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# Time Share Ownership: A Primer

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# TIME SHARE OWNERSHIP: A PRIMER

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## I. THE GENERAL CONCEPT

The time sharing concept is a relatively new development in the field of real estate. It made its first appearance in the United States in Hawaii, California, and North Carolina.[1] Time share's popularity spread as an attractive, affordable option for individuals who vacation for short periods on a regular basis.[2]

The movement began to gain momentum in 1976 and has now begun to make its appearance in the resort areas of Minnesota, Montana, and South Dakota.[3] It has been estimated that the number of time share owners has increased from around 40,000 in 1976 to over 300,000 today.[4] The sales are generating a multibillion-dollar business, and the regulatory and statutory provisions have not kept pace with the development.[5]

At present, two proposed uniform laws dealing with time share have been drafted, one by the National Conference of

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1. CAL. CIV. CODE § 1350 (West Supp. 1980); HAWAII REV. STAT. § 514E (Supp. 1980); N.C. GEN. STAT. § 47 A-3 (1976).

2. Varner, *Time-Shared Ownership*, 12 GA. ST. B.J. 75 (1975).

3. MINN. STAT § 515.01 (1980); MONT. REV. CODES ANN. § 70-23 (1979); S.D. CODIFIED LAWS ANN. § 43-15A (Supp. 1980).

4. *Two Groups Propose Time-Share Legislation*, 66 A.B.A. J. 543 (1980).

5. *Id.* at 544.

Commissioners on Uniform State Laws, and the other by the American Land Development Association.[6] As yet, neither of these acts has been adopted in any of our three adjoining states, and it appears that the legislatures are waiting to see what the experience of other states will be with regard to the uniform statutes.[7] In view of this, in advising either a developer or a time unit purchaser, the attorney should not attempt to take shortcuts. A tremendous amount of paperwork is generated in these projects, but extensive detail will help anticipate, and thus avoid, problems.

Time share or time units usually involve multi-unit developments, and the plan is being used in both apartment and office concepts. Under a time share program, the developers, instead of selling a condominium apartment or office to a single owner, divide the ownership into time units, usually in one- to four-week periods, and market them on a piecemeal basis.[8]

Because of the recent development of the time share concept, no universally accepted terminology has as yet emerged. The program usually is marketed as a "time share" program, but such a program in one area may not be equivalent to a program marketed under the same description in another area or, indeed, to a different project in the same area.[9] Additionally, no uniform or standard forms have been developed for implementing any of the various types of these plans.

"Time share ownership" is a generic term. It describes an interest in property whereby a number of persons own, or have the exclusive right to use, a piece of property for a specified time period. These interests in property generally constitute either a tenancy in common or an interval ownership arrangement.[10]

"Interval ownership" generally denotes sole and individual ownership in one party for a designated, annually reoccurring time

6. In August 1979 the National Conference of Commissioners on Uniform State Laws (based in Chicago, Illinois) adopted the Model Real Estate Time-Share Act. In October 1979 the Model Time Share Ownership Act was adopted jointly by the Resort Time Sharing Council of the American Land Development Association (Washington, D.C.) and the National Association of Real Estate License Law Officials (Chicago, Illinois). *Id.* at 543. The author believes the later act is preferable in that it is the less restrictive of the two and flexible enough to allow innovative development to continue. It is too early to draw the line and determine that the development of the concept is complete and that therefore uniformity must now be the rule.

7. As of the end of 1980, the states that had adopted some form of first generation time share ownership statutes were as follows: Colorado, COLO. REV. STAT. §§ 38-33-110 and 111 (Supp. 1979); Florida, FLA. STAT. ANN. § 718.101-.508 (West Supp. 1981); Hawaii, HAWAII REV. STAT. § 514E (Supp. 1980); Maine, ME. REV. STAT. ANN. tit. 33 § 560-88 (1978 & Cum. Supp. 1978-79); New Hampshire, N.H. REV. STAT. ANN. §§ 356-B:1-69 (Supp. 1979); South Carolina, S.C. CODE § 27-32-10-170 (Supp. 1979); Utah, UTAH CODE ANN. § 57-8-1-36 (Supp. 1979).

