and Culture, and the Chief Financial Officer and Treasurer to engage the City's insurance broker to create a City-backed group insurance program for live music venues that includes the following components:

   a. Marketing live music venues as a group to leverage group buying power to access discounted insurance rates;
   b. Premium financing at discounted rates over the annual term of the policy for those venues requiring it; and
   c. Two years of financial support from the City in the form of one quarterly premium installment in the event the venue is unable to pay, with soft repayment terms.

2. City Council direct the General Manager, Economic Development and Culture, and the Chief Financial Officer and Treasurer to report to City Council at the end of the two-year program period on the results of the program and any recommendations, if applicable, for future City support of live music venue coverage.

FINANCIAL IMPACT

Under the proposed terms of this program, if a venue is unable to pay the cost of its quarterly premium, the City would pay the premium on its behalf. The venue would be required to repay the cost of the premium to the City, resulting in no net cost to the City, with the exception of unrecoverable debts, for which the City does not have budget provision. A venue can only ask for assistance from the City once over a two-year period. Should the venue not be able to pay the next premium installment, then the policy would be cancelled due to nonpayment of premium and a return premium may be calculated for the remainder of the term.

The average quarterly premium payment for a live music venue is estimated at $12,500 based on figures provided by the Toronto Music Advisory Committee with adjustments to consider the impacts of the hard insurance market, COVID and insurer global loss experience. It is estimated that up to 60 venues could be eligible for a group insurance program. In a worst-case scenario, if all 60 venues requested assistance from the City to pay quarterly premiums and were subsequently unable to repay the City, the estimated maximum financial impact could be approximately $750,000 over two years.

The program can be administered within existing staff resources.

DECISION HISTORY

In October 2020, City Council directed the Chief Financial Officer and Treasurer and the General Manager, Economic Development and Culture to report to the next meeting of the Toronto Music Advisory Committee on the feasibility of spearheading a group insurance program for live music venues with industry organizations such as the Canada Live Music Association.
http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.EC16.7

An update on this work was provided to the Economic and Community Development Committee in January 2021. The Committee directed staff to continue to explore City-led options for supporting an insurance program for Toronto live music venues and report with potential options to the Economic and Community Development Committee in March 2021.
http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.EC19.4

COMMENTS

Live music venues are at the heart of the city's music ecosystem. Live music venues support not just their own staff and the artists who appear on their stages, but also an extensive network of event promoters, booking agents, managers, publicity and media reps, and audio production technicians whose livelihoods depend on live performance. They also provide crucial steps for artists' career development, and have given platforms to generations of local musicians on their way to national and international stardom. Live music has developed alongside Toronto's cultural diversity to become a hallmark of our civic identity. As such, live music venues make a unique and irreplaceable contribution to the city's creative economy, transcending the impacts of restaurants, bars, and other hospitality businesses.

As the epicentre of the Canadian music industry and a leading city globally for music, Toronto has historically been blessed with a vibrant live music scene. Prior to the onset of the pandemic, over 500 locations were known to host music performances, and close to 100 bricks-and-mortar venues featured live music as either a primary or secondary element of their business. The 2020 "Re:Venues" study commissioned by the Canadian Live Music Association, Ontario Creates, and the City of Toronto to measure the impact of live music venues in Toronto found that Toronto's venues generate over $850 million in annual GDP contributions and provide the equivalent of 10,500 full-time jobs.

However, even before the pandemic, live music venues in Toronto had been facing an increasingly challenging situation for many years. Rising land values, rents, and property taxes along with the pressures of development in the downtown core has shuttered many venues. In several individual cases, and through citywide policies like the Agent of Change guidelines, the City has sought to protect music venues as vital to the city's cultural heritage - but a lack of effective tools to protect a group of businesses that rarely owns the buildings in which they occupy space has allowed significant attrition of Toronto's inventory of music venues during the last decade. As stated in the Re:Venues report, "each venue that closes in Toronto costs an average of 10 FTEs, $575,000 in annual GDP contributions, and $148,000 in provincial and federal taxes."

The COVID-19 pandemic has exacerbated an already dire situation. Toronto has lost approximately 15 live music venues since March 2020, with many more currently in desperate financial circumstances. Unlike restaurants and retail businesses, live music venues have had no opportunity to generate revenue during the pandemic, with provincial public health guidelines strictly regulating live music that very few venues found it feasible to re-open even during the modified Stage 2 orders of last summer and early fall. Moreover, live music venues - among the first businesses to close last March - will be among the last to re-open, and will very likely do so at reduced capacity and revenues.

