

Commonwealth of Pennsylvania



DEPARTMENT OF HEALTH

DEPUTY SECRETARY FOR HEALTH PLANNING AND ASSESSMENT

May 17, 2011

Dear Aquatic Facility Owner and Staff:

This notice is to inform you that your pool, spa, spray feature or beach (all known as bathing facilities), as defined by the Public Bathing Law (hereinafter, "the Act") (35 P.S. § 672 *et seq.*) is considered a public bathing place, and as such, is subject to the regulations of the Department of Health (Department) pertaining to public bathing places.

Section 673 (1) of the Act states, in relevant part that "[e]xcept with respect to the regulation of water supply and content, hygiene and plumbing and electrical facilities, and safety equipment, a public bathing place shall not include a swimming pool, lake or pond owned, operated and maintained for the exclusive use and enjoyment of residents of a condominium or cooperative or members of a property-owners association or the personal guests of such residents or members." 35 P.S. § 673 (1). (emphasis added). The Department interprets this provision to mean that a bathing facility owned by residents of a condominium or cooperative or members of a property-owners association, which is used for the exclusive use of the residents and their guests, is subject to the expressly reserved authority of the Department to regulate the bathing facility with regard to the water supply and content, hygiene, plumbing, and electrical facilities as well as safety equipment. The facility is exempt from the permit requirement found in Section 676 of the Act. This position is supported by the Commonwealth Court in *Nemacolin, Inc. v. DER*, 541 A.2d 811, 115 Pa. Cmwlth. 462 (1988).

Therefore, it is the Department's position that the bathing facility owned and operated by your association is subject to inspection and regulation by the Department.

Please contact the District Environmental Health Specialist at 1-877-PAHEALTH with any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Martin P. Raniowski".

Martin P. Raniowski, MA