

REAL ESTATE

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Teed-Off Residents Drive Developer to Brink of Ruin

By WILLIAM M. BULKELEY

(See Corrections & Amplifications item below.)



Jason Henry for The Wall Street Journal

Bonita Bay owner Michael Lissack, shown above with a colleague, has accused Bonita Bay of owing back taxes on golf fees.

NAPLES, Fla. -- It's not easy living on a golf course.

Bonita Bay Group, once a premier developer of upper-crust golf communities in this upper-crust town, is on the verge of collapse. The company says it will be forced to file for bankruptcy if it has to refund \$245 million in golf-club membership fees some homeowners are demanding, in a battle that's pitting residents against each other and against the company that sold them lavish dream homes during the height of the boom.

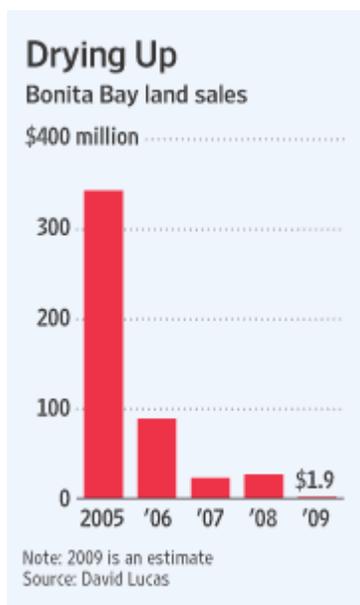
Through the 1990s and the earlier part of this decade, Bonita Bay was regarded as one of the leading developers in the Naples area, which has the highest per capita income of any locale in the country except Stamford-Greenwich, Conn. Bonita Bay launched seven Naples-area communities where houses sold for up to \$12 million and came with access to exclusive golf clubs with restaurants, tennis courts and pools. Its homeowners have included Richard Schulze,

the billionaire chairman of Best Buy Corp., opera diva Kiri Te Kanawa and New Jersey Nets President Rod Thorn.

Today, like many other Sunbelt developers, Bonita Bay is being squeezed by debt and plunging sales. But its biggest problem is a dispute over the deposits homeowners plunked down for memberships in the golf clubs, a marina and other clubs. Many members want to quit the clubs and get their money back for reasons ranging from cheaper golf elsewhere to the desire for ready cash. Their membership agreements say the deposits -- up to \$185,000 per member -- are refundable on demand, a relatively unusual stipulation homeowners say was a big part of the appeal of joining.

Yet Bonita Bay says the agreements also stipulate that the rules "may be amended from time to time," thus allowing it to cancel the refund policy at its discretion -- and that at any rate, it can't pay the money.

Angry residents have filed at least 15 lawsuits against Bonita Bay seeking the return of their deposits and accusing the company of civil fraud. They say the right to amend the rules doesn't apply to the refund policy. The Florida attorney general, responding to a citizen complaint, is investigating Bonita Bay to see whether the way it sold and refunded membership deposits was a Ponzi scheme. One Bonita Bay resident and former Wall Street executive, Michael Lissack, has filed a whistle-blower's complaint against the company with the Internal Revenue Service, saying it owes back taxes on profits it made by holding the deposits.



Bonita Bay's bind is one of the strongest signs yet that putting up houses around fairways -- a hallmark of the real-estate boom -- has lost its cachet. Several other developers of golf communities have already entered bankruptcy proceedings, including the high-end Winchester Country Club in Auburn, Calif., and Promontory in Park City, Utah.

In an interview, Bonita Bay Chairman David Lucas scoffed at the idea that the company is running a Ponzi scheme -- in which investors are paid returns from money that comes from later investors -- or doing anything else that is wrong. Mr. Lucas says the deposits were used to meet operating costs, and aren't taxable. He says the developer is simply in a financial bind as a result of bad land purchases combined with the real-estate downturn, and that members of his wife's family, which owns the closely held company, have poured in funds to keep Bonita Bay going. He says losses in the past three years have "completely wiped out" prior profits.

Bonita Bay has already closed the golf club at Twin Eagles, its latest development, where most of the lots are unsold and weeds are sprouting from the bunkers. In addition to threatening a bankruptcy filing if it has to refund deposits at the other clubs, the developer says it might have to shut down the clubs entirely unless residents come up with millions of dollars to buy them -- a prospect that has homeowners doubly steamed.

Golf-community developers typically sell golf clubs -- courses and all -- to members once the developments are completed, and convert membership deposits into equity stakes. But Bonita Bay is trying to do so at a time when many members want out.



Jason Henry for The Wall Street Journal

Living amid the swaying palms and bougainvillea, many well-heeled residents of Bonita Bay's developments say they feel burned and trapped. Few are eager to pour fresh money into the golf clubs -- but many believe that allowing them to close would take away the central attraction of the communities and further erode house values on the Bonita Bay sites. Local real-estate agents say prices are off by more than the 36% average decline that Naples-area housing has suffered since 2006.

Morris Shepard, a former Northeastern University professor who sold an Internet company he started in the 1990s and moved to a Bonita Bay community, says he stopped paying dues to his fitness and beach clubs this year "because I don't deal with crooks," referring to the fact that company has refused to give people their money back. Mr. Shepard says he is opposed to giving any more money to Bonita Bay -- to buy the golf clubs or for anything else.

"There have been severe cutbacks in services and in the condition of the facilities," says Mr. Schulze, the Best Buy chairman, who hasn't asked for his deposit back but also doesn't want to pony up more money to buy the club at Bonita Bay, the developer's oldest community. "Mold is growing in the bag rooms" where players store golf clubs, he says. Bonita Bay acknowledges it has cut maintenance to hold down costs but it says the clubs "will be in excellent shape for the [winter] season," when most members hit the links.