Recognizing the sector's urgent need, City Council in May 2020 approved a recommendation originating with the Toronto Music Advisory Committee to add live music venues as a third stream of the pre-existing Creative Co-Location Facilities Property Tax Subclasses. The program launched in June 2020 and provided 48 venues with a 50% reduction in 2020 property tax. This intervention - the first of its kind anywhere in the world - will help to sustain many live music venues until re-opening is possible and will provide for increased long-term stability for Toronto venues that survive the pandemic.

However, further action on the part of the City is required to address the commercial insurance issue that has become urgent since the start of the pandemic. A recent survey by the Canadian Live Music Association found that insurance is now the most common cost area causing problems for the live music sector in Canada, with 60% of respondents indicating that they need additional support to pay for premiums. These concerns have been echoed locally by the "Love You Live" Toronto venue owners' group.

With their doors shut to the public throughout the pandemic, many venues have allowed their commercial liability policies to lapse, maintaining only the business / contents portions of coverage. But with incremental re-opening expected in 2021, venues will once again need commercial liability coverage in order to allow audiences into their premises. Moreover, as insurance coverage is a requirement of any venue's commercial lease, not carrying the required coverage puts venues in breach of their lease terms, subjecting them to eviction at any time. Without intervention on behalf of Toronto's live music venues, the threat of unaffordable or unobtainable insurance may force even more out of business, including some that have been assisted by the City's property tax relief program and might otherwise survive the other catastrophic impacts of the pandemic.

Other business sectors are already receiving support for rising insurance costs. The Insurance Bureau of Canada (IBC) recently launched the Business Insurance Action Team to help struggling small businesses in Ontario secure insurance with initial focus on Ontario-based small businesses in the hospitality sector. The solution through IBC requires the business to demonstrate that they cannot secure coverage elsewhere and may be viewed as a "last resort" as coverage offered is less broad than what can be found in the traditional insurance market. However, live music venues have informed City staff that they have been deemed ineligible for the program, which is currently targeted to restaurants, further emphasizing the need for the City to take action with a group insurance program.

Music industry-led discussions with the Province of Ontario aimed at bringing together the live music sector with insurers have not yet taken place, despite repeated communications and requests for meetings. Currently, then, live music venues in Toronto are without other viable options for helping them secure coverage.

Towards a City-backed Group Insurance Program for Live Music Venues

Program Components

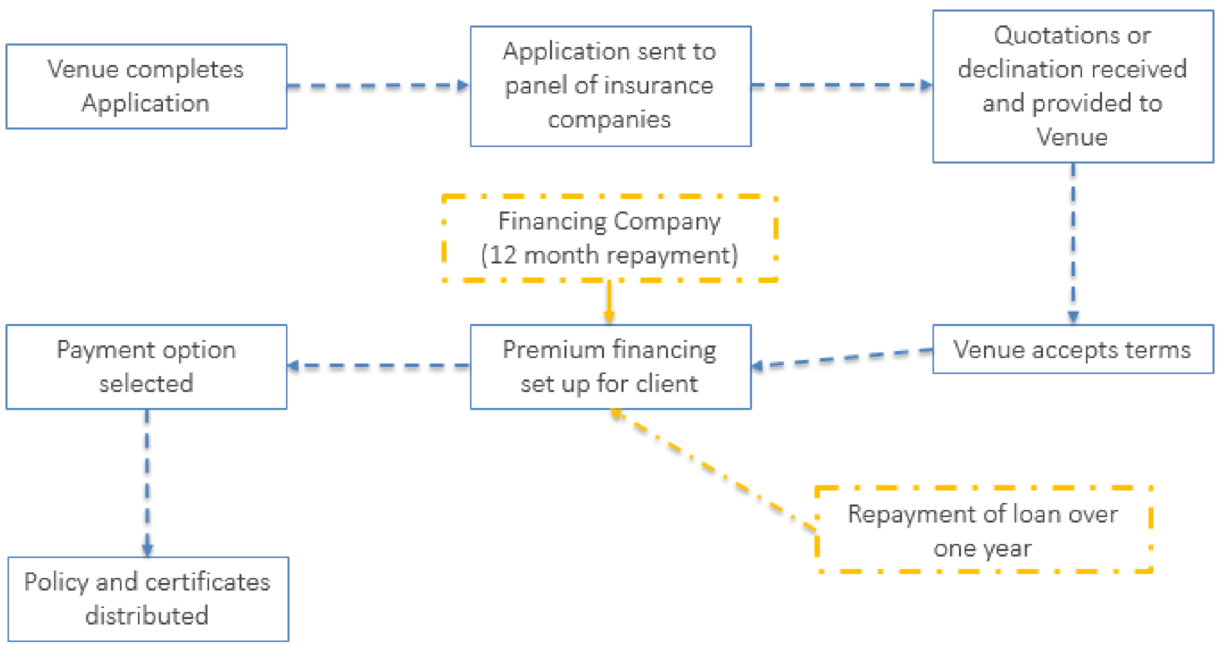
In shaping this proposal, the City of Toronto has consulted with members of the Toronto Music Advisory Committee who own venues in the city, as well as selected additional local venue operators, and the Canadian Live Music Association. On behalf of the venue operators, these industry experts have requested that a group insurance program include:

