

THE RISKS OF PROVIDING ALCOHOL AT A COMMUNITY FUNCTIONS

For many associations, the summer season represents a highly anticipated time to bring the community together. Whether it is for a pool party, weekend barbeque, or just to watch a game, neighbors will often find any excuse to plan an association-sponsored function. As such, the board of directors will inevitably be faced with many of the following questions:

- **What are the association's risks for providing alcohol at a community function?**

Under Georgia law, a provider of alcohol is generally not liable for injuries suffered by the consumer-or third parties who are injured by the consumer-unless the provider was found to be negligent. "Negligence" in this context is defined as that degree of care which is exercised by ordinarily prudent persons under the same or similar circumstances. So, to illustrate here, an association could be held liable if its agents knowingly continued to serve alcohol to a visibly intoxicated person and injury later results.

- **What can an association do to limit or avoid liability for providing alcohol?**

Common sense guidelines and procedures can greatly reduce the potential liability of an association. For example:

✓ Do not allow for self-serve alcohol at the community event. Rather, the association should designate responsible persons to serve the alcohol and to cut off any person who becomes visibly intoxicated.

✓ Take steps to ensure that no person drives while intoxicated by making a taxi service available, or organizing escorts home.

✓ Place a limit on the number of drinks provided.

✓ Check the identification of patrons who appear underage. If alcohol is served to a minor, the association can be held liable for injuries to the minor-and for injuries to others due to the minor's intoxication-even if the association was not otherwise negligent. Criminal penalties may also be imposed against the individuals who

serve alcohol to minors and against the association if the board of directors made any decision or created any policy that allowed alcohol to be served to minors.

✓ Hire a catering company to provide alcohol for the event. The contract should contain appropriate indemnification terms and confirm that the caterer is properly insured, licensed and in compliance with State law and local liquor licensing requirements.

- **Can an association avoid liability by hosting a "Bring Your Own Beverage" party, or by having the party sponsored by a sub-committee?**

Similar to the standard above, the general rule in Georgia is that any social host is liable for injuries only if the host is negligent. If alcohol is served to a minor, however, the association can be held liable for injuries to the minor and for injuries to others due to the minor's intoxication, even if the association was not otherwise negligent. And like before, criminal penalties may be imposed against the individuals who serve alcohol to minors and against

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the association if the board of directors made any decision or created any policy that allowed alcohol to be served to minors.

- **Can the association charge for alcohol at a community function?**

The association should never charge for alcohol at a community function. According to the Georgia Department of Revenue, Alcohol and Tobacco Division, unless the association obtains a proper liquor license, the association cannot legally charge guests (directly or indirectly) for alcohol at a private function. For instance, exchanging purchased tickets for drinks, or imposing a higher entrance fee to the drinkers versus the non-drinkers, are both considered "charging for alcohol" under Georgia law. Paying for alcohol from the general assessments collected from the owners, however, is not considered "charging for alcohol."

Finally, it is worth noting that the financial implications of a judgment against the association could be devastating-even a successful legal defense could be very expensive. To mitigate possible liability, the association should always review its insurance coverage before sponsoring a party that contains alcohol. If it has not already, the association should also consider purchasing a policy or rider for host liquor liability coverage in its general policy. This type of insurance covers the association's legal defense and any judgments (up to the policy limits) for claims resulting from injuries caused by a person who was served alcohol by the association.

Remember, summer is supposed to be fun, so with careful planning, association-sponsored functions can be safe as well as enjoyable for all.

