BUYING AND SELLING TIMESHARES

Timesharing is the use of a vacation home for a limited, pre-planned time. Timeshare owners buy the right to stay in a particular home in a resort over many years usually from 20 years to perpetuity. Timesharing has become a popular vacation option, but there are risks along with benefits.

Many timeshare companies offer you "gifts" if you listen to the presentation. These gifts may have little to no real worth. The "gems" may have little value; the "gold" may have a very low gold content; and the "vacation" may contain undisclosed costs.

Two basic vacation ownership options are available: timeshares and vacation interval plans. You should know that the value of these options is in their use as vacation destinations, not as investments. Because so many timeshares and vacation interval plans are available, the resale value of yours is apt to be a good deal lower than what you paid. Both a timeshare and a vacation interval plan require you to pay an initial purchase price and periodic maintenance fees. The initial purchase price may be made all at once or over time; periodic maintenance fees are likely to increase every year.

Deeded Timeshare Ownership. In a timeshare, you either own your vacation unit for the rest of your life, for the number of years spelled out in your purchase contract, or until you sell it. Your interest is legally considered real property. You purchase the right to use a specific unit at a specific time every year, and you may rent, sell, exchange, or bequeath your specific timeshare unit. You and the other timeshare owners collectively own the resort.

Unless you've bought the timeshare outright for cash, you are responsible for paying the monthly mortgage. Regardless of how you bought the timeshare, you also are responsible for paying an annual maintenance fee; property taxes may be extra. Owners share in the use and upkeep of the units and of the common grounds of the resort property. A homeowners' association usually handles management of the resort. Timeshare owners elect officers and control the expenses, the upkeep of the resort property, and the selection of the resort management company.

"Right to Use" Vacation Interval Option. In this option, a developer owns the resort, which is made up of condominiums or units. Each condo or unit is divided into "intervals" — either by weeks or the equivalent in points. You purchase the right to use an interval at the resort for a specific number of years — typically between 10 and 50 years. The interest you own is legally considered personal property. The specific unit you use at the resort may not be the same each year. In addition to the price for the right to use an interval, you pay an annual maintenance fee that is likely to increase each year.

Since the purchase of a timeshare will cost thousands of dollars, you should understand what you are buying when you are making your decision. You should consider whether you would be able to go on vacation this prearranged time every year. You should also consider the total cost of the timeshare. The total cost of your timeshare includes the annual maintenance fees, taxes, your mortgage payments, your travel costs to get there, and other miscellaneous costs.

When evaluating your options, compare your timeshare costs with the costs of renting a similar accommodation for the same time of year in the same location. The Federal Trade Commission (FTC) states that you should never consider the purchase of a timeshare as an investment. The FTC states that reselling timeshares are difficult because you may face competition with the original seller and local real estate agents may not be willing to include a timeshare in their listings. You may not be protected if the builder or management company encounters financial problems.

If you do decide to purchase a timeshare, research the track record of the seller, development and management company. Don't believe any oral promises. Look at the maintenance budget and the plans for management and repair of the property. If you purchase an undeveloped property, commit your money to an escrow account to protect it if the builder defaults.

Check to see if your contract has two clauses in it that may protect you. They are called the "nondisturbance" provision, and the "non-performance protection" clause. A non-disturbance provision ensures that you will have continued use of your unit in the event of a default by the builder or developer and subsequent third party claims against the property. A non-performance protection clause will allow you to keep your ownership rights.

Many timeshares offer exchange programs, which allow you to arrange trades with other units at different resorts. Usually these trades cannot be guaranteed. Also, there may be severe restrictions on the trade options and dates.

If you have problems with a time-share, contact the Real Estate Commission or the Consumer Protection Office in the state in which the property is located. The Georgia Real Estate Commission is located at 229 Peachtree Street N.E., International Towers, Ste. 1000, Atlanta, GA 30303-1605. The Georgia Governor's Office of Consumer Affairs is located at 2 Martin Luther King, Jr. Drive, S.E., Ste. 356, Atlanta, GA 30334.

