



Successfully Selling Timeshares in the Secondary Market

If the ultimate goal is to enhance product value and protect the consumer, then our challenge in the secondary marketplace is to demand the highest level of professionalism. This requires in-depth knowledge not only of the product, legal process, and disclosures but also a clear understanding of the assistance and protections already in place to avoid potential pitfalls.

No matter what the business model, let's take a look at the consistent and effective formula necessary to conduct a proper timeshare resale transaction.

The Transaction

The successful and ethical execution of a proper resale transaction involves awareness and experience in the following areas:

- Obtaining a listing from the owner,
- Screening and verifying the property,
- Establishing a fair market asking price,
- Exposing the inventory and qualifying a buyer,
- Presenting the property with accuracy and full disclosure,
- Obtaining a reasonable offer and negotiating a sales price, and
- Opening escrow and tracking the escrow to a successful close.

Although today's technology can assist in exposing the property and speeding up the process from listing to closing, it is not the solution. The need for third party experts to oversee the transaction and provide full and proper disclosures still remains a critical, key element in the process. If any one

of the above areas are overlooked or skipped, a domino effect is triggered, which could result in a multitude of problems for owners, HOAs, and resorts.

Is a Real Estate Broker Necessary?

Many owners will seek assistance at some point in the process of selling their timeshare. Although you can purchase and sell a timeshare directly between principals without a broker, a real estate license is required in most states for a third party to represent another party in a real estate transaction.

The Federal Trade Commission says this about resales: "Selling a timeshare is a lot like selling any other piece of real estate." And since timeshare is considered real estate in most states, it is a requirement that any person representing the owner and/or buyer must be a licensed real estate agent. This agent will have a fiduciary relationship with the owner, including the additional responsibility of full disclosure to all parties in the transaction, and will arrange for the proper protections through the use of a third party escrow and third party title.

Is Third Party Escrow & Title Necessary?

All timeshare transfers should be completed with a third party, full-service escrow company, with third party title insurance obtained for maximum protection.

The auction environment created by Web sites and bulletin boards has demonstrated and reinforced the necessity of a true escrow with title insurance (not just a title search). Normal title defects and escrow

Real Estate: Consumer Protections

Using a broker can bring great value to the table. These are the main consumer protections that are already in place when timeshare is treated as real estate.

Timeshare as Real Estate - Protections

1. Proper presentation of product
2. Fiduciary relationship between agent and principal
3. Protections through full disclosure during sale process
4. Protections thru proper transfers with full service escrow companies
5. Protection from title defects through proper title insurance
6. Lender protection encourages secondary financing
7. Continuing protection and assistance thru licensed agent customer care and service
8. Consumer remedies through the state department of real estate
9. Consumer protection through licensed real estate agents
10. Real estate brokers are required to be visible to the public and are held accountable

Results

Real estate brokers maintain and enhance product value.

Full escrow and title insurance policies protect consumers and resorts.

Third party broker, escrow and title companies reduce resort workload and increase protection.

Fiduciary agency, full disclosures and remedies create consumer confidence.

Licensing and regulation sets the guidelines for proper standards of practice in the timeshare industry.

problems typically run from 5 to 15% of the total number of transactions. Most are solvable but require the experience of a professional to handle the multiple steps to resolve the problem. Through this process, title insurance protects the buyer and seller and ultimately the HOA.

Resort transfer departments have to deal with problems and title defects that result from entities circumventing normal real estate practices. This can result in an increased workload for these departments and devaluation of the timeshare. The potential liability that could be incurred is avoided by using a third party title company and title insurance. Doing transactions with title insurance proves to be invaluable. This small and inexpensive step solves and prevents innumerable problems and is very cost effective.

Regarding resort buyback transfers of owner's property—just knowing that it has never been transferred previously in resort records does not guarantee that there have been no changes in the owner's legal status (examples: trusts, gifts, death, tax liens, probate, divorce, and marriage).

Most timeshares in most states fall under regulation of the Department of Real Estate and are considered real property/real estate. Deeded property always has value, although some timeshare weeks may have low value. Value, however, does not change the legal status of the property or limit the potential for liability.

When & How Should a Resort Select a Resale Broker?

It is recommended to engage a broker as soon as possible. This broker

can help the resort with the sale and rental of owner intervals prior to the end of developer sales. This broker should be selected based on their ability to provide exceptional service and have expertise in the following four key areas:

- Proper and complete presentation of the product;
- Long-term owner customer service and satisfaction;
- Protection, maintenance, and enhancement of product value; and
- Proper initiation and completion of the sale/rental transaction.

Each broker should provide long-term customer service to the resort's current and future owners. Knowledge of the resort—in combination with accepted real estate standards of

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Resales

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practice—places the broker in a unique position to professionally and ethically market resales for the resort.

How to Protect & Guide Your Owners

The secondary market is often more complex and requires more protections than the initial developer sale. If secondary market transactions are not handled correctly, owner dissatisfaction dominoes back to the HOA and the resort, ultimately impacting the primary market. By eliminating standard real estate practices from the transaction, the consumer loses the benefits of regulatory oversight.

The practice of transferring timeshare property like a book, without

proper escrow and title, increases the chance for title defects. Developers initially sell the property with escrow and title—the secondary transfer should be handled with all the same regulatory protections and safety nets.

While the Internet allows the consumer enormous opportunities, it also has enabled unlicensed individuals, dealers, and postcard companies to avoid the requirements of fiduciary relationships and full disclosures. Consumers and resorts should be cautious about entities practicing real estate without a license. When timeshare is treated as real estate, it maintains its dignity, respect, and value.

Conclusion

There are many benefits to treating our product as real estate. When we

incorporate real estate protections into the secondary market, our consumers/owners continue to receive all the benefits of an industry with regulatory oversight. We achieve our goal of enhancing product value and protecting the consumer, resulting in a healthy marketplace of solid transactions and satisfied owners. ▀

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