

Safety first

COURSE MANAGEMENT CONFRONTS LIABILITY ISSUES AND TAKES STEPS TO PROTECT ASSETS

by
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Gone are the days when golf courses stretched over acres and acres of unencroached territory. Twenty years ago, developers would build a course on uninhabited land (with the possibility of homes being built nearby at a later date), but now, courses are built as the center jewel in tight housing developments. With land a precious resource and residential lots selling at a premium price, houses have become as much a hazard on golf courses as bunkers or trees.

Though laws differ from state to state and local rules change from one course to another, the issue of errant golf balls is becoming more prevalent. Whether it's a neighboring home, a passing vehicle or a maintenance worker tending to the property, course owners and managers are forced to deal with more than keeping the grass green and golfers happy.

Beyond safety lie myriad concerns when

it comes to remaining on the course and out of the courtroom.

"Anybody can sue anybody at any time," says Thomas Elkind of Boston, a member of the golf and resort services industry team at the law firm of Foley and Lardner LLP. "Don't put yourself in that situation."

The width of a hole is becoming a bigger issue as clubs and balls become more powerful and golfers don't get better, according to Elkind. The trend used to be allowing 250 feet for the width of the playing corridor. It's now as wide as 400 feet.

"You go to new courses, and they look so wide, with this in mind," he says. "Courses have to be aware of putting golfers in jeopardy. Architects are really aware of these issues."

But golfers must take ownership for their errant shots, according to Bill Herzog, partner in the group that owns Harbor Golf Club in Ashtabula, Ohio, and a senior vice

president with Sky Insurance.

"The golfer that hits the ball is responsible," Herzog says of any damage caused by an errant golf ball. "This is true whether it hits a person, a car, a home or whatever. Most homeowner policies will protect the golfer if it's determined they're liable for the injury or damage that occurs."

"At our course, we probably have four or five cars damaged per year because our parking lot is adjacent to the No. 9 fairway," he adds. "If the owner of the car is lucky, the golfer who hit the ball will tell someone he did it or leave a note."

That brings ethics and a conscience into play — two things that don't always go hand-in-hand.

"The best story I have for this is when a car was hit, the unknown golfer who hit it left a note. It said, 'Everyone thinks I'm leaving my name and address for you, but I'm not,'" Herzog recalls. "In a case like this,





Once a golfer signs an agreement for use of a cart, the responsibility for damage to the cart is transferred to the golfer.

the car owner's insurance would pay, but the owner would be subject to a deductible."

Employee safety

David Boughter, superintendent at South Padre Island Golf Club in Laguna Vista, Texas, came from a more strict environment at Pelican Hill Golf Club in Newport Coast, Calif.

Boughter has instituted Occupational Safety & Health Administration-approved headwear as a part of the uniform. The safari hats, which cost \$18 apiece, must be worn at all times when on the course. He also requires the staff to wear safety glasses while operating power hand tools. And safety vests, like those worn by highway crews, must be worn while working near the road.

Boughter says his employees offered a little resistance at first but have fallen in line.

Crew members at Harbor Golf Club stand out for safety reasons as well.

"Our greens department employees wear bright colored shirts and wear protective glasses when necessary," Herzog says. "All of our employees have been trained to identify dangerous situations and deal with them appropriately once they're discovered."

In addition to the apparel and accessories, Boughter has put together a safety handbook

and has monthly meetings with his staff. The meetings cover topics such as sexual harassment, lightning safety, lifting, protective equipment and golf etiquette.

Because of all the extra precautions he takes, South Padre Island receives preferred insurance rates.

"As long as we institute the recommendations they have while they're here, we get a break," he says of his insurance company. "It doesn't cost us anything ... aside from the helmets."

Boughter credits safety training for the low number of days called off because of illness or injury. The staff took only 22 sick days last year.

Herzog sees effective safety practices benefiting the bottom line.

"Workers compensation rates are directly related to loss history," he says. "The more safeguards put in place that reduce employee injuries will have a positive affect on those costs."

"In addition, most insurance carriers will inspect the premises and will make recommendations to make the premises safer and less likely to suffer claims," he adds. "Following these recommendations and eliminating certain conditions that might give rise to a claim will affect the overall risk

and should lead to more favorable pricing for the facility."

To understand the environment better, Boughter instructs his employees to play at least nine holes a month.

"It's important for them to get on the golf course and see where a ball goes," he says. "I like to make my guys as aware of the golf course as possible. It gives them a better sense of what's happening on the golf course, and it makes them more sensitive to golfers."

