

Owner settles ADA complaint

WASHINGTON—The Department of Justice has reached an agreement with Sun City Summerlin Community Association Inc., a Las Vegas-based owner and operator of three golf courses, to make its courses accessible to golfers with disabilities.

Under the agreement, the association will adopt a new policy

to prohibit discrimination on the basis of disability and to allow power carts on paths, walkways and greens whenever one is necessary to allow someone with a disability to play on the course.

The settlement resolved a complaint filed by a golfer who requested a modification of the rules that restricted golf car use

in areas of the courses where carts of any kind are prohibited, including greens. The complaint filed with the Department of Justice sought a modification of the policy, which resulted in limiting access to people who could walk some distance.

The golfer alleged that prior to the department's investigation, Sun City had refused the request for modification of the policy.

Sun City has established and will maintain a written policy that modifies certain golf car and cart restrictions to allow access for golfers with disabilities. The policy covers all three Sun City Summerlin golf courses, including Eagle Crest, Highland Falls and Palm Valley. The policy also retains golf car restrictions to areas only upon showing that safety is a concern or that the physical

integrity of the golf course is threatened.

Recent advancements in golf car technology and horticulture have made it possible to provide access to most areas of golf courses without fear of damage.



Conservation easement

Continued from page 1

conservation authority, such as Ducks Unlimited, and grant them a conservation easement across the property.

"That easement basically says that's what the property can be used for, as a golf course, and if it's not used as a course, it becomes natural terrain," Kahn said.

Where the financial benefit goes to the golf course, Kahn said, is that the land is re-appraised at the highest and best use, allowing fairways to have the same value as subdivided lots.

"So you can wind up with a golf course that will have a tax write-off of about half a million bucks, and they're allowed approximately 30 percent of that a year to write off against taxes on earnings," he said. "So it can become very substantial, particularly for golf courses that are quite profitable and paying a large tax."

The strategy is the result of a 1997 IRS decision that made it possible for recreational lands to qualify for conservation easement tax write-offs. Until that time, the program had been reserved for historical sites, farms and other types of properties.

Kahn, who is also a licensed Florida real estate transactor, did a valuation for a course he is familiar with and came up with a developed land value of more than \$12 million after deducting things like infrastructure costs and present value. Based on that valuation, the owners could claim a \$12 million write-off over a six-year period. When converted to tax savings, that amounts to hundreds of thousands of dollars over that period, Kahn said.

Through strategic planning, owners can conceivably extend the length of their write-off period by writing off groups of six holes and practice facilities in different years, Kahn said.

The one drawback to the plan, Kahn said, is that the easement is forever and can't be rescinded.

"Once it's granted, it's in place until the sun burns out," he said. "Although we all know that if O.J. Simpson can get off, anyone who wants to throw enough money at it can probably get it reversed." ■

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