8. P. ROHAN & M. RESKIN, 1 CONDOMINIUM LAW AND PRACTICE § 17C.01 [1] (1978).

9. Davis, *The Second-Home Market, Time-Sharing Ownership — Legal and Practical Problems,* 48 ST. JOHN'S L. REV. 1183 (1974). Davis states that "[t]here are almost as many methods of conveying time-shared titles as there are developers in the field." *Id.*

10. Varner, *supra* note 2, at 75.

period. In more traditional terms, the purchaser is granted an estate in his unit for a specified number of years. This is coupled with a remainder as a tenant in common with all other owners at the end of the estate for years. At the end of the predetermined period, the parties, as tenants in common, have the option of seeking judicial partition or reinstating a form of time share ownership.[11]

In the tenancy in common arrangement, all owners receive a contractual right to the exclusive use and possession of their unit for a specified time period. This type of ownership, initially the form most used, is losing its popularity as its inherent dangers become apparent. The two most prevalent threats include common liability in the event of a federal tax lien[12] and the possibility of a judicial partition.[13]

Each time share ownership plan has several desirable elements. Essentially, and under whatever name the plan is implemented, these programs provide, at a predetermined initial cost, a residential vacation apartment in a desirable resort complex. There is also a measure of control over the annual vacation cost and a sharing of fixed costs with other users of the apartment. Most plans provide, through an independant organization, the opportunity to trade the allocated time period for a similar period in any one of many similar projects in other resort areas around the world.[14]

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11. Davis, *supra* note 9, at 1187. The remainder is not usually planned to occur until after the projected useful life of the development has expired. The remainder is used solely to avoid problems with the Rule Against Perpetuities. *Id.*

12. Due, no doubt, to the paucity of case law, the Colorado Real Estate Commission's Rules and Regulations (S-20) require (among other disclosures) a developer to inform a purchaser of the following:

> (1) That federal tax lien law may authorize tax authorities to enforce the lien for unpaid federal taxes due from any one owner of a time sharing interest by selling the entire condominium and distributing the sale proceeds to the owners in accordance with their interests.
> (2) That mechanic's lien law may authorize enforcement of the lien by selling the entire condominum.

While the Colorado rules and regulations make no distinction between an interval ownership title and other forms, it would appear that tax authorities or other lienors could not enforce liens against any interval ownership time period other than that of the individual debtor, since the various interests are not held in common. *See* Outen, *Interval Titles and Title Insurance,* LAW. TITLE NEWS, Mar.-Apr., 1976, at 7 (Lawyers Title Insurance Co., Richmond, Va., ed.).

13. Comment, *Legal Challenges to Time Sharing Ownership,* 45 MO. L. REV. 423, 432-35 (1980). The right of a cotenant to bring an action for judicial partition is one of the fundamental common law rights which attaches to any property interest held in cotenancy. *Id.* at 432. Therefore, the elimination of a cotenant's right to compel judicial partition is vital in order to preserve any time share interest in which the owners hold their units as tenants in common. To prevent a forced partition by a disgruntled cotenant, it is essential to have each tenant execute a waiver of his right to seek partition. Note, *Time-Share Condominiums: Property's Fourth Dimension* 32 ME. L. REV. 181, 189 (1980) [hereinafter cited as Note, *Fourth Dimension*].

14. Currently, the two primary exchange organizations are Resort Condominiums

The role of the attorney in this new development will be discussed from two standpoints: that of the legal advisor to the developer; and that of the document examiner for the purchaser.

## II. THE DEVELOPER'S ATTORNEY

The discussion here is, in essence, a primer and is necessarily very brief and general. It should not be used as a guide for the preparation of documents, and it assumes that counsel is familiar with the applicable statutory requirements of condominiums in general.[15]

Counsel should familiarize him or herself with the guidelines recommended by the title insurance company involved, the Securities and Exchange Commission, and any applicable local ordinances. Additionally, some time should be spent with the local recording officials well in advance of the recording of the first conveyance. This will assist those offices in adopting procedures to aid personnel in coping with extra paperwork. A twenty-unit apartment project, for example, could generate over one thousand deeds and an equal number of mortgages in only a few months.[16]

## III. STRUCTURING THE CONDOMINIUM

As earlier noted, the term "time share" is a generic term. For the purposes of this discussion, comments apply primarily to the interval ownership concept. Of course, much of what is said will apply to other concepts as well.