Some residents say the issue of buying the clubs has created bitterness between the wealthiest homeowners, who often have golf memberships, and less wealthy residents who enjoy the landscaping but resent pressure to contribute to the purchase of the clubs. At Bonita Bay's Mediterra community, a committee of golf-club members initially proposed pushing

nonmembers to join the club on a social basis and pay \$2,500 or more to help fund the



Associated Press

purchase. They were told if they didn't join, no future buyers of their homes would be allowed to become golf members. A number of residents called the plan extortion, and the committee eventually dropped its demand.

Richard Schmidt, who lives in Mediterra, where many homes have colonnaded porticos, four-car garages and wine cellars, is part of a group of residents trying to buy the golf club. Bonita Bay, he says, was once "the platinum standard" among



Associated Press

Above, from top, Bonita Bay's property owners have included New Jersey Nets General Manager Rod Thorn, Best Buy CEO Richard Schulze and opera singer Kiri Te Kanawa.

membership refunds began last fall. "It was like a run on the bank," Mr. Lucas says.

In November 2008, the company told homeowners who had paid \$245 million in club deposits that it would no longer redeem the fees on demand. The company says it had returned \$77 million in such fees over the prior three years.

The first resident suit against Bonita was filed in December. Mr. Lucas acknowledges that Bonita Bay had promised refunds on demand in its membership agreements, but says that members also signed documents that disclosed that terms could be changed at any time. Plaintiffs in the lawsuit say that the terms that could be changed were limited and didn't cover refunds.

Bonita Bay now says that in the future it will refund a deposit to one member for every three new members who join.

developers, and he'd like to preserve the community he lives in. The former chief of water utility Aquarion Co. says not buying the club opens it to the uncertainty of bankruptcy and a sale to others or opening it to the public.

The family-owned company was started by David Shakarian, who founded vitamin retailer GNC Corp. In 1985, it broke ground on the first of its developments, the Bonita Bay Club, which sported a marina on the Gulf of Mexico, three golf courses, homes that went for \$3 million and condominium towers. Over the years, the company added six more developments. Its communities now cover 16 square miles of southwest Florida with 12,096 dwellings. Mr. Shakarian died in 1984, just before the first development went up, and the company has been run ever since by his son-in-law, Mr. Lucas, now 62.

Mr. Lucas says that the first sign of trouble for Bonita Bay started with Hurricane Wilma, which hit Naples hard in 2005 and scared away potential land buyers -- many of them contractors who build homes for buyers. Then Florida real estate began to crater, and the mortgage crisis hit. Bonita Bay's land sales are expected to fall to \$1.9 million this year from \$343 million in 2005.

The company appeared to be getting by with revenue from the clubs and property management and maintenance fees, until a surge of requests for

As the membership furor was unfolding, Bonita Bay was being forced to renegotiate its loans from Cleveland-based [KeyCorp](#) bank. With new lending from the Shakarian family, it cut KeyCorp debt to \$74 million from \$105 million, but the bank is tightly limiting further loans. Mr. Lucas says Bonita Bay also has \$41 million in liabilities in community-development bonds. KeyCorp declined to comment, except to say it hasn't tried to seize Bonita Bay.

Mr. Lucas says he tried to negotiate deals with residents to partially repay the golf deposits -- but KeyCorp refused to lend funds for that. In April, Bonita Bay hired Tim Boates, of Alabama-based RAS Management Advisors, as "chief restructuring officer." Mr. Boates set about cutting cash-draining operations and reducing staff. "Frankly, we needed help," says Mr. Lucas. "We cut headquarters staff 60%."

Bonita Bay began closing beach clubs, slashing hours at restaurants and cutting back on maintenance. Earlier this summer it closed the courses at its Twin Eagles development, which were designed by golf legends Jack Nicklaus and Gary Player.

On Aug. 12, Mr. Boates, the new restructuring officer, sent a letter to the remaining five clubs' 3,000 members saying the clubs would close unless members agreed to buy them by Sep. 30.

But with only one tentative agreement in place so far, the company recently dropped its Sept. 30 deadline, and says as long as members continue to pay their dues and to negotiate a purchase of the clubs in good faith, it will keep them open. However, a spokeswoman for Bonita Bay Group says, the company still needs the members to agree to buy the clubs at most of its communities, and it could close them otherwise.

The battle at Bonita Bay has already had a ripple effect on house values, local real-estate agents say. One of them, Mr. Lissack, who filed the whistle-blower's complaint, says that one of his clients has been trying to sell his Bonita Bay Club residence and guesthouse since early this year. Mr. Lissack says that in another Naples development a comparable property would sell for \$4 million. His client's property is priced at \$2.5 million and hasn't had any takers.

Although property sales in the Naples area have increased this year, they are down at the Bonita Bay communities, according to Mr. Lissack's tally. He says that only 15 residences have sold at Mediterra since last November, down from 38 in the same time period a year earlier; and in the larger Bonita Bay Club area, 67 homes have sold, down from 148. A Bonita spokeswoman says sales of low-end properties in Naples are up, and that sales declines in Bonita Bay communities are in line with sales in Naples's comparably high-end communities.

Some residents say they'd rather see Bonita Bay Group file for bankruptcy, because they think they could buy the clubs more cheaply then. Tom Melancon, a former Burberry Co. executive who was one of the first residents of Mediterra, says Mr. Boates "is trying to bully people and that's not going to work."

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Corrections & Amplifications

Richard Schulze is chairman of Best Buy Corp. The caption with this article in some editions Thursday about the Florida Golf Community Bonita Bay Club incorrectly identified him as CEO.

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