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October 2012

Privacy Matters

Private Club Websites

by Jackie Abrams, Communications Manager

In the digital era, websites are often the primary source of information about almost any organization. Most businesses use their websites to sell products or services. However, private clubs are not like traditional businesses open to the public, and their websites need to reflect that difference.



Privacy Matters

Private status is one of the elements that make private clubs truly unique. When clubs advertise in any form, it can put their private status at risk. In order to protect their privacy, clubs should be very careful not to market or advertise club services, facility use or membership to the public.

The courts have identified key indicia for maintaining a club's private status that are not very forgiving when it comes to advertising. Clubs derive their private status from the fact that they exist for the sake of their members' social and recreational use of the facilities. Also a factor in determining private status is the right to exclusive association. When courts try to determine whether a club is truly private, they look to the degree of exclusivity and nonmember use of facilities.

Awareness advertising that is available to the public on websites can be construed by the courts as advertising to nonmembers. Thus, the sections of the club's website that are available to the public should not include information that could be seen as promoting the club's offerings or services. All public information about clubs and their activities should be carefully controlled and curated to ensure that there is no risk to private status.

The Club Website

The club website should be seen as an extension of the club itself. Just as a private club does not allow unaccompanied visitors to explore the clubhouse or its facilities, the club's website should present a very limited view of the club to the public and nonmembers, reserving the majority of the club's website content and features for the private, members-only, password-protected portion of the site. This way, the club maintains a clear separation between its members and the rest of the public at large.

To avoid challenges to private status, it is recommended that private clubs avoid:

- Advertising membership to the general public
- Encouraging applications for membership from the general public
- Extending an open invitation for anyone to visit the club
- Promoting the use of club facilities for rentals or special events to the public
- Providing information concerning the club's activities or membership to the public
- Publicizing the member activity calendar or dining menus to nonmembers (club calendars and menus should only be accessible from the private side of the website)

For additional information about maintaining your club's private status, see [The Legal Reference Guide for Private Clubs](#) and [Private and Tax-Exempt Status](#).

Jackie Abrams is NCA's communications manager.

Ask The Experts

Have a question you'd like to ask one of our experts? Please submit it below.

Name:

WEBINARS

[2013 Financial Outlook for Clubs](#)

Date: October 10, 2012
Time: 2:00 pm - 3:00 pm
Speaker: Kevin Reilly, Witt Mares

The last few years have been very difficult for clubs: 2012 has been better, but many clubs have not as of yet turned the corner. Consumer confidence remains weak, which affects the number of potential members. The outcome of the election will have a dramatic impact on the economy, and regardless of the results, economic recovery will be slow. What does this all mean for clubs? What can we expect for 2013 when so much of the success of a club depends on the available discretionary funds of members and potential members? Learn how clubs are staying financially healthy in these uncertain times.

[Election Review: 2013 Outlook for Private Clubs](#)

Date: November 14, 2012 and November 28, 2012
Time: 2:00 pm - 3:00 pm
Speaker: Brad Steele, National Club Association

With the dust settled and the votes counted, the results of the 2012 elections will have a significant impact on the private club industry in many different ways. Come join Brad Steele, NCA's vice president of government relations and general counsel, as he reviews what took place in the U.S. House of Representatives and Senate races and what the results will mean for our industry. He will also provide expert analysis of the White House result and discuss what policies we can expect from the man who holds the keys to 1600 Pennsylvania Avenue.

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Taking Out Food Means Taking on Risks

The private club industry is [changing with the times](#)—embracing new members and new trends to help clubs stay relevant and competitive in the future. Unfortunately, some of these changes and new programs endanger one of the things that many private clubs value—their tax-exempt status.

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