An initial step in drafting the documents is to correctly describe the type of ownership the purchaser is to acquire. It is also necessary to state the specific time at which the individual apartment unit is submitted to interval ownership. The following

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International (RCI), based in Indianapolis, Indiana, and Interval International, based in South Miami, Florida. Resort Condominiums International has more than 500 member resorts, and Interval International has more than 250. Resorts available for exchange are located in such diverse locations as Hawaii, Colorado, Nevada, Mexico, Canada, Caribbean Islands, England, France, Spanish Coast, Italy, and other world resort sites. *See generally* Davis, *supra* note 9, at 1185; Gunnar, *Regulation of Resort Time-Sharing,* 57 OR. L. REV. 31, 32 (1977).

15. MINN. STAT. ch. 515A (1980); N.D. CENT. CODE ch. 47-04 (1978); S.D. CODIFIED LAWS ANN. ch. 43-15A (Supp. 1980). The Minnesota Legislature, 1980 session, completely rewrote the Minnesota Condominium Act, effective August 1, 1980. Pre-August condominiums, however, are generally to continue to operate under the old act, except in certain specified instances. MINN. STAT. ch. 515 (1980). For a conversion of apartment units in a pre-August condominium to a time share project, both acts will have to be consulted. None of the three state's acts address the time share concept directly.

16. A development in Detroit Lakes, Minnesota, in which the author was associated, was comprised of 18 apartment units which were marketed in one-week intervals, a total of 936 intervals. Approximately 85% were sold with the purchaser's signing a mortgage creating an additional 795 documents for recording. Most of these mortgages were assigned to a lender.

language, used by the author, has been acceptable to various other attorneys who have examined documents in which it has been included:

> *Interval Ownership.* A concept whereby apartments are conveyed for one or more periods of time (unit weeks), the grantee receiving a stated time period for a period of years, together with the remainder over in fee simple as tenant in common with all other grantees of unit weeks in each apartment unit in the year ____.[17]

Other language in the declaration furnishes the specific date. Additional provisions eliminate the possibility of the remainder estate merging with the estate for years.[18] It is also important to specify that the owner of a time unit has the right to enjoy the common facilities only during his or her particular ownership period.

The developer should maintain some flexibility as to when each of the apartment units is committed to interval ownership. Economic conditions may require a change in plans, and the developer should not be locked into placing all of the apartment units into the time share program. The documentation should provide for the individual apartment unit's being subjected to time share ownership only upon the recording of the first time share deed.[19]

The documentation should, of course, clearly identify the specific time period being purchased. Normally, this would be in weekly intervals. Language should identify the time unit or unit week as being that period of time commencing on a specified day, for example, "the first Saturday after the first Friday of each year." The time period should commence and terminate at a specified hour without any gap between the time periods.[20] If the termination of a time unit is not succeeded instantaneously by the commencement of the next time unit, an interval of time ownership

17. The author has used this language in documents which he has prepared specifically for use in time share situations.

18. *See* 31 C.J.S. *Estates* § 126 (1964).

19. In converting an existing conventional condominium project to a time share concept, particular attention must be paid to state laws dealing with time share. Both the Model Real Estate Time Share Act (Model Act) and the Colorado statute, for example, prohibit such conversion unless the original documentation specifically authorizes such conversion. *See* COLO. REV. STAT § 38-33-111 (1) (Supp. 1979); MODEL REAL ESTATE TIME SHARE ACT § 2-101 [hereinafter cited as MODEL ACT]. Additionally, the Model Act requires that any amendment authorizing such conversion be approved by at least 80% of the units or a larger percentage if required by the documents. MODEL ACT § 2-101.

20. ROHAN & RESKIN, *supra* note 8, § 17C.01[2] at 17C-4.2, -4.3.

remains in the developer-grantor. This creates problems of assessment, allocation, taxation, as well as numerous administrative problems.[21]

It is necessary to provide for cleaning periods between check-out and check-in times. This can be established, however, by the rules and regulations of the association, which can be easily amended, rather than by recorded documentation.

In a condominium of mixed ownership, in which only some of the apartment units are subject to interval ownership, it will be necessary for two separate maintenance fee schedules to be established. The first would be assessed to the condominium as a whole and would cover yard maintenance, exterior building maintenance, and the like. A second fee schedule, designated for the interval owners only, should assess costs which are attributable only to the interval ownership portion, including such things as maid service, furniture and equipment repair, and replacement costs.

