

# Beating Plowshares Into Putters

## *Court To Determine If Golf Course Proposed For Farmland Allowed*

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Published on 1/21/2005

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ATTORNEYS FOR THE STATE and a local family will argue a case Monday in Hartford Superior Court that could have a profound effect on the future of Connecticut's farmland.

The debate promises to turn on the question: Is a golf course an agricultural use? State Attorney General Richard Blumenthal thinks the answer is an emphatic "no."

At the behest of Bruce H. Gresczyk, the commissioner of agriculture, Blumenthal asked the court in early November to halt construction of a golf course on 165 acres owned by Virginia Landis and Frederick Peacos Jr., heirs of the late Joseph A. Koniecko.

A Superior Court judge granted a temporary injunction, pending Monday's hearing on Blumenthal's request for a permanent injunction to prevent the Broad Brook Country Club from rising just south of the Griswold border on Route 164.

The court's decision could topple or bolster the state's Farmland Preservation Program, which the Department of Agriculture introduced in 1978 in an effort to preserve 130,000 acres of cropland. The objective was to have a land base for the future of agriculture in the state.

So far, the state has preserved 28,393 acres by securing the development rights to 191 farms. In 1986, Koniecko, a relative of Landis, sold his farm's development rights to the state for \$233,603. When Koniecko died, his wife, Rose Y. Koniecko, inherited the farmland and later transferred it to Landis and Peacos, trustees of her irrevocable trust.

Under state statutes, owners of property whose development rights have been sold are prohibited from allowing any development that would make the land unsuitable for agricultural use. They retain every other right and privilege to the property. They must pay local taxes on the land and abide by local zoning regulations.

Blumenthal will argue Monday that if Landis' golf course project is allowed to proceed, it would "essentially gut the statute" that is the basis of the Farmland Preservation Program.

"It's the beginning of a slippery slope," Blumenthal said in an interview. "Once the term 'farmland' is extended to any open space with grass or gardens or trees, there's virtually no limit to what can be permitted.

“It would completely eviscerate the plain meaning and intent of the statutory provision,” he said. “I’m not in any way disparaging golfing, but the state has paid hundreds of thousands of dollars for the farmland development rights for this property, and it deserves the benefits and rights that come with that agreement.”

The Broad Brook Country Club project calls for two 18-hole golf courses, a clubhouse and other amenities. It likely would provide an economic windfall for the property’s owners, who did not respond to requests for an interview.

When Blumenthal filed his request for a court injunction, the developers had already broken ground on the golf course. Black plastic barriers marked off sections of the property and a large piece of farm equipment sat yards away from a stone wall and a red-roofed house.

A black-and-white sign on the property announced what was to come: “Ayer Farm & Broad Brook Country Club, Agri-Tourism 2007.”

Minutes of a Nov. 12, 2002, meeting of the Planning and Zoning Commission indicate that Landis told the commission the state had no ownership rights to the land. She said that she and Peacos were “well-versed” in the state statute governing development rights and that she believed her application for a golf course was “within the letter of the law.”

The commission approved the project on June 1, 2004, after the developers presented a revised plan addressing issues that had led the commission to deny a permit for the project in 2003. On the advice of legal counsel, commission members based their decision on the strength of Landis’ application; they did not consider the development rights issue.

Repeated attempts to reach William Moller, Landis’ attorney, and Shawn Powers, her son, were unsuccessful.

At the 2002 meeting, Moller pointed out that the state’s regulations permit the growing of grass and trees on farmland. He said that the state had no “proprietary interest” in the parcel other than an easement prohibiting the landowners from developing single-family homes there. At that same meeting, Gresczyk, the agriculture commissioner, said that “in no way, shape or form” was it the state’s interpretation that a golf course be considered an agricultural use.

Gerald Grabarek, a dairy farmer and selectman, applied to the state to sell his farm’s development rights 10 years ago. He learned he was near the bottom of a list with nearly 100 names and decided to forgo the process. A few months ago, he said, he was urged to reapply.

Grabarek said Broad Brook Country Club should be built. “What is so bad about having a golf course?” he said. “No one on 164 is going to be able to rent farmland.”