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Plan for flipping dead golf courses ends up in rough

By MIKE TOLSON
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Melissa Phillip Chronicle

Julie Grothues was one of the leaders of the Inwood Forest homeowners association, which successfully fought to preserve the integrity of the now-defunct golf course in their subdivision. The new owners wanted to flip the property, but lost in court.

Back in the midst of the real estate boom, when buyers were plentiful and any reasonable deal would find a taker, the idea must have seemed like a smart one. Find failing suburban golf courses that have outlived their appeal, get them at a big discount, quietly carve off a chunk of the most useful part of the real estate and flip it to a developer who saw the potential for a different use.

Just because the property was not worth much as a golf course did not mean it couldn't be worth a lot for something else. It so went the reasonable argument. But what Mark Voltmann and his partners failed to fully appreciate, or so it seems, was the reluctance of homeowners to go along. Even people who wouldn't know a 5-iron from a garden hoe got nervous at the prospect of condos, or something worse, looming over their back fence.

Better a dead golf course than a live shopping center. Or apartment complex. Or nursing home.

Voltmann's Renaissance Golf Group, based in Ohio, bought three struggling courses in the Houston area, two in 2002 and another in 2007. Since then, however, the only thing they've gotten for their effort is an ever-mounting legal bill. The latest roadblock came with a jury verdict late last year that would prohibit the use of the land that once served as the Inwood Forest Country Club for any purpose other than a golf course.

Considering the financial travails of the course in its final years, such a notion is problematic. For Voltmann, however, the verdict is far worse. If it withstands the anticipated appeal, he is all but hostage to the homeowners. If they do not agree to any proposed use other than a golf course, the land has little value.

Wouldn't it just roll over?

Bad news for him and his investors, but homeowners who live nearby are relieved. They feared development plans might lower their property values.

"I don't think they ever took us seriously," said Julie Grothues, one of the board members of the homeowners association that fought redevelopment.

"For them to think they could do anything they wanted to the property, and that the neighborhood would just roll over, was bad judgment," Grothues said.

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Voltmann was not available for comment. His attorney, Mark Breeding, said his firm has a policy of not commenting on ongoing lawsuits.

The Inwood Forest verdict has implications that go far beyond the 1950s-era subdivision in northwest Houston. Should it stand up, anyone considering buying a residential golf course in Texas with hopes of selling the land would be advised to think twice, and probably get homeowner approval in advance for any proposed new development.

The Harris County jury found that the Inwood Forest golf property contained an implied reciprocal negative easement,

Grothues said.

In plain English, that means that an owner of the course is bound to keep it as a course even though the original deed has no such restrictive covenant. The lawyer for the homeowners association argued that the course was an essential component of the neighborhood, and that allowing it to be cut up for development would irrevocably change the character of the community and the value of the homes.

The idea here was to preserve the integrity of the subdivision, which was the idea of the developer when he sold the lots, said attorney Matt Kornhauser. Inwood Forest was all part of a common theory and plan of development. There was this symbiotic relationship between the golf course and the lot owners.

Deed restrictions, too

New golf course communities typically require that homeowners pay a certain amount per month or year to help subsidize the golf club. Many older courses, however, have no such requirement, and as the original owners moved away, those who replaced them often had little interest in the course as anything other than green space.

The consequence has been a long list of shuttered courses around the country. One of those was Clear Lake Country Club, which Voltmann's group purchased in 2002. The course remained open for a couple of years, but it was clear to neighbors that his greater interest was in selling at least a portion of the property to developers.

Alarmed neighbors fought back, first by gaining the support of the Clear Lake City Water Authority, which tried to claim the property under eminent domain because of the potential effect of redevelopment on flooding.

Although a trial in 2008 went Voltmann's way, it did not address another hurdle. The deed for the Clear Lake property contains a restriction preventing owners from using it for anything but a golf course or recreational facility until 2021.

Voltmann has filed suit to try to bust the deed restrictions. In theory, success could translate into a big payday, as a portion of the property has good commercial potential. But the Inwood verdict is looming. If it stands up, homeowners could use the same argument to stymie him again.

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