

Naples' abundant golf courses are paired with proliferation of refund lawsuits

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NAPLES — A saturation of golf courses in Naples may be a dream for golfers in the nation's top golf spot, but it often can turn into a nightmare for members who quit and demand membership refunds.

The Naples area's recent ranking by the National Golf Foundation as No. 1 in the nation for its 1,530 golf holes — a per hole population of 212 — also has led to a series of lawsuits filed by golfers seeking refunds after many years on clubs' waiting lists.

With more than 91 golf courses to choose from in Collier alone, many waiting lists remain stagnant in providing refunds to those who want them.

Last month, 89-year-old Francis J. Callahan, of Port Royal, who can no longer play golf, lost his 2006 lawsuit against Naples National Golf Club. Callahan, who wasn't well enough to attend his trial, wanted an \$850,000 refund for five memberships he bought as part of a 2002 settlement that rid the club of "dissidents." The club argued Naples has an oversaturation of stand-alone courses and it was losing about \$1 million yearly, despite marketing efforts and sales of cheaper junior memberships, so Callahan had to wait his turn.

"Basically, no one on that list is ever going to get a refund," Callahan's lawyer, William Dillon of Fort Myers, told jurors during closing arguments. "It's a graveyard where memberships continue to die."

Dillon filed a motion to set aside the verdict that favored the club, but last week Circuit Judge Cynthia Pivacek denied it.

Steve Graves, chief executive officer of Creative Golf Marketing, which creates membership promotions, said the contracts popular in Florida, Nevada, California, Arizona and Washington are like Ponzi schemes, meaning one or several must join for those on a waiting list to get a refund.

"It's like the line in the song Hotel California. 'You can check out any time you like, but you can never leave,' " Graves said. "The developers wove this wicked web into their documents, frankly, as a way to protect themselves. There are people on those boards who love the fact that members are held hostage.

"We've had clubs in which a husband and wife died in a car wreck and club officials came to a funeral and said 'Where do you want the bills for your membership dues to be sent?' " he said of dues being paid in perpetuity.

Most lawsuits, like Callahan's, are filed by members who allege clubs aren't making their "best efforts" to refund equity memberships.

"When these people joined, life was good, the economy was good, they wanted to belong," he said, adding that many considered it a good investment that would grow in value. "They didn't pay attention to what they signed."

In the past two decades, refundable equity memberships were a lure marketed by developers, who promised to return up to 100 percent of an initiation fee after a resignation. As a result, Naples and Florida saw a building boom in luxury-related golf communities designed by top golf architects.

"The developer surge that we saw 10 years ago brought on at least 10 to 15 18-hole equivalents" said Tary Kettle, president of The Link Related Companies in Naples, a country club and lifestyle consulting firm.

"I don't think the developers and owners were villains," he said, adding that clubs were set up to make money and support high fixed costs, such as maintenance and staff, but were hit by hard times. "They can run into substantial difficulties if they go down by 50 members."

Judy Comella, director of The Golf Association of Florida, which represents many golf communities statewide, said northerners jumped at the promotions but didn't understand the word "equity." It means they own a portion of the club, giving them the right to use it while they pay annual fees, and after a resignation, they get a partial or full refund.

"What you are told and what you sign are the two things that get most of us in trouble," Comella said, adding that many felt duped.

Some communities make golf membership mandatory, while others bundle it with a home purchase that's separate from a required equity membership. Some larger communities, where membership isn't required, feature private clubs within their gates but members can come in from outside.

“The problem in some cases is that the membership scheme was a pyramid based on a false assumption of perpetually rising values,” said Naples attorney James Fox, who represented a disabled Pelican Marsh golfer who sued in 2007 to get his refund after he was sued for nonpayment. “When the values fell, there was not enough revenue to replace the equity for members who want out.”

Pelican Marsh Golf Club, Kensington Golf & Country Club, Calusa Pines Golf Club, and Tiburon, all in Naples, and seven of Bonita Bay Group’s Collier and Lee county developments were involved in litigation over resignation lists in the past several years. Pelican Marsh and Kensington sued members for nonpayment of dues. Some golfers fought back and sued, with some calling the agreements Ponzi schemes. Settlements were confidential and some went to arbitration.

