

Golf Course Homes Are Great, Except for All Those Stray Balls

One lawsuit counts 651 balls that hit a property; how many is too many?

BY JAMES FANELLI [WSJ]

Erik and Athina Tenczar in 2017 bought what they thought was their forever home in Kingston, Mass., a four-bedroom colonial that sits near a left-hand dogleg on the 15th hole of the Indian Pond Country Club. To their dismay, the Tenczars soon learned that ambitious golfers regularly attempted to cut the corner, putting their house in the line of fire. Hundreds of golf balls have pelted their house and yard since, turning the residence, they say, into a living hell. The carnage includes eight broken windows and damage to the home's siding and deck. They have forbidden their three young children to play in the yard, worried they could be hit by a drive. The couple sued the club the year after moving in, alleging the barrage of balls constituted civil trespass. "We are constantly thinking about the next golf ball that's going to hit," Mr. Tenczar testified at a 2021 trial. The jury awarded the Tenczars \$3.5 million in damages, but the highest court of Massachusetts issued a mulligan of sorts in December 2022, throwing out the verdict and ordering a retrial, scheduled for August. A new jury will need to consider whether the number of balls hitting the home is reasonable.

Living amid the manicured beauty of a golf course has its perks, from picturesque views to quick access to the clubhouse, but it has always come with the risk of intrusion from a badly missed slice or hook. But there are open questions of law—and neighborly decency—about how many errant shots are too many.

Brit Stenson, president of the American Society of Golf Course Architects, said designers use hazards, bunkers and water to direct play away from homes along holes, but it is nearly impossible for houses to avoid being hit altogether.

"Today's golfers often swing really hard at the ball, but they don't always know where it's going," he said.

In the Tenczars' case, the state high court didn't cite a legal precedent for its test but said that an easement gave Indian Pond the right to operate a golf course in a reasonable manner. "With golf, some errant shots, way off line, are inevitable, but a predictable pattern of errant shots that arise from unreasonable golf course operation is not," it said, calling for better jury instructions.

In the U.S. more than 3,300 golf courses operate at over 2,750 facilities classified as residential developments, according to the National Golf Foundation. Many have easements and restrictions that release golf courses from liability. Still, some homeowners have tried to hold courses or individual golfers accountable.

Leslie Stevens, whose home in Parker, Colo., sits on the right side of a fairway, said new management at the Black Bear Golf Club sought to increase daily rounds—meaning more balls pelting her home.

She said she has chased golfers and asked them to pay for broken windows. “They would say, ‘Oh no, you assume the risk. I don’t,’” she said.

She installed netting in her backyard but took some down because of the diminished aesthetics. “Who wants to be on a golf course,” she asked, “where you feel caged in?”

Black Bear’s general manager, Heath Robberson, said it takes such concerns seriously and moves tee boxes when reasonable. “However, homeowners who purchase a home on a golf course should expect the periodic intrusion of golf balls, especially when they’ve agreed to assume such risks through the covenants governing their property,” he said.

In Anaheim, Calif., Casa Hermosa Mobile Home Park and Dad Miller Golf Course lived in harmony next to one another for years. Balls began striking some mobile homes in 2021, residents say, when a tee box was altered and trees were removed while the course was working on a flood channel.

Some residents no longer feel safe tending to their gardens, said Bobbie Crawford, an 80-year-old park resident who manages the facility.

“I guess we could buy bicycle helmets,” she said. Last month the mobile home park’s owner sued Anaheim, which owns the course.

An Anaheim spokesman said Dad Miller has been a great neighbor and the city was disappointed by the suit.

Michael Johnstone, an expert witness for the Tenczars in Massachusetts, said he recommends changes to course to correct for a high frequency of wayward shots. On rare occasions, he said, golfers intentionally hit a home. “It’s Friday night and they’re having beers and they say, ‘Who can hit the brick house?’” he said.

The Tenczars, who aren't golfers, testified that when they bought the home they didn't ask about the course or foresee dealing with stray balls. John Flemming, an attorney for Indian Pond, said simple due diligence would have given them an idea of what to expect. "All you have to do is google it," he said.

The course met all the golf design guidelines, he said, adding that the home builder removed trees and vegetation that helped serve as a buffer. In 2019 the course made alterations to direct shots away from the home, he said, reducing the number of balls hitting the property to between 89 and 99 a year from about 130.

After the jury verdict, two of the 15th hole's tee boxes were moved farther back, helping reduce the number of balls landing on the property to 10 for the 2022 season.

At the trial, Robert Galvin, the Tenczars' attorney, introduced as evidence a laundry basket with 651 balls the couple had collected. The judge accepted a photo instead of the basket to alleviate the burden of the clerk's office storing the balls.

Ms. Tenczar testified that the ordeal gave their then-5-year-old daughter a bad impression of the sport.

"She recently asked me why golfers are bad people, and I had to explain to her that they are not," Ms. Tenczar told jurors. "There is an issue at the golf course that needs to be fixed, and mommy and daddy are trying to fix it."