Before you Buy

- Evaluate the location and quality of the resort, as well as the availability of units. Visit the facilities and talk to current timeshare or vacation plan owners about their experiences. Local real estate agents also can be good sources of information. Check for complaints about the resort developer and management company with the state Attorney General, and local Better Business Bureau and consumer protection officials.

- Research the track record of the seller, developer, and management company before you buy. Ask for a copy of the current maintenance budget for the property. Investigate the policies on management, repair, and replacement furnishings, and timetables for promised services.

- Get a handle on all the obligations and benefits of the timeshare or vacation plan purchase. Is everything the salesperson promises written into the contract? If not, walk away from the sale.

- Don’t act on impulse or under pressure. Purchase incentives may be offered while you are touring or staying at a resort. While these bonuses may present a good value, the timing of a purchase is your decision. You have the right to get all promises and representations in writing, as well as a public offering statement and other relevant documents.

- Study the paperwork outside of the presentation environment and, if possible, ask someone who is knowledgeable about contracts and real estate to review it before you make a decision.

- Get the name and phone number of someone at the company who can answer your questions — before, during, and after the sales presentation, and after your purchase.

- Ask about your ability to cancel the contract, sometimes referred to as a “right of rescission.” Many states — and maybe your contract — give you a right of rescission, but the amount of time you have to cancel may vary. State law or your contract also may specify a “cooling-off period” — that is, how long you have to cancel the deal once you’ve signed the papers. If a right of rescission or a cooling-off period aren’t required by law, ask that they be included in your contract.

- If, for some reason, you decide to cancel the purchase — either through your contract or state law — cancel it in writing. Send your letter by certified mail, return receipt requested, so you can document what the seller received. Keep copies of your letter and any enclosures. You should receive a prompt refund of any monies you paid, as provided by law.

- Use an escrow account if you’re buying an undeveloped property, and get a written commitment from the seller that the facilities will be finished as promised. That’s one way to help protect your contract rights if the developer defaults. Make sure your contract includes clauses concerning both “non-disturbance” and “non-performance.” A non-disturbance clause ensures that you’ll be able to use your unit or interval if the developer or management firm goes bankrupt or defaults. A non-performance clause lets you keep your rights, even if your contract is bought by a third party. You may want to contact an attorney who can provide you with more information about these provisions.

- Be wary of offers to buy timeshares or vacation plans in foreign countries. If you sign a contract outside the U.S. for a timeshare or vacation plan in another country, you will not be protected by U.S. laws.

TIMESHARE RESALE SCAMS

Because the resale potential of timeshares is poor (almost non-existent), companies offering "resale" have developed to scam timeshare owners out of thousands of dollars.

The FTC reports that these companies may contact you by either telephone or mail and promote their high resale success rate. These scam companies often ask for a listing fee of $300-$500. They may offer you a $1,000.00 government bond if they don't resell your timeshare within a year. Or they may offer to purchase your timeshare at 80-90% of its appraised value if they don't sell it within a certain period of time.

If you want to resell your timeshare, follow these tips:

a. Don't agree to anything over the telephone. Take the time to check out the company.

b. Ask the salesperson to send you written material.

c. Find out where the company is located and does business.

d. Ask if the company's salespeople are licensed to sell real estate by the state where your timeshare is located. If so, verify this with the state licensing board.

e. Your preference should be for a company who doesn't charge a fee until your timeshare is sold.

If you have complaints about a timeshare resale company, visit ftc.gov or call toll-free, 1-877-FTC-HELP (1-877-382-4357); TTY: 1-866-653-4261.

To learn more about vacation ownership, contact the American Resort Development Association. It represents the vacation ownership and resort development industries. ARDA has nearly 1,000 members, ranging from privately-held companies to major corporations, in the U.S. and overseas.

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