



THE DOCTOR'S REQUEST: *DISCLOSURE VS. EXPOSURE*

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Consider this not-so-hypothetical situation:

A physician buys a home next to a golf course. Drinking water for her new home is supplied by a well. She has young children and is mildly concerned about the quality of the water in the well and wants to have it tested. She contacts a local laboratory and they tell her that she will need to provide them with a list of potential contaminants to help narrow their analysis of her well water. She calls the golf course and reaches the clubhouse manager. She explains her situation in reasonable terms and asks for a list of the pesticides commonly used by the golf course. The clubhouse manager promptly turns the request over to the club's attorney who decides not to divulge the information. The doctor is not amused.

Thus, a simple question asked by a golf course neighbor has escalated into a legal/liability exposure issue—not to mention a potential public relations nightmare. How should the course handle the question of disclosure vs. exposure? Although there is no simple answer, a quick review of the options is enlightening.

Does the golf course have a common law legal duty to disclose the list of pesticides? Probably not, unless the

homeowner files suit and asks for the list as part of the legal discovery process.

Does the golf course have a statutory or regulatory duty to disclose the list? Probably. The laws governing "community right-to-know" require golf courses to provide a list of hazardous materials to local officials (and therefore the public), so it is likely that "RTK" could mean that someone who lives near the golf course would be entitled to a list of hazardous materials and/or MSDS (the answer may actually vary from jurisdiction to jurisdiction).

The last, and most important, question is: Does the golf course have a vested interest in making sure that it maintains a good relationship with its neighbors? The answer here is a definitive "yes." By deciding not to cooperate with the homeowner, the club has potentially become the "bad guy." The perception is that they have something to hide—even from those who live along its fairways. It is exactly the type of incident that provides fodder for the Paul Harveys and Jay Feldmans of the world.

Think of the headline: "Concerned Mother Challenges Powerful Golf Club Over Pesticides."

So, the club may win the legal bat-

ter, but it will certainly lose the public relations war.

This is not to suggest that clubs shouldn't assert their legal rights, but they should do so only when they've carefully considered the ramifications. It is particularly important that they remember the battle will be uphill, because many in the community already perceive the club as an "elitist playground for wealthy bigots." These are not easy words to hear or see in print and it certainly isn't an accurate depiction of the vast majority of golf facilities, but perception is reality.

The "real reality" is that golf courses should establish and maintain a good neighbor policy. This policy could encompass anything from helping adjacent homeowners clean up storm debris to informing them in advance of chemical applications. It clearly could also include voluntarily providing them with a list of chemicals that the homeowner will eventually obtain through legal means that will be expensive and embarrassing for the club.

Your club's good neighbor policy could mean fewer bills from lawyers, fewer complaints from nearby homeowners and fewer negative headlines in the local paper. Think about that when the doctor makes a call at your club. ♣

1995 GCSAA CONFERENCE AND SHOW

MOSCONE CONVENTION CENTER
San Francisco, California

FEBRUARY 20-27, 1995