Normally, a one- or two-week period is reserved annually for maintenance of each unit. It would seem practical, though, to allow this week to be determined at some future date rather than initially determined in the recorded documents. Thus, the original documents should provide that, after a certain percentage of the weekly units has been sold, the management or the association would select a unit week or unit weeks for maintenance. The developer would then deed the maintenance period directly to the association.

The documentation should also clearly set forth that the interval owner is prohibited from making any alterations or changes in the interior of the apartment unit.[22] This would include such major items as structural changes and such minor items as moving or replacing furniture or equipment.

One question which apparently has caused problems from a sales standpoint, though very little from a practical standpoint, is the question of what happens when an owner does not vacate upon the termination of his or her time period. The documentation should provide for enforcement procedures allowing the association to rent comparable space for the incoming owner and to charge the cost back to the holdover owner.[23]

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21. *See generally* Note, *Fourth Dimension, supra* note 13, at 187 n.37.

22. Section 515A.2-113 of the Minnesota Statutes Annotated allows structural alterations to be made by the unit owner "subject to the provisions of the declaration." Thus, in a Minnesota project, the declaration must specifically prohibit any such alterations. MINN. STAT. § 515A.2-113 (1980).

23. Eviction statutes of the project state should be consulted to determine possible potential conflict between the documentary and statutory provisions relating to eviction. For example, when

A provision should also be included allowing the owners, upon the expiration of the initial estate for years, to determine whether they wish to continue their time share arrangement or terminate and become tenants in common. Each apartment unit could initially have 52 interval owners. Assuming each owner was married and that each survived the period of years, and further assuming that each still owned his or her time unit, it would require 104 signatures upon each deed to convey to a third party. In a project of 50 apartments, the signature requirement would rise to 5,200. It appears to this writer that the most practical way to handle such a situation is to provide for the remainder interest to vest either in the association itself or in a trust in which the individual time unit owners have proportional beneficial interests.

In the author's opinion, the trust is preferable to the association because the trustee would be able to convey clear title by a single signature deed. Furthermore, the trust instrument itself could provide for the distribution of the proceeds of any sale. By the same token, each of the parties having a beneficial interest in the trust could vote on the question of the continuation of the interval ownership arrangement.

An additional problem should be considered. Since the majority of the interval ownership programs will be activated only in resort or vacation areas, it will be exceedingly difficult to obtain a quorum for any association meeting. To avoid this problem, this writer has incorporated a proxy statement in the initial documents which the purchaser signs. It should be noted in passing that most states define the requirements for a proxy vote, and the state regulations must, of course, be closely followed to make the proxy fully effective.[24]

Nearly all condominium statutes require a lapse of time between the delivery of documents, the signing of a purchase agreement, and the closing of the sale.[25] For this reason, if for no other, the purchase documents should provide for closing by mail rather than requiring all parties to gather in an office to transfer the various papers and payments.

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the documentation specifies the right of re-entry, the North Dakota Century Code would seem to authorize a detainer action without prior notice. *See* N.D. CENT. CODE § 47-17-05 (1978). The Minnesota and South Dakota statutes probably also would be interpreted broadly enough to authorize a detainer action in a potential eviction situation. *See* MINN. STAT. §§ 566.03 to-.05 (1980); S.D. CODIFIED LAWS ch. 21-16 (1979).

24. *See, e.g.* MINN. STAT. § 300.23 (1980); N.D. CENT. CODE § 10-19-33 (1976). Since most condominiums today are set up with a nonprofit incorporated association, the proxy requirements normally will be found in the corporation statutes.

25. MINN. STAT. §§ 515A.4-102(K)(1), 515A.4-107(5) (1980) (effective Aug. 1, 1980); S.D. CODIFIED LAWS § 43-15A-19 (Supp. 1980); MODEL ACT, *supra* note 19, § 4-105. North Dakota has no specified rescission period.

Finally, since the purchaser is primarily interested in a worry-free vacation in the particular resort, as many of the association's duties and obligations as the local law allows should be transferred to and exercised by management. It is obvious that the quality of the management is the major factor in the successful operation of an interval resort area. Thus, while the association managers or board of directors should monitor project administration, the management should be accorded maximum flexibility and freedom for dealing with most eventualities.

