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Pool Not Covered by Policy on Clubhouse

BY WILLIAM JABINE

Whether a swimming pool can be considered a "building" or an "addition" thereto so far as coverage by an insurance policy is concerned, was at issue recently before the supreme judicial court of Massachusetts. The swimming pool was located on the lower level of a double terrace in the rear of the clubhouse of a country club in North Reading. Some boys broke into the pro shop one night. They stole some articles and then went over to the pool where they did damage estimated at \$29,000 and threw various objects into the pool.

When the man in control of the club, (he was a contractor who had done extensive work, taken a mortgage in lieu of payment and upon default had obtained possession of the premises) attempted to collect from his insurance company, the company refused to pay on the ground that extended coverage for vandalism did not include the swimming pool.

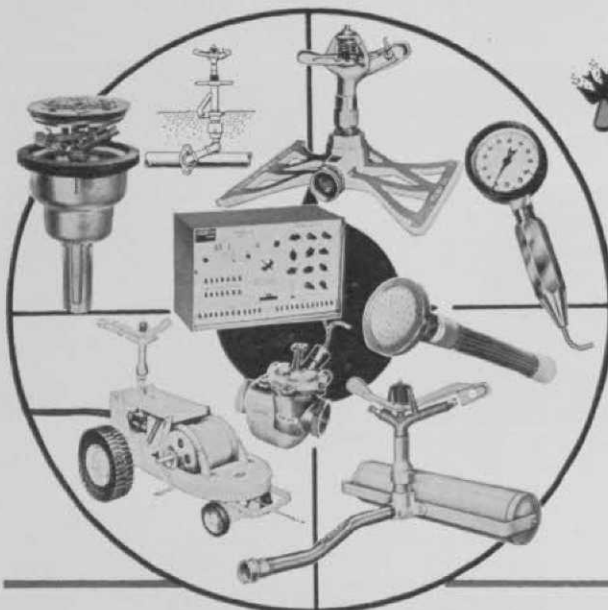
The aggrieved policyholder brought an action against the insurance company. The superior court directed a verdict in favor of the insurance company and the policyholder appealed to the supreme judicial court. As indicated, the decision turned on the question of whether the pool could be considered a new building or an addition to the clubhouse. If it could be so considered, it was covered by the insurance policy.

The supreme judicial court ruled that the pool was neither a new building or an addition to a building. Thus the insurance company was not liable. The court said in part:

Not Designed for Occupancy

"The pool cannot be regarded as a new building. Although it is below ground, that in itself is not fatal to the contention that it is a building. (Citation). It certainly is not a structure designed for human occupancy or use except for a limited and specialized purpose; it is not covered with a roof and it does not come within the ordinary concept of a building. (Citation)

"The term, 'addition', most aptly describes an enlargement of what previously



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existed as a piece of construction of the same general character, having some definite connection and continuity of use with the basic building. In considering whether the swimming pool is an 'addition' to the clubhouse, it must be recognized that any connection between the two is only by the tenuous link of the upper 30-foot wide concrete terrace, then some 12 to 15 steps and the apron portion of the lower concrete terrace in which the pool is set. There is, of course, a very general community of use in that the clubhouse and the pool are both used for recreation. The manner of use of the clubhouse and the pool, however, is substantially different, so much so that, in ordinary parlance, the use would not be thought to be the same.

Not An 'Addition'

"Although an open, uncovered swimming pool may be a 'structure' (Citation) it does not seem to us to come within the usual meaning of the term 'addition' which, in ordinary usage, refers to buildings or parts of buildings. We perceive no such obscurity in the term, 'addition', as to warrant extrinsic evidence of negotiations as an aid to interpretation of a standard

provision of the complete, integrated expression of the parties agreement in the policies. (Citations.)"

The allusion to evidence of negotiations refers to the plaintiff's attempt to prove, that when the policies were written, he had made it plain that coverage of the swimming pool against vandalism was intended. (Joseph E. Bennett Co.v. Fireman's Fund Insurance Co., 181 N.E.2d 557.)

USGA Junior Program

Golf House of the USGA publishes a booklet, "A Junior Golf Program for Your Club and District." The 16-page booklet covers organization of the program and discusses age limits, instruction, conduct, playing privileges, tournaments and several other subjects. A section also is devoted to district and national programs, and the rules of amateur status are reviewed.

Pacific Northwest Golf Assn. has changed the site of its Junior Boys' Championship from Corvallis, Ore. to the Tualatan (Ore.) CC. It will be played Aug. 26-30.