A lawsuit by the state Attorney General against Bonita Bay Group was dismissed in June with no admission of wrongdoing. Bonita Bay Group, which halted refunds in 2008, citing financial hardship due to the economy, had by then sold most clubs to its members and anyone who didn’t join got refunds.

With a large group of golfers aging, clubs and communities are turning to baby boomers and retirees to boost membership. Several, including Wyndemere Country Club and Pelican Marsh, recently spent millions updating clubhouses and courses.

Some have waiting lists to get in, such as Royal Poinciana, and the newer Mediterra, where golfers must purchase new construction to get one. Wyndemere has no waiting list because membership is mandatory with a home.

“We just finished a \$10 million renovation on our clubhouse because we want to attract the younger baby boomers,” Wyndemere Membership Director Cheri Knapp said, adding that it followed a renovation of the greens and bunkers. “It’s paying off. I am so busy right now. I have 24 pending sales on my desk now and that’s more than I had all last year.”

Pelican Marsh has seen a surge in membership and is approaching its cap for the first time in its 19 years, Golf Membership Director Kimberly Doerseln said.

“It seems our time has come, as we now make plans to transition to a club with a waiting list to join, rather than one with a waiting list to resign,” Doerseln said.

In the past few years, due to the economy, clubs slashed initiation fees by up to 60 percent or eliminated them to attract members. Many clubs now offer junior and nonrefundable memberships, one-year trials, or equity payment plans over a few years.

Realtor Matt Klinowski, a golf community expert at John R. Wood Realtors, has seen a surge of buyers targeting golf properties as developments offer deals, including a \$25,000 nonrefundable membership, more than half off the \$55,000 refundable equity membership.

“That appeals to the younger crowd,” said Klinowski, who operates NaplesGolfGuy.com.

Graves, of Creative Golf Marketing, compared Florida’s golf club business to amusement parks.

“If you aren’t building new rides, somebody else is and they’re going to get your business,” he said, adding that consumers check the Internet to read about complaints. “New members who are joining clubs because of stories like (Callahan’s) are much more savvy about what they’re getting into.”

• Caption: David Albers/Staff Golf aerial Dania Maxwell/Staff Peggy Cachat reacts after teeing off at the Naples National Golf Club on Thursday, Mar. 7, 2013 in Naples, Fla. Head Golf Professional of the club, Bill Safrin, says that their business is positive and consistent, averaging around their current total membership number of 223. A national survey says that Naples has fewer golfers per hold than any area in the nation. Dania Maxwell/Staff Lindsey McPherson, of Michigan State, practices on the putting green with her teammates at the Naples National Golf Club on Thursday, Mar. 7, 2013 in Naples, Fla. Head Golf Professional of the club, Bill Safrin, says that their business is positive and consistent, averaging around their current total membership number of 223. A national survey says that Naples has fewer golfers per hold than any area in the nation. Dania Maxwell/Staff Laura Kueny, left, and Caroline Powers, right, of Michigan State, practice with their teammates on the driving range at the Naples National Golf Club on Thursday, Mar. 7, 2013 in Naples, Fla. Head Golf Professional of the club, Bill Safrin, says that their business is positive and consistent, averaging around their current total membership number of 223. A national survey says that Naples has fewer golfers per hold than any area in the nation. Dania Maxwell/Staff Seasonal resident, Rodney Woods tees off at the Naples National Golf Club on Thursday, Mar. 7, 2013 in Naples, Fla. Head Golf Professional of the club, Bill Safrin, says that their business is positive and consistent, averaging around their current total membership number of 223. A national survey says that Naples has fewer golfers per hold than any area in the nation. Dania Maxwell/Staff Ronald George, left, and Dick Collett, right, prepare to tee off at the Naples National Golf Club on Thursday, Mar. 7, 2013 in Naples, Fla. Head Golf Professional of the club, Bill Safrin, says that their business is positive and consistent, averaging around their current total membership number of 223. A national survey says that Naples has fewer golfers per hold than any area in the nation. Dania Maxwell/Staff Bob Minyard tees off at the Naples National Golf Club on Thursday, March 7, 2013 in Naples, Fla. The courts Wyndemere Country Club reopened after undergoing a major renovation by honoring architect Arthur Hills on Nov. 7. Wyndemere Country Club reopened after undergoing a major renovation by honoring architect Arthur Hills on Nov. 7. Wyndemere Country Club reopened after undergoing a major renovation by honoring architect Arthur Hills on Nov. 7.

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