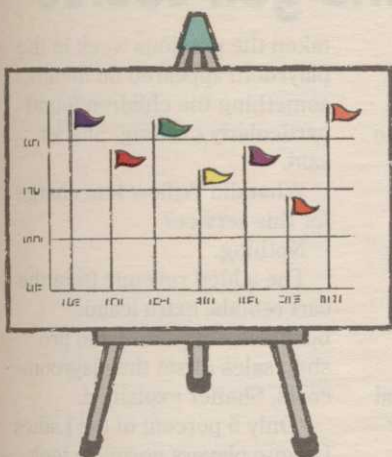


BRIEFS



NAPLES NGC SECURES LOAN

NAPLES, Fla. — NationsBank of Florida and Naples National Golf Club, Inc. have announced the signing of a \$7.5 million loan agreement to complete the acquisition of the club's 320-acre property and the completion of its 18-hole golf course. This is the second accord between the two firms, following a \$1.75 million land acquisition loan completed in September of last year.

WORLD RESORTS RANKED

Nikkei Trendy, the Japanese magazine, has boosted Australia's golfing stocks by ranking Japanese-owned Sanctuary Cove Pines as the No. 2 resort in North and South America, Asia and Japan. The courses were ranked in terms of a challenging layout, price of golf and the standard of hotels, restaurant and clubhouse. Hawaii's Lagoon Golf and Racket Club was voted tops on a list which included Pebble Beach, La Costa Golf Course and Spa, South Korea's First Country Club, and Malaysia's Saujana Golf Course and Country Club.

LEE JOINS TERRA CEIA BAY GTC

PALMETTO, Fla. — Fru-Con Ocean Park Ltd. recently appointed Kimball E. Lee director of golf for Terra Ceia Bay Golf & Tennis Club. Lee is responsible for all golf course operations (including turf programs and maintenance) for Terra Ceia Bay's challenging 4,015 yard, Par 62 course. He is a member of the Professional Golfers Association and will also serve as the club's teaching professional and pro shop manager. Before joining Terra, Lee was Regional operations manager for five Florida golf courses for Golf Properties of Central Florida and Pinnacle Properties Manager, Inc.



Kimball Lee

NCA RELEASES REPORT

WASHINGTON, D.C. — The average dues paid to golf and country clubs for a family membership in the Northeast is \$3,776, compared to \$2,930 in the West, according to the recent Club Operations Survey, the National Club Association has announced. The Club Operations Survey covers key revenue and expense items, including dues, payroll and information on club restaurant and golf operations. Respondents who agreed to serve as part of an ongoing Information Group form a stratified sampling of NCA's membership nationwide. Participating clubs are reported by region.

Landmark auction set for July

By HAL PHILLIPS

NEW ORLEANS — An open cry auction is scheduled here in mid-July for the purpose of selling off the golf course properties formerly owned by the now-defunct Landmark Land Co.

The open cry format — the common, nod-and-wink style used in the art world — is one of the few details to be hammered out by the Resolution Trust Corp. and its advisor, Kidder, Peabody & Co. Whether the properties will be bid upon individually or in groups has yet to be determined.

However, the open cry format should

survive scrutiny, according to RTC spokesperson Anne Freeman.

"I don't see how this format would be offensive to anyone," she said. "With a sealed-bid format, nobody really knows what others have bid. This way, everyone knows where they stand."

The RTC's original proposal has already passed muster with Judge Falcon B. Hawkins' Federal Bankruptcy Court. Any proposal by the RTC, which has operated the six golf and resort properties since Landmark entered receivership in September 1992, must also be

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Marketing Idea of the Month

Ladies' league grows with help of club daycare

By PETER BLAIS

PEWAUKEE, Wis. — Willow Run Golf Club took a lesson from the bowling industry to increase rounds, sales and profits.

Several players in the club's Wednesday morning Ladies' League wondered aloud one day why the club didn't offer a nursery area for young children, like the local bowling center.

Not only would a similar set-up at Willow Run make life simpler for them, they believed, it would probably attract more players who would love to join a golf league, but couldn't find daycare.

General Manager Kay Shaffer decided to do some research. She soon discovered how expensive it was to license and obtain insurance for a full-blown daycare facility.

Bowling centers were able to avoid those expenses by calling their area a *playroom* rather than *daycare*, Shaffer said. But a name change alone wasn't enough for the insurance company to forego added liability insurance requirements.

Bowling centers are able to avoid the added premiums since parents are on the premises. If a child gets hurt, the sitter goes to the front desk, finds out what lane the parent is using, and child and parent are quickly reunited. Easy.

But a golf course is far different. Instead of 30 lanes, a sitter would have to search 150 acres or more to find a parent. The *on premises* criteria is much tougher to meet.

After several months of research, the insurance company came back with a proposal. Require parents to use a golf car. Record the golf car number and what hole the parent starts on. If an accident occurs, the parent's whereabouts should be relatively easy to figure out and the cart would allow her to return quickly to the playroom.

