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## *Community Associations Newsletter*

### Parties, Alcohol, Liability and More . . . Common Legal Questions on the Use of Community Association Facilities for Social Events

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Several of our community association clients routinely have both official and unofficial events in their common party rooms or clubhouse facilities. Frequently, we must address how these gatherings affect the Association's liability.

Previously in Virginia any social event held in a community association common area where alcohol was served required a banquet license. While the relevant laws previously left some room for interpretation, the Virginia Department of Alcoholic Beverage Control (VABC) argued that these banquet licenses applied any time alcohol was consumed in a private community association facility. The VABC even went as far as declaring that a license was required when the alcohol served at the community event was brought in by a member or resident.

Effective July 1, 2011, the Virginia General Assembly eased these banquet license requirements for certain events held by

community associations provided that: (i) the alcoholic beverages may not be sold or charged for in any way, (ii) the premises where the alcoholic beverages are consumed is limited to the common area regularly occupied and utilized for such private meetings or private parties, and (iii) such meetings or parties are not open to the public.

While these legislative changes have exempted many social events hosted in community facilities from having to obtain a banquet license, we are still urging our clients to consider how alcohol is consumed in their community before they assume that their association does not need to require residents or Association agents to obtain a license from the VABC prior to an event where alcohol is served.

If your community association allows your clubhouse to be rented by members of the general public for events, the banquet license exemption discussed above will not

apply to these events and the persons renting your community facilities should still be required to demonstrate that they have a license from VABC prior to serving any alcohol in your Association's common facilities.

Also, if your community wants to allow alcoholic beverages to be consumed by residents at any time in common areas, the banquet license exemption may not apply as the alcohol being consumed in the common areas is not linked to a particular function or event.

In Maryland, the issue of serving alcohol in the common facilities of a community association varies by County. For example, Montgomery County has its own Department of Liquor Control which governs the sale and service of alcohol. In most cases, alcohol may be consumed by adults over 21 years of age at community events without a license in Montgomery County; however, if your Association intends to sell beer or wine at an event on the Association's premises, the Association should seek a temporary license for that purpose from the County. As detailed below, there may be other insurance factors that could be implicated by the sale of alcohol that your community should investigate prior to any such event.

In Washington, D.C., the Alcoholic Beverage Control Board oversees the

licensing process and must be contacted prior to hosting any event where alcohol will be served in community facilities.

Regardless of where your community is located, before your community hosts any event in the Association's common facilities where alcohol will be consumed, we urge you to contact your Association's insurance carrier to determine whether host liability insurance coverage exists for any alcohol related incidents on the common areas of your community.

Please note that even if your Association has a policy of host liquor liability insurance, there may be several common exclusions for coverage under the policy. For example, many such insurance policies exclude coverage for events that involve the sale or distribution of alcohol. Because these common exclusions are broadly interpreted by various insurance carriers, we routinely recommend that our community association clients not charge for the alcohol that is to be served at any community event and we further caution our clients that charging for attendance at events where alcohol will be served may also trigger an exclusion under their community's host liquor liability policy. For these reasons, this issue is one that merits discussion with your insurance carrier prior to planning any events in community facilities.

For these reasons, our Association clients must also consider whether they wish to allow members to host private events in common facilities. Some communities have rules or other prohibitions against allowing any single member to reserve the use of the common facilities. Also, even if your community may allow members to reserve common facilities for private events, it is important to know the details of the event in advance in order to ensure that the rental or reservation does not jeopardize the Association's available insurance coverage. Consequently, we recommend that any rental of common facilities must be subject to a written agreement between the member and the Association to confirm the type of event and to specify who will be responsible for the Association's insurance deductible or uninsured expenses resulting from an incident at any reserved or private event.

Generally, there are various steps that your community may implement to reduce your Association's potential liability exposure from hosting events where alcohol is consumed, and we strongly encourage our clients to take those steps.

As always, if you have any additional questions on the issues of license requirements and host liquor liability, please contact one of our community association attorneys.