- multiple offers of coverage from different insurers;
- reasonable market value premium rates;
- reasonable deductibles; and
- overall flexibility in terms, including: payment plan options; cancellation clauses; adjustments for reduced short-term coverage until business rebounds, and in actual coverage options; opportunities to maintain on premises coverage only; and reasonably priced event-by-event coverage

Industry response indicates that a City-backed low-interest loan mechanism may be useful for new venues, or those otherwise facing serious and immediate cash flow issues. More established venues emphasize the need for a wider range of offers for coverage, focusing on the cost of premiums and deductibles. Therefore, instrumental in the City-backed program is for insurance carriers to gain a greater understanding of the venues' operations, business models, and importance to Toronto's economic and cultural framework, and encouraging insurers to offer live music venues reasonable and flexible coverage.

To enable the greatest opportunity for success, this proposal requires participation of 40 or more venues to leverage group buying power and to create the value proposition to insurance carriers. City staff can facilitate the connection with the venues and encourage participation. With a focused marketing strategy, the City's insurance broker would create a panel of insurance carriers who are interested in underwriting this risk with the goal of fulfilling the venue's insurance needs. Once the panel of insurers is established, venues would provide underwriting information to the insurance broker to be reviewed by the insurance carriers. Following the insurer's review, quotations or declinations are received and provided to the venue for review and acceptance. Premium financing arrangements are set up through the insurance broker if required by the venue and the insurance policy is issued.

Figure 1: Flowchart of the insurance purchasing process



Under this proposal, in the event the venue cannot make a quarterly payment to the financing company, the City would step in to make one payment on behalf of the venue. The venue would be required to repay this amount to the City. Should the venue not be able to pay the next premium installment, then the policy would be cancelled due to nonpayment of premium and a return premium may be calculated for the remainder of the term.

Should City Council adopt the recommendations, City staff would develop the administrative processes including any required agreements to enable the City to financially support the venues, if and when needed, and to limit the City's exposure to risk. Procedures would need to be established for accounts payable and accounts receivable including repayment terms for the venues.

Eligibility to Participate

To participate in this program, venues would be required to meet the same criteria used to assess eligibility for the Creative Co-Location Facilities Property Tax Subclasses. This includes demonstrating that the venue has appropriate infrastructure to support live music; meeting minimum requirements related to artist bookings and compensation;

employing regular venue staff or contract workers to fill core roles related to operating a music venue; having a maximum capacity of 1,500 persons; and having been in operation for at least 6 months.

In 2020, 48 music venues successfully applied for support through the Creative Co-Location Facilities Property Tax Subclasses. Staff estimate that up to 60 venues may choose to apply to participate in a City-backed group insurance program.

Benefits of Proposal and Risk Mitigation

Implementing such a program will allow City Council to provide high-impact, low-cost assistance to this vitally important sector, while increasing the likelihood of long-term sustainability and success for venues struggling to cope with the impacts of COVID-19. Utilizing the City's low cost of borrowing will assist venues that may not be able to access preferable terms for financing; and the City's support of Toronto venues may encourage insurers to offer more flexible and affordable policy terms than those offered to date.

While there are some risks associated with a City-backed group insurance program, they are considered to be minimal and can be effectively mitigated. With the requirement to pay back the City, there is a residual risk that a venue will not be able to pay back due to bankruptcy. As well, other sectors in the broader hospitality industries may request similar support; if so, City exposure would be increased if the program expands beyond live music venues. Lastly, while considered unlikely, a venue may falsely claim that it is financially unable to make a payment and request that the City do so. Without access to the venue's detailed financial information, the City will not be in a position to assess the truth of such a claim. However, a venue can only ask for financial support once over the two-year period.

If the program is implemented, at the end of the two-year period, City staff in Economic Development and Culture and Finance and Treasury Services will report back to City Council on the costs and benefits of the program, the degree to which it has been successful in assisting live music venues in securing insurance coverage, and an assessment of the value in continuing or ending the program.

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