

We've received calls from a music licensing company asking us to sign a music licensing agreement with them and pay a fee for use of their music. Do we have to sign the agreement and pay the fee?

You do not have to sign the agreement and pay the fee if your town does not have musical performances. However, many towns have parades, bandstands, summer concert series, and other public events at which music is played. Much of the music played at these events is cover music, which is copyrighted, and thus owned, by the original artist. The music licensing companies license and distribute the rights to perform these copyrighted pieces of music to other performers, retail stores, nightclubs, bars, and other places where copyrighted music is performed. If your municipality hosts these events, we strongly recommend that you sign the contract with the music company and pay the fee.

Some have questioned whether there is an exemption for municipalities, or for other non-profit entities, in copyright law. The answer is no. Even though municipalities are not making money on these performances, any time a copyrighted work is played in public, the performer, or the sponsor of the program must have the permission of the author, or owner, to play that work. The companies that distribute these works own the rights to perform them, and thus, municipalities, as do others who perform these works, must receive the permission of the copyright owners to perform the works. Note that there are three companies that own the rights to most of the world's music: ASCAP, BMI, and SESAC. Both BMI and ASCAP have negotiated a contract with the International Municipal Lawyers Association on terms that are reasonably favorable to municipalities. The rates are typically much lower than other organizations (i.e., retail stores) must pay for using copyrighted music. Contact the VLCT Municipal Assistance Center if you have questions or need more information on this topic.

*- Brian Monaghan, VLCT Staff Attorney
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