

A legal problem in hospitality industry

Family



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Legal problem in the hospitality industry The Safety Rules and Regulations for Public Swimming Pools Swimming pools are generally covered by safety rules and policies by the government. These rules are often implemented by health districts to enforce “ minimum standards of health, safety and sanitation for all public swimming pools in the state.” (Idaho code No. 56-1003 (3)d.) Ordinarily, the safety rules are implemented to semi-public pools that include hotels and motels of the hospitality industry and the public pools maintained by municipalities, public schools, community and institutions.

Step 1. Legal cases. In many instances, as will be related here, the inability of owners of the swimming pool to follow safety rules requirement cause these accidents and drowning that lead to filing of court cases. Ken LaMance, and a Managing Attorney of the Legal Match contend that a hotel or a resort may be liable for being negligent or in providing inadequate lifeguards in the swimming pool. LaMance cited a case upheld in court wherein a 9 year old boy drowned in a YMCA swimming pool because of inadequate supervision in the pool. There was only 1 lifeguard assigned to 38 boys, who at that time, according to witnesses, was busy reading newspaper. The court ruled that 1 lifeguard was not enough to look after the number of boys swimming at that time. Lack of safety equipment or safety instruction could also be a ground for liability case for swimming pool owners, LaMance said. Relative to this, the Virginia Graeme Baker Pool and Spa Safety Act 15, U. S. C. #8001, signed by President Bush on December 19, 2008, is a reminder of the death of the granddaughter of former U. S. Secretary James Baker, who died in a tragic drowning accident after she was trapped under water by the suction from the Spa drain. From then on, all operators of swimming pool are required to have trap covers, or they will not be allowed to open. Non

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compliance of this Act is considered a violation of Consumer Product Safety Act and will be subject to fines of \$100, 000, with a maximum cumulative fine of \$15, 000, 000. (Goldsmith, Carolyn B. & Shupe, Michael, n. d). Signs and markings have been found vital to warn swimmers on the depth of the pool. This is particularly specified in Regulation 61 that provides specific rules that should be followed by swimming pool operations regardless of whether it is a community pool or a resort hotel. A case filed before the Supreme Court of Delaware argues whether Regulation 61 establishes the standard of care for pools. Regulation 61 requires that “ every swimming pool and public bath must employ lifeguard personnel and first aid personnel...., “ that there must be clear signs to indicate the depth of the swimming pool and a separator for those who are able to swim and not able to swim” (cited in Supreme Court Case in Chan Lee v. Choice Hotel). In this case, plaintiff, the Lees, contends that Young Chan Lee, aged 7, suffered from a permanent brain damage after he nearly drowned in the swimming pool of the Quality Resort Hotel in Bali, Indonesia on May 6, 2001. The Lees claimed that the hotel is liable for this damage as it has been negligent in providing lifelines or separators between shallow and deep waters that indicate change of depth. The Lees claimed that the lifeline is placed in the deep part of the pool where young Lee almost drowned. The Lees further said that there was no lifeguard posted, neither a warning sign posted that there is no lifeguard on the place. The Lees argued that this negligence is a violation of the safety law in Indonesia. On the other hand, Quality Resort Hotel, which is a franchise of Choice Hotel, a Delaware Corp., and an international company that operates worldwide, argues that signs were posted at the entrance of the hotel that there is no lifeguard at the hotel. The <https://assignbuster.com/a-legal-problem-in-hospitality-industry/>

hotel further argued that the Lees were properly advised by the tour guides to watch their own children because they do not have lifeguard. The design has been an important issue here because it is an imposed design of the Choice Hotels in all of its franchised hotels worldwide. Therefore, in that case, designs are subject to the Delaware legislations that stipulate Regulation 61 that should be followed by operators of swimming pools. After long years of litigation, case was resolved and remand granted to Lees after the first resolution favored Choice Hotel in the case. LaMance further illustrated liability of swimming pool operators for injuries caused by lack of proper depth markings. Cited example is the case of a 13 year old boy who attempted to swim at the shallow end of the pool but “ was somehow pulled under water” and was found floating at the deep end of the pool, face down. The operator of the swimming pool was held liable for violation of the safety rules that require a permanent readable depth marking. Step 2. Advices to swimming pool operators. Drowning, injuries and other accidents can be lessened in swimming pools and resorts and therefore it is advised that operators follow guidelines set by authorities. First advice here is the design of the pool should have drain covers as they would not be allowed to operate without this. (Goldsmith & Schupe, n. d). Along with the design is the need to have depth markings to warn people of the change of depth of the water (LaMance). Lifesaving is of utmost importance in pool operations, and therefore employing certified lifesavers should be done (Tucker, 2010). The correct requirement as specified in Pennsylvania is 1 lifeguard for every 4, 000 square feet of water, or two lifeguards on duty at all time (Geir, Candice, 2010). Under this rule, lifeguard certification should come from American Red Cross and must be re-certified every three years. On special events, an

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additional lifeguard is required to be present near the pool at all times to watch over guests. Lifesaving devices should always be available in the pool such as ropes and poles for distressed swimmers, floaters, lifesaving gears and first aid kits. Pool operators should also make their own house rules that should be clearly posted so that every bather in the pool should know. It will be the duty of the lifeguard to constantly remind bathers of the rules for the guests' protection. Some of the rules that could be designed are to keep off from making the pool as a wide play area, no playing in the diving boards, and making sure that there is only one diver at the board at a time, and swimmers should keep away from the area when divers enter the water to avoid accidents and injuries (Tucker Wesley, June 25, 2010). The foregoing legal examples of non-compliance with safety rules and advices provided herein should be enough guidelines for pool operators for sustained profitable operations in the hospitality industry. Pool operators can make their own design of safety that conforms to policies set by the government authorities. References Geir, Candice . 25 June 2010. Swimming pool safety laws in Pennsylvania. Retrieved 17 Feb. 2011 from http://www.ehow.com/list_6654360_swimming-pool-safety-laws-pennsylvania.html Goldsmith, Carolyn B. & Shupe, Michael. N. d. New Federal Pool and Spa Safety Requirements. Retrieved 17 Feb. 2011 from www.mmgm-law.com/pdf/virginia.pdf Idaho code No. 56-1003 (3) (d). 07, June 2001. Correspondence to Administrator Richard Schultz, Division of Health, Department of Health & Welfare, Guidelines for the Attorney General. Retrieved 17 Feb 2011 from www.ag.idaho.gov/publications/op-guide-cert/2001/g060701.pdf Legal LaMance, Ken. 26 Sept. 2008. Liability of a Hotel or Resort for Swimming Pool Injuries. Retrieved 17, Feb. 2011 from <https://assignbuster.com/a-legal-problem-in-hospitality-industry/>

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