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COUNTRY CLUB DINING ROOM—NOT EXEMPTED FROM
FOOD SERVICE OPERATION STATUTES BY PARAGRAPH
(C) SECTION 3732.01 R. C.

Columbus, Ohio, Nov. 21, 1956

SYLLABUS:

A country club dining room is not exempted from the provisions of the food service operation licensing statutes by the terms of paragraph (C) of Section 3732.01, Revised Code.

Hon. William H. Irwin, Prosecuting Attorney
Belmont County, St. Clairsville, Ohio

Dear Sir:

Your request for my opinion reads as follows:

“The Belmont County Health Department has requested this office to secure an opinion on the following question: ‘Whether a Country Club is a Food Service Operation, as defined in Section 3732.01 of the Revised Code and as such, are required to secure a license?’

“The Country Club in question is a private Club which is operated for the benefit of its members. As one of the services to its members, it serves food. In order to eat in the dining room of the Club, one must either be a member or the guest of a member or have special permission from the Club. The Club states that under no circumstances is the dining room open to the public. Charges are made for meals served. The Club contends that it is in the same category as a fraternal or veterans organization and that they should not be required to secure a license.”

Section 3732.03, Revised Code, requires the licensing of any person, firm, or corporation which operates a food service operation. A food service operation is defined by Section 3732.01, Revised Code, the pertinent part of which reads:

“As used in sections 3732.02 to 3732.08, inclusive, of the Revised Code: A food service operation means any place which is kept or maintained for the purpose of preparing or serving meals or lunches for a consideration. Provided that sections

3732.02 to 3732.08, inclusive, of the Revised Code, shall not apply to:

“(C) Churches, schools, fraternal or veterans’ organizations serving meals or lunches on their premises; provided said meals or lunches are served on no more than seven consecutive days or on no more than fifty-two separate days in any one calendar year; * * *”

If the dining room of a country club is exempt from licensing as a food service operation, it must be in consequence of the exemptions provided in paragraph (C) of Section 3732.01, *supra*. Obviously a country club is not a church, school, or veterans’ organization. Accordingly, the specific question to be resolved is whether or not a country club falls within the term “fraternal organization.” The courts of Ohio have not, to my knowledge, defined the term “fraternal organization.” I refer you, therefore, to 17 Words and Phrases, 521, and to cases cited therein.

In *First National Bank v. Commissioner of Internal Revenue*, 45 Fed. 2d, 509, a “fraternal organization” was defined as an organization generally social in nature and designed partly for enjoyment of the members.

In *Woman’s Club of Little Falls v. Township of Little Falls*, 20 N. J. Misc., 278, it was held that a “fraternal organization” is an organization which is organized to assist its members and to promote moral, intellectual, and social benefits.

In *Alpha Rho Alumni Association v. City of New Brunswick*, 126 N. J. L., 233, it was said that a “fraternal organization” is any society organized for the accomplishment of some worthy object through the efforts of its members working together in brotherly union.

In a majority of the opinions in which the term “fraternal organization” has been defined, emphasis has been placed upon the accomplishment of some worthy object in addition to the social benefit of the membership. The very word “fraternal” implies a relationship among the members closer than mere association for the common purpose of providing recreational facilities; it implies brotherhood. You will also note that in paragraph (C) of Section 3732.01, *supra*, fraternal organizations are exempted in conjunction with church, school and veterans’ organizations,

none of which is organized for purely social purposes. Proceeding in accordance with the rule of statutory construction *noscitur a sociis*, I am constrained to the opinion that the term "fraternal organizations," which is subject to two constructions, is in this statute used in the same sense as the terms with which it is found in conjunction.

Accordingly, it is my opinion, and you are advised, that a country club dining room is not exempted from the provisions of the food service operation licensing statutes by the terms of paragraph (C) of Section 3732.01, Revised Code.

Respectfully,
C. WILLIAM O'NEILL
Attorney General