

of a shelter being struck by lightning is so remote as to be beyond the requirement of due care. Therefore, the injuries and damages of the plaintiffs were not caused in whole or in part by any negligence of the defendants. Bare possibility is not sufficient. 'Events too remote to require reasonable provision need not be anticipated.' *Brady v. Southern R. Co.*, 320 U.S. 476, 64 S. Ct. 232, 88 L. Ed. 239."

The action of the trial court in dismissing the plaintiffs' complaints and holding the club blameless for the unfortunate accident was affirmed. The plaintiffs attempted to take the case to the Supreme Court of Tennessee, but a writ of certiorari was denied. (*Davis v. Country Club, Inc.*, 381 S. W. 2nd 308.)

### **USGA Counsel Clarifies Revenue Ruling Covering Use of Club by Public**

Lynford Lardner, Jr., general counsel of the USGA, has announced that the Internal Revenue Service has issued a new revenue procedure (64-36), to be used in determining what effect gross receipts from use of a club by non-members have on the club's income-tax exemption. A club may occasionally make its facilities available to the general public, but repeated use of this nature may be held to constitute engaging in business and result in revocation of its exemption. The purpose of the procedure is to provide minimum standards only with respect to non-member use and its application presumes that a club is not engaged in other activities that might jeopardize its exempt status.

If a club's annual gross receipts (defined as receipts from normal and usual club activities including membership fees, dues and assessments, but excluding initiation fees and unusual or non-recurring receipts such as income from the sale of club assets from the general public are \$2,500 or less) the gross receipts factor alone will not be sufficient to demonstrate that a club is engaging in business. Where annual gross receipts from the general public are more than \$2,500 the gross receipts factor alone will not demonstrate

that a club is engaging in business if the percentage of gross receipts from the general public is five per cent or less of the club's total annual gross receipts.

### **Members' Guests Excluded**

Club members, their bona fide guests and visitors who are members of other exempt clubs and use the club's facilities under reciprocal arrangements are excluded from the definition of general public. When club facilities are made available to an outside group through arrangements made in a member's name, the persons comprising the group do not constitute bona fide guests. This is so regardless whether arrangements were made for the convenience of members, the club derived no net profit from the operation, the outside group was a non-profit organization, or the club in no way advertised for or solicited such patronage by the outside group.

However, if it can be shown that 75 per cent or more of the total number of persons in the outside group were members of the host club, the group will be considered a member group and no part of such group will be considered the general public. Otherwise, all receipts from the group will be treated as derived from the general public unless the club can demonstrate from its records the portion of such receipts that came from host-club members.

### **Defined as "General Public"**

Non-members who pay for the use of a club's facilities either by payment directly to the club or by reimbursing a sponsoring member are apparently considered the general public. They are distinguished from bona fide guests whose use of club facilities is paid for by a member without reimbursement from the guests. A club will not be permitted to rely on the new minimum standards unless it maintains books and records that clearly reflect the frequency of use of its facilities by non-members and the gross receipts derived therefrom.

### **Virginia Turf Conference**

The Virginia Turfgrass conference will be held Jan. 27-28 in the Hotel John Marshall in Richmond.