

Understanding the Risks of Serving Alcohol at a Community Function

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The pool was sparkling in the evening light as the music blared from the clubhouse. The members of the homeowners association and 50 of their closest friends from outside of the neighborhood all gathered for the Memorial Day evening pool party, which had been an annual tradition at the Shady Grove Subdivision. Everyone was having fun, but unfortunately there were a few guests that had a bit more "fun" than everyone else as a result of their repeated trips to the bar. Those guests claimed they were drinking "their money's worth," since the drinks were only \$2.00. However, the unfortunate reality is that while Shady Grove's party was fun and a great way to meet the neighbors, the association was at risk for citation by The Department of Revenue, Alcohol and Tobacco Division.

I have had many party invitations rescinded by boards when I discuss the liability associated with alcohol being served at community parties, but unfortunately it is imperative for all associations to review their alcohol policy and ensure that it is, to the extent possible, best prepared for alcohol related activities. There is no magic formula or legal document that can guarantee that the association will not be held liable in the event of an alcohol related accident or injury, but there are recommended steps that each association can take to ensure that they are best prepared in the event something unfortunate does occur. Here are some general topics that each association should review with their legal counsel and insurance provider to ensure that they are best protected.

1. Consult your insurance agent to ensure that the association is properly insured for an event where alcohol will be served before the party is scheduled. Host liquor insurance is the additional coverage that is typically needed for associations who will be having alcohol at a community function. The association's insurance agent will also be able to review the associations' general liability policy and make additional recommendations.
2. Do not charge for the alcohol. The Georgia Department of Revenue, Alcohol and Tobacco Division has ruled that there is not a legal way for an association to charge for alcohol served at an association party, unless the proper liquor license is obtained. Most associations choose to not obtain the required licenses, and therefore, look for other acceptable ways to handle their parties. One way to avoid the licensing requirement is for the association to pay for alcohol from annual assessments collected from homeowners is not "charging for alcohol," but by funding the alcohol there is a list of other liability issues that come into consideration. Some associations choose to have a "bring your own alcohol" party where each guest is responsible for furnishing their own alcohol. Another common option which has been deemed acceptable by the Georgia Department of Revenue, Alcohol and Tobacco Division is if the entrance fee to the party is for the food and/or entertainment and a two-ticket maximum for "free" drinks is included.

3. Do not serve any alcohol to a minor and ensure that all alcohol is stored in a place that a minor cannot gain unauthorized access to it. This pointer may seem like common-sense, but it is surprising what a strong willed and creatively-minded minor can come up with when he/she wants to partake in the party fun. In the event that a minor is served alcohol, liability is possible for both the association and the server; therefore, it is recommended that the board of directors establish a written policy that prohibits providing alcohol to minors on any occasion.
4. Have attendees sign a release. With respect to alcohol related injuries, the general rule in Georgia is that the provider of the alcohol for a function is not liable for alcohol-related injuries suffered by the consumer of the alcohol. With this being said, some courts have held the provider liable for the acts of an intoxicated person where the host knowingly continued to serve alcohol to a noticeably intoxicated person and knew that the person was going to drive and an injury resulted to a third party. A release that is signed by the guest before any alcohol is consumed could be useful to the association's defense in the event a claim is made.
5. Establish an alcohol policy. The board should develop and implement a written policy on how the alcohol will be served and how the board and/or servers will deal with visibly intoxicated persons. It is a good idea for the Board to use servers that are not members of the association and who are not partaking in the festivities. These servers should be instructed as to the requirement that proper identification always be provided either when the drink is ordered or through some type of identifications system (i.e. armbands) as the guests enter the party. Guidance should also be provided to the servers as to their responsibility in deeming a guest intoxicated and terminating the alcohol supply. In addition to the servers, it is also a good idea to set a number of maximum drinks per guests and to have designated drivers available to drive any guests home who have been deemed to have had too much to drink or who request a ride.

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