

California court rules tee-time favoritism illegal

By NANCY SMITH

After 100 years of waiting, a recent California Supreme Court ruling may give women golfers the same access to club tee times as their male golfing counterparts.

The court recently decided in favor of Mary Ann Warfield, who fought a 14-year court battle with the Peninsula Golf and Country Club in San Mateo to win the right to hold a full-fledged membership. Her challenge was built on a 1897 state law entitling everyone, including women, free and equal access to all California businesses. Earlier this year, the California Supreme Court ruled the private golf club qualified as a "business establishment" under the Unruh Civil Rights Act, and therefore could not discriminate against a potential member. The landmark decision should change the way private clubs and selective membership associations in California operate and organize themselves.

Ms. Warfield's story began in 1970 when her then-husband, Richard, purchased a family membership in the Peninsula Golf and Country Club in San Mateo County, in Northern California. Ms. Warfield, an avid

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golfer and daughter of a golf professional, enjoyed the club with her family for many years. She actively participated in club activities, was a member of the ladies golf team, and won several ladies club tournaments.

The complications started in 1981, when Ms. Warfield and her husband divorced. The couple's divorce settlement granted ownership of the club member-



ship to Ms. Warfield. But, according to club rules, family memberships were limited to ownership by the husband. As a result, the club's governing board terminated the membership. The club tried to buy out Ms. Warfield's interest for \$6,129.15, the membership's redemption value. Ms. Warfield refused to sell her interest back to the club.

As a longtime member, Ms. Warfield not only enjoyed her golfing privileges, but also used the club in her real estate business. The board tried to get around the awkward situation by creating a lesser "class" of membership for women which

she could buy for \$10,000. Again, Ms. Warfield said, "No, thanks."

Ms. Warfield then sued. She claimed the club's exclusion of her membership based solely on the fact she was a woman was discriminatory. She contended the club was a business under California law. Since 1897, California has quartered free and equal access to state businesses by anyone, regardless of gender, race, color, religion or other minority status.

Since 1981, Ms. Warfield has been engaged in a legal battle with the club, which claimed it had the right to bar her from membership because it was a "private social club" and not a "business" governed by the California law. Twice the case was heard in the trial court, twice it went up to the California Court of Appeal. More than 10 years later, the California Supreme Court ruled that the club had to follow the same rules as other businesses in the state.

The decade-long battle centered around the club's claim that it was a private club and not a business establishment. As a private club, it claimed to be exempt from the state's anti-discrimination laws. The state's highest court agreed that a truly "private" club would not be governed by the law and would be protected by constitutional rights to privately operate as its members chose.

However, the court ruled that Peninsula Golf and Country Club was not actually "private" because it conducted significant business with nonmembers. The golf and tennis "pro" shops located at the club were open to the general public as well as club members. Members of the public could book lessons with the shop pros at club facilities. The club allowed its facilities to be used for "sponsored events" in which a member would sponsor a nonmember to host a wedding, bar mitzvah, fashion show or dinner. Guests at such events could buy food and beverages from club facilities. Also, nonmember employees could use the club's facilities. Several local high schools were permitted to use the golf course during nonprime hours. In essence, the court held that the club could not buy and sell services to the public, and still claim at the same time to be entirely private.

"Through a variety of activities," the court wrote, "the club obtains both direct and indirect financial benefits from regular business transactions, conducted on its premises, with persons who are not members of the club."

The state's nondiscrimination law applies to "all business establishments of every kind whatsoever." Under this description, Peninsula Golf and Country Club was a business, rather than a private club, ac-

CMAA to hold 2nd Club Issues Forum

ALEXANDRIA, Va. — The Club Managers Association of America (CMAA) will host the Second Annual Club Issues Forum Nov. 18-20 in Palm Desert, Calif.

The forum is designed for managers, directors, owners and administrators of private clubs. The three-day event will provide an opportunity for managers and board members to look at their roles and responsibilities and how they can effectively work together to provide optimum services to members.

In addition, the chief operating officer concept will be presented as part of the roles and responsibilities discussion and effective planning explored as critical to establishing continuity and direction. Legal, regulatory and tax issues will also be presented.

Facilitator Tarun Kapoor, director of the Professional Institute at California's Polytechnic University's School of Hotel and Restaurant Management, will challenge participants to evaluate what they are doing in their own clubs.

Charles Rumbarger and Gerald Hurley will also make presentations. Rumbarger is the owner of Association Management Group, an association management and consulting firm. Hurley is president of Washington-based Association Executive Resource Group, a firm specializing in consulting and executive search for trade, professional and philanthropic organizations. For more information, contact CMAA at 703-739-9500.

According to the California Supreme Court.

The club also argued that members had a constitutional right to associate with whom ever they chose. Imposing restrictions on the club's ability to choose members would violate its members constitutional rights of freedom of association, the club stated.

The court rejected the club's assertions. The club was not organized for a religious or fraternal purpose. The club was large and gave unrestricted access to its facilities. Elimination of the men-only membership would not fundamentally alter the nature of the club or its purpose, according to the court.

"The club's golf, tennis, and other recreational and social facilities generally have been open to women," the court wrote, "and women routinely have held nonproprietary classes of memberships within the club."



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