Do that, the insurance company said, and Willow Run would meet the *on premises* requirement. No additional insurance would be needed.

Shaffer decided to give it a try. She hired a half-dozen employees, many of them existing staffers, to work in the playroom for 2-1/2 hours Wednesday

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Photo courtesy of WeatherVector

Commentary

When lightning strikes... Are you liable?

By JAMES C. KOZLOWSKI

In recent months, I have heard some media reports and received some anecdotal information of liability associated with a golf course operator's failure to have a system in place to warn of approaching lightning storms.

As illustrated by the *Hames* decision described herein, such weather conditions would ordinarily be considered an open and obvious natural hazard. As a general rule, there is no legal duty to warn of such conditions which should be apparent

Dr. Kozlowski, JD, PhD, is counsel to the National Recreation and Park Association's Public Policy Division. This opinion originally appeared in Parks and Recreation magazine, and has been reprinted with permission of the author.

through the reasonable use of one's own senses, including approaching lightning storms.

Within this context, the law would require adequate warnings under limited circumstances wherein the landowner should be aware of a hidden or latent risk which recreational users would not be expected to know and appreciate. Accordingly, an adequate warning simply takes a hidden hazard and makes it open and obvious. Conversely, there is usually no legal duty to warn of natural conditions which are already open and obvious.

As noted by the court in this decision, customs, practices and usages in a field are indicative of the applicable legal standard of care. In this particular instance, the court

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Club managers elect new board

NASHVILLE, Tenn. — The Club Managers Association of America (CMAA) has elected a new board of directors. The election was held at the association's 66th Annual Conference held here in late February.

Richard Kolasa, general manager of Skyline Country Club in Tucson, Ariz. will serve as president for 1993. Kolasa has been on the board of directors since 1987. A member of the association since 1978, he graduated from Michigan State University. William Schulz, general manager of Houston (Texas) Country Club of Houston, is vice president. Schulz has been on the board since 1988. A member of the association since 1974, he is a graduate of La Salle University and has attended several hospitality schools.

Secretary-Treasurer is Norman Spitzig, general manager of Fort Wayne (Ind.) Country Club. A member of the association since 1976, Spitzig has served on the board since 1989. He

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A record 3,200 managers, spouses, students and exhibitors participated in the Club Managers Association of America's 66th Annual Conference and 16th Annual Exposition held Feb. 21-25, at the Opryland Hotel in Nashville, Tenn.

When lightning strikes... Who's liable?

Continued from page 43

acknowledged that such golf course protective shelters and systems to warn of approaching adverse weather conditions was the exception rather than the rule, particularly in state park golf courses where this incident occurred. On the contrary, this decision cites testimony that rules promulgated by the United States Golf Association (USGA) for such systems "govern primarily tournament play and thus they are not

applicable here." As such, the *Hames* decision is another example from reported case law that the applicable legal standard tends to be lower than that espoused by safety engineers, risk managers and professional associations like the USGA.

In the case of *Hames v. State*, 808 S.W. 2d 41 (Tenn. 1991), plaintiff Rebecca Hames brought a wrongful death claim against the defendant State of Tennessee after her husband,

Philip Hames, was struck by lightning on a state park golf course. In 1989, the claims commissioner found in favor of the State, reasoning as follows that "there is no industry standard requiring storm shelters or warning devices and that common knowledge tells one that lightning is dangerous."

Finding that "the evidence preponderated against the conclusions of the Commissioner," the appeals court

reversed this determination and awarded the plaintiff \$300,000. According to the appeals court, "the State had notice of a dangerous condition established by the evidence not adhering to the rules of the golfing association, repeated requests for shelters by park employees before the incident, and the park manager's observation in an official memorandum that these deaths might not have occurred had shelters been available."

In addition, the appeals court rejected the State's contributory negligence defense, i.e. the

defendant's failure to look out reasonably for his own safety was responsible, in whole or part, for his death. In the opinion of the appeals court, "there was no evidence that the deceased possessed any particular knowledge as to the hazards of lightning on golf courses." Further, the appeals court found that "the State's failure to provide lightning-proof shelters, along with the lack of a policy to clear the course during thunderstorms, constitute the proximate cause of Phillip Hames' death." The State appealed to the state supreme court.

