Clubs and HOAs – Why Can't We All Just Get Along?

For an industry built from the ground up around selling homes by creating an expensive set of golf and country club amenities and the associated lifestyle, it seems odd that master planned communities are rife with lawsuits and internecine warfare between HOAs and the clubs at their very center. Real estate developers typically need to make this daunting club investment in order to reap the "lot premiums" that make their economics work. The residents then need a healthy and well-maintained club amenity to protect and enhance their home values over the long term. And club leaders need community residents to participate in club life and help pay for this crucial amenity. So why doesn't the seeming alignment of interests keep harmony inside golf communities?

Let's unpack this decades-long conundrum and focus on some proven solutions. First, the simple economics above do not tell the whole story. While it is true that a developer might spend $25-50 million on country club amenities in order to sell $400 million of homesites at higher prices over the next 10-20 years, that same developer might try to leave town when most of the lots have been sold without caring too much about the future condition of the club. Take Carl Icahn's recent exit from Grand Harbor in Vero Beach, Florida, where the residents suedIcahn to make good on his capital reserve commitments when he handed the country club over to the residents. If you are a homebuilder or developer with multiple communities in the same location (think Pulte, Toll or Lennar), you might take extra care to preserve a good reputation among local homeowners. But if you are a one-off financial investor seeking to walk away from the messy club business after you have sold most of your lots, why bother?

A second issue arises when club leaders find the economics and governance of running the country club are not as simple as they hoped. The Board at Fountains Country Club in Lake Worth, Florida, found 20+ years after taking control of the club in that "unbundled" community (club membership was not required for every lot owner when the developer built it), that it was hard to make the math work with over 50% of residents paying nothing for the beautiful amenities. When the Board instituted a mandatory membership requirement to remedy this fairness problem, residents sued – and won. According to Michelle Tanzer of Nelson Mullins, courts have consistently ruled that a club or developer cannot retroactively require everyone in the community to share the costs of the club, if that was not the original scheme of the development.

What can be done about one of the single largest areas of litigation in real estate? Our experience in 18 master planned, gated residential golf communities at Concert Golf Partners tells us that there are several best practices. Getting 1,000 or more households to work toward a common goal requires candid and complete communication. According to Greg Neal, President of the HOA at Marsh Landing CC in Jacksonville, Florida, it was critical to share frequent and transparent updates with all residents when they were recently considering a transition in club ownership from the developer to a professional owner-operator. Neal and his HOA colleagues reached out to club members and non-members alike, focusing attention on enhancing the community club asset for the benefit of everyone's home values. The HOA in this case voted 92% in favor of relinquishing some legal rights they had and increasing homeowner dues to a degree, in order to ensure a properly funded transition to a top-quality operator, calling it a "home value insurance policy" for all residents.