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Clubhouse Use and "Social Hosts"

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Many manufactured home communities have clubhouses for park and social events. Those events may be sponsored by the Park, but are also frequently sponsored by individuals or groups that reside within a given manufactured home community. An ongoing issue in many parks is whether to allow the service of alcoholic beverages at events held in a park's clubhouse. My firm, as a generality, always encourages any park owner that allows the use of a common area facility for an event where alcohol will be served, to require some form of additional adequate insurance.

California, over the past forty-five years, has been subject to a statutory scheme where a "social host" is generally immune from civil liability for serving or providing alcohol. That statutory scheme has recently been addressed by a decision by the California Supreme Court entitled *Ennabe v. Manosa.*

The case addressed a situation where a person who would generally be considered a "social host," was deemed to be potentially liable for an automobile accident and consequent wrongful death arising out of serving alcohol to an intoxicated person.

The California Supreme Court decision, which was a unanimous 7/0 decision, commenced by noting that in 1971 the Court: "Decided three cases that together reversed decades of previous law and recognized, for the first time, that sellers or furnishers of alcoholic beverages could be liable for injuries proximately caused by those who imbibed."

The California Legislature, in response to the Supreme Court's trilogy of decisions in the early 1970's, enacted legislation that created civil immunity for "social hosts." However, the Civil Code's Immunity Statute specifically exempts two classes of people. First, any person or entity that is licensed to sell, furnish or give away alcoholic beverages can be held liable if they sell alcoholic beverages to an obviously intoxicated minor. However, there is a second exemption that states that "any other person" who sells alcoholic beverages to an obviously intoxicated minor would also be subject to civil liability, and lose the statutory civil immunity, if there is an accident resulting in bodily injury or death. The potential liability is limited to those "other persons" who actually sell the alcohol. Thus, statutory immunity remains the general rule for any person who is not a licensed provider of alcoholic beverages who merely furnishes or gives drinks away.

To place this concern in context, let me briefly describe the facts at issue in the case before the California Supreme Court. The defendant, Jessica Manosa, arranged to have a party. She then, according to the allegation in the complaint, charged an "entrance fee" to at least some of the guests at the party, including the minor who died in a subsequent accident. The entrance fee was to pay for the alcoholic beverages being provided. The issue before the California Supreme Court was whether the person who was having the party, and who effectively charged an "admission fee" could lose the statutory immunity.

The Court, in a fairly extensive opinion, ruled unanimously that by virtue of the allegations in the complaint, the named defendant could be deemed to have engaged in the activity of selling alcoholic beverages to an obviously intoxicated minor and, therefore, could be subject to civil liability for the resulting wrongful death.

What does this mean for manufactured home communities? It certainly means that in the event a community owner allows residents, as is generally required in California, access and use of a park's clubhouse facility, the decision needs to be made, in the first instance, whether to even allow alcoholic beverages to be served. Assuming that the decision is in the affirmative, a secondary decision is what type of insurance, and the dollar amounts, to be required. A new and third decision also becomes important in view of this new precedent from the California Supreme Court. Specifically, a park owner, and any resident of a park, should bear in mind that charging any type of a fee to come to an event could well mean that you have engaged in the activity of selling any alcoholic beverages that are provided. California's immunity statute focuses on providing alcohol to underage people. Some states could well have a more expansive view. Other jurisdictions could continue to reject even the premise for liability allowed in this most recent appellate court decision.

Whether California's Supreme Court decision will be a harbinger of issues faced nationwide, or will be a footnote in the saga of when and where alcohol is allowed, remains to be seen. However, this recent case certainly is a decision that should be considered by community owners and managers in deciding how and in what circumstances alcohol will be allowed in clubhouses and other recreational facilities.

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