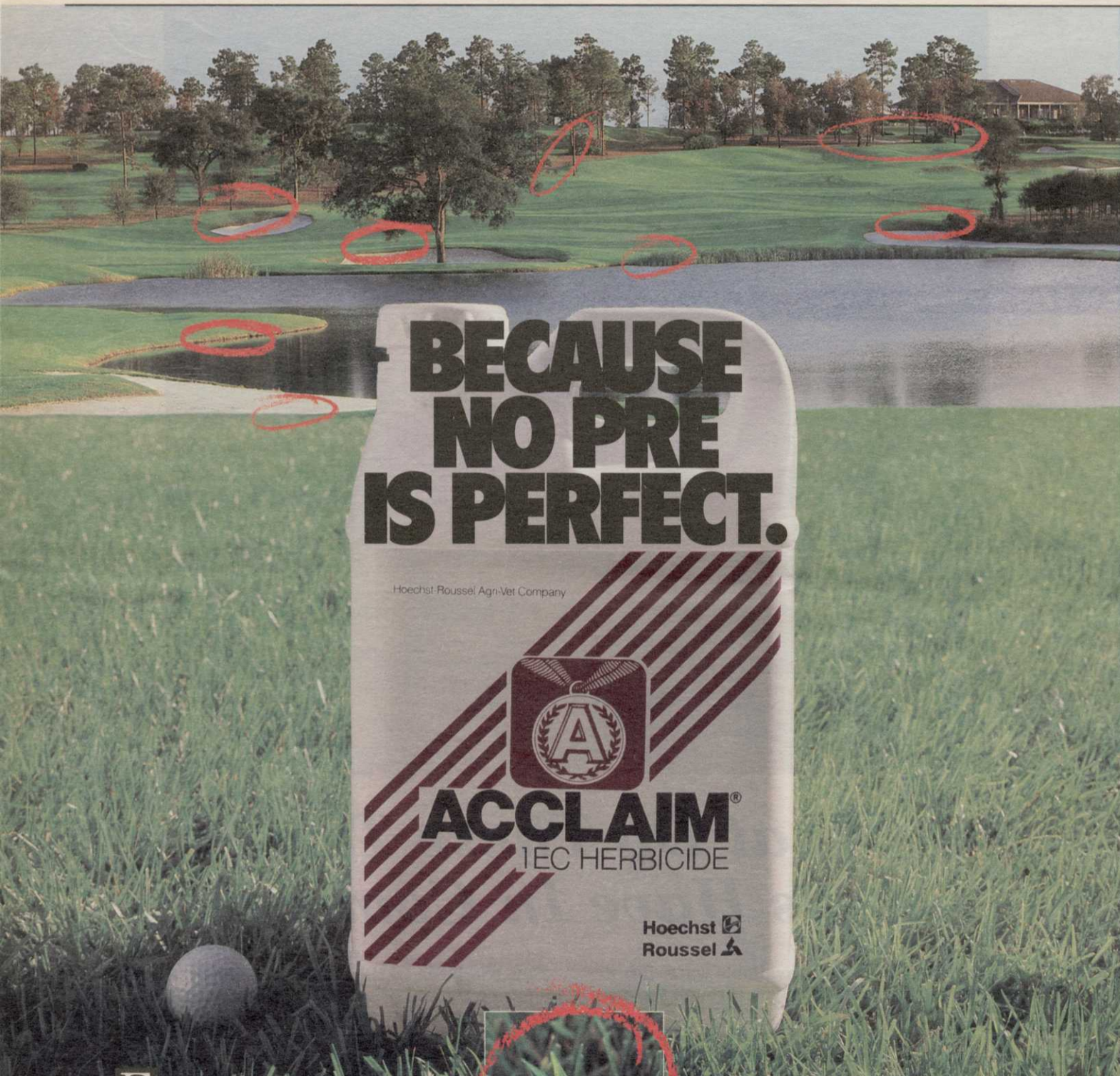
According to the state supreme court, the sole issue on appeal was "whether the absence of lightning proof shelters or devices to warn golfers of thunderstorms on a golf course owned and operated by the State of Tennessee, constitutes a negligently created or maintained dangerous condition: within the meaning of the state tort claims act. Specifically, the tort claims act provided for governmental liability for injuries caused by "negligently created or maintained dangerous conditions on state controlled real property." Under such circumstances, the tort claims act required claimant to "establish the foreseeability of the risks and notice given to the proper state officials at a time sufficiently prior to the injury for the state to have taken appropriate measures."

While acknowledging that "lightning is generally regarded as an act of God," Hames had contended in her wrongful death claim against the State of Tennessee that "the death was the result of the State's negligence in failing to erect lightning proof shelters or maintaining a warning system to vacate the golf course during electrical storms." The State responded that "the descendent died from dangers the risk of which he assumed, that he, himself, was negligent by seeking shelter under a tree on a hill, and that the death resulted from an act of God as opposed to actions (or inaction) taken by the State as owner and operator of the golf course."

As noted by the state supreme court, both Hames and the State were "in agreement that lightning is generally regarded by the law as an act of God." Applying the foregoing principles to the facts presented here, we are persuaded that there can be no recovery as a matter of law.

In addition, the state supreme court opined that "the risks and dangers associated with playing golf in a lightning storm are rather obvious to most adults."

The state supreme court, therefore, reversed the judgment of the appeals court and ordered that Hames' wrongful death claim against the State be dismissed.



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