

Understanding Community Association Clubs



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Clubs

- Associations are home to private social, political, philanthropic and recreational clubs
- Need to clearly define clubs and their relationship to the Association
 - Entities separate from the committees assisting the Board
- Challenge is to optimize value to the community while minimizing risk to the association



Types Of Clubs

- Association-sponsored clubs (ceramics, bocce)
- Independent clubs without any national affiliations (Brooklyn Club)
- Local chapters of national organizations (B'nai B'rith Deborah)
- Informal groups



Independent Clubs

- Not sponsored by or linked to the Association
- Name of club is critical
 - Doesn't use the Association name in its name
- Need separate incorporation
- Application for federal ID
- Annual reporting
- Subject to state and federal tax in certain cases



Words Of Caution

- Be aware of public perception concerning a club's independence (name of club)
- Clubs using the association name can be perceived as being under the Association's purview
 - Even if independent, perception is that association is liable
- Use of Association's Federal ID number



Should Associations Be Responsible For Clubs?

- Some feel Associations are responsible for the common property
 - Not the gatekeeper/guardian of the community's clubs and social activities
- Others think clubs can place Associations at risk



Should Associations Be Responsible For Clubs? *(cont.)*

- We feel Associations need to oversee clubs, particularly as to:
 - Insurance liabilities
 - Legal liabilities
 - Fiduciary responsibilities for handling funds
 - Tax compliance and liability issues
 - Perceived responsibilities for activities



What Should An Association Do?

- Find a practical balance
 - Protect the association – risk management by not turning a blind eye to clubs
 - Allow clubs and residents to maintain their independence and enthusiasm
 - Manage to not alienate the sometimes fragile support of volunteers
- Clear delineation of Association-sponsored clubs vs. an independent club



What Should An Association Do?

(cont.)

- Be aware of all clubs on the property
- Smaller clubs can exist under an activities department; larger clubs exist independently
- Adherence to the the general standards of an activities department may preferable for clubs
- Ensures conformity to association standards of risk management while maintaining club independence



Create The “Club File” For Independent Clubs *(If You Can)*

- Consider annually requesting the following from independent clubs
 - Copies of documentation with club’s legal name, current bylaws, officers and membership list
 - Certificate of insurance for general liability naming the association as an additional insured
 - Copies of any necessary licenses or permits (alcoholic, beverage, bingo, etc.)



Create The “Club File” For Independent Clubs *(If You Can)* (cont.)

- Consider annually requesting the following from independent clubs (cont.)
 - List of proposed activities to be held on association property
 - Annual certification by the club board acknowledging compliance with all legal and tax requirements



Recognize The Scope Of The Association's Insurance Coverage

- Understand all the risks of club activities
- Clubs may not be covered by their insurance policies in terms of lawsuits
- Association's coverage only extends to club members acting on behalf of, and at the direction of, the association
 - This is true even if a list of clubs was provided to the association's insurer



Recognize The Scope Of The Association's Insurance Coverage

(cont.)

- Association (as the owner and facilitator of the property) may be named in a lawsuit
- Off-site club activities are generally not covered by the association's insurance
 - Inform residents that certain club activities are not covered under the association's insurance



Minimize Risk When Alcohol Is Involved

- Clubs serving alcohol at their events must do one of the following
 - Include “alcoholic beverages” as a line item in the clubs annual budget; don’t charge for alcohol
 - Ask club members supply their own beer and wine
 - Hire a caterer with a liquor license that can be used on the association’s property



Minimize Risk When Alcohol Is Involved *(cont.)*

- Clubs serving alcohol at their events must do one of the following *(cont.)*
 - Obtain a special events or club license
 - BYOB cannot include set-ups for hard liquor
- Association must advise that alcohol may not be served on the premises by any club if the above conditions aren't met.



Potential Financial Risks

- Loss or theft of funds
- Incorrect record keeping
- Expenditures for inappropriate purposes
- Political contributions
- Sales and tax issues
- Dependence on a single volunteer for custody



Implement Financial Reporting And Controls

- Boards should not turn a blind eye towards groups running enterprises
- Club activities (other than independent clubs) should be included in the association's financial statements
 - At minimum in connection with the annual audit
- Independent clubs and clubs operating under a national organization are not required to be included in the financial statement



Implement Financial Reporting And Controls *(cont.)*

- Associations are likely to be held responsible for:
 - Clubs' financial reporting
 - Fiscal control
 - Tax reporting and filing
 - Any failures in these areas
- Mechanism for oversight of detail, receipts and disbursement is necessary
 - Internal audit function
 - Board reporting
 - Annual audit procedures



Report Income Tax Liabilities For Independent Clubs

- Clubs may be subject to tax on income
 - Dues
 - Outside fundraising
- Clubs operating as independent entities may be tax-exempt
 - Must meet certain IRS requirements to qualify as “social club”
 - Must apply for tax-exempt status



Report Income Tax Liabilities For Independent Clubs *(cont.)*

- Must annually file Form 990 or 990EZ
- Association responsible for income tax implications of clubs that aren't independent



Report Sales Tax Liabilities

- Items purchased by clubs are subject to sales tax
- If sales tax is not charged, the club may be required to pay use tax
 - Specific compliance rules
 - Important for clubs to be aware of and comply with any regulations
 - Dependent on the state where the clubs operate
- Applies to independent clubs and those operating under the association



Concluding Thoughts

- Associations and clubs have an interdependent relationship
 - Associations promote lifestyle; vested in quality of life
 - Clubs provide the promised lifestyle
- Problems can be avoided
 - Associations should take steps to educate volunteers & structure clubs appropriately
 - Allow clubs to function freely within this structure



Concluding Thoughts *(cont.)*

- Resulting guidance and transparency will help avoid serious risk while enhancing quality of life