Golfer safety

Inside the clubhouse or on the course, slip-and-fall accidents are a common occurrence. The use of railroad ties as an aesthetic feature expanded when they were implemented as steps. The problem: They get slippery when wet, according to Elkind. This was less of an issue when steel spikes were worn, but with soft spikes mandatory at most courses, injuries on these steps increased.

Many courses are adding handrails or using materials with rougher surfaces as steps. Boughter added handrails and went one step further when he tried gripping paint made with crushed pecan shells. He decided to rip the steps out altogether and replaced them with Bermudagrass steps.

With so many areas that can lead to accidents, Herzog says diligence is needed when running a safe golf course.

"There are many issues that can give rise to potential claims," he says. "The condition of sidewalks, driveways, carpets, rugs, chairs and anything else that is used in the day-to-day operation of the facility needs to be reviewed to be certain there is a safe place for the public to enjoy. When you operate a public facility, you need to maintain that facility in a manner the public expects."

Trespassing

Trespassing, such as people using the course for exercise or walking their dogs, creates problems because many people aren't aware of the course's routing and places miss-hit balls tend to land. For the same reason Boughter requires his employees to familiarize themselves with the layout, passersby might find themselves in harm's way.

In Massachusetts, it's the golf course's responsibility to keep the balls on the course, according to Elkind. Golfers hopping a fence and entering neighboring property, can be considered trespassing or a nuisance.

Legal-definitions.com defines nuisance as "some condition on your property or some use of your property that interferes with a neighboring owner's ability to enjoy



Course management must be conscious of golfers who have consumed too much alcohol and be willing to limit their intake.

their property" and trespass as "the entry to another's property without right or permission." Vagueness leads to as many questions as answers.

Alcohol

Like most courses, South Padre Island doesn't allow outside beverages on the course. Unlike most courses, the club is in the heart of spring break territory, which makes alcohol control a priority. Servers and the beverage-cart operator are given the discretion to cut off alcohol consumption if they feel a person has become intoxicated, according to Boughter.

Herzog says a preempted strike might be in Harbor Golf Club's future for dealing with alcohol.

"We're considering sending our lounge employees to classes dealing with patrons of

the lounge," he says. "The issue of overserving anyone is something we take seriously and need to be certain our employees understand the signs of a patron who has already consumed enough alcohol.

"The club has a responsibility not to serve drinks to anyone who has already consumed too much," Herzog adds. "This is a priority of ours."

Carts

At South Padre Island, golfers sign a waiver when taking a golf cart on the course and are responsible for anything above-and-beyond normal activity that might result in damage. That would include carts ending up on the nearby beach, which has happened at the vacation destination.

A similar policy is in place at Harbor Golf Club.

"This will vary from course to course, but normally if the golfer signs an agreement for the use of the cart, this agreement would transfer responsibility for damage to that cart to the golfer," Herzog says. "It's important for the pro shop to recognize any damage on a cart prior to allowing its use and to inspect the cart when it's returned. Once the golfer has left the premises, it might be difficult to determine who's responsible for the damage. Damage to a cart needs to be addressed as soon as it's noticed."

Battle of the sexes

Whether it's discrimination or harassment, golf courses are conscious of male and female employees and customers. Similar to South Padre Island, Harbor Golf Club has a specific set of guidelines guarding against sexual harassment.

"There's a process an employee is to follow if this situation arises," Herzog says. "It's important for you to have this policy in place and be certain that employees know the process."

As for discrimination, what once was a common practice of having men-only tee times certain days or times has met more resistance. With the growing amount of women in the work force, having tee times set aside for one sex is no longer practical.

Future

Boughter believes the industry, as a whole, has yet to act on requiring the added safety features, but some management companies are ahead of the curve.

"Insurance companies are going to require this more and more," he says. "It seems only natural they would gravitate toward that."

Though he's confident the ongoing training is sufficient for his full-time crew, Boughter makes sure he covers three basics with seasonal employees: He reviews the company policy and procedures, ensures the worker is properly outfitted and covers the safety issues of equipment they're using.

"Don't assume anything," he says. "I make sure they know how to use [the equipment] and check the fluids."

Elkind sees continued efforts to prevent dangerous situations.

"Safety, in general, is becoming a big concern," he says. "I've seen a lot of nets going up along boundaries."

Elkind suggests golf course management be proactive rather than reactionary.

"Planning to prevent these incidents is key," he says. "Pay now or pay later."

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