## IV. REGULATORY PROBLEMS

There is an emerging body of law holding that the sale of a time share unit may, under certain circumstances, constitute the offering of a security.[26] To determine whether the marketing of an individual project constitutes a securities sale, it is necessary to examine both the Federal Securities Act of 1933[27] and the Securities Exchange Act of 1934.[28] Additionally, the statutes and regulations of the states within which the offering or sale is to be promoted must be closely examined. Normally, if the offering is a security under federal statutes, it is a security under all state statutes.

The classification of a time share interest as a security depends upon its characterization as an investment contract. The Securities Act of 1933 specifically defines "security" to include "investment contracts," thereby subjecting them to the requirements of the Act.[29]

The traditional test for determining whether an investment is an "investment contract" was formulated by the United States Supreme Court in *S.E.C. v. W.J. Howey Co.*[30] The Court indicated that an offering was to be classified as an investment contract when "the scheme involves an investment of money in a common enterprise with profits to come solely from the efforts of others."[31]

The *Howey* criteria, while retaining its validity, has been modified in some respects by more recent federal court decisions. In *S.E.C. v. Glenn Turner Enterprises, Inc.*,[32] the United States Court of Appeals for the Ninth Circuit interpreted the third requirement

26. *See, e.g.*, Lowery v. Ford Hill Investment Co., 192 Colo. 125, 556 P.2d 1201 (1976).
27. Ch. 38, tit. I, § 1, 48 Stat. 74 (current version at 15 U.S.C.A. §§ 77a to-77bbbb (West 1971 & Supp. 1980)).
28. Ch. 404, § 1, 48 Stat. 881 (current version at 15 U.S.C.A. §§ 78a to-78lll (West 1971 & Supp. 1980)).
29. 15 U.S.C.A. 77b (1) (West 1971 & Supp. 1980).
30. 328 U.S. 293 (1946).
31. S.E.C. v. W. J. Howey Co. 328 U.S. 293, 301 (1946).
32. 474 F.2d 476 (9th Cir. 1973).

of the *Howey* test, that profits were to be derived solely from the efforts of others, to be applicable even when the investor contributed "a modicum of effort."[33] Similarily, in *S.E.C. v. Koscot Interplanetary, Inc.*,[34] the United States Court of Appeals for the Fifth Circuit found that the critical inquiry was simply "whether the efforts made by those other than the investor are the undeniably significant ones. . . ."[35]

While it may appear that time share interests would fall within the auspicies of the *Howey* criteria, most do not if the purchases are properly motivated and the organizations of the developments are carefully structured. In *United Housing Foundation, Inc. v. Forman,*[36] the Supreme Court defined the profits associated with investment contracts as those which an investor might expect from capital appreciation resulting from the development of the initial investment or from earnings generated from the investor's funds.[37] The Court characterized such investments as coming from speculators "attracted solely by the prospects of a return" on their investments.[38] It found that an investment contract did *not* arise when the purchaser was motivated by a desire to personally use the investment.[39] In general, then, an owner of a time share interest will not be deemed to have purchased a security when his primary incentive centered around finding a vacation home for his own use.

In order to ensure that the sale of a time share interest does not constitute the offering of a security, the developer should consider a variety of factors. The agreement should not provide for any pooling arrangement for the rental of the time share units when they are not in use by the owners. Sales personnel should be instructed not to volunteer the availability of rental services. Should the time share owner wish to rent his unit, it is suggested that the project management advise him to seek the services of an independent agency.

### A. TRUTH IN LENDING ACT

When the developer intends to sell the time units on either a contract or a note and mortgage basis, the applicable truth in

33. S.E.C. v. Glenn W. Turner Enterprises, Inc., 474 F.2d 476, 482 (9th Cir. 1973).
34. 497 F.2d 473 (5th Cir. 1974).
35. S.E.C. v. Koscot Interplanetary, Inc., 497 F.2d 473, 483 (5th Cir. 1974) (citing S.E.C. v. Glenn W. Turner Enterprises, Inc. 474 F.2d 476 (9th Cir. 1973)).
36. 421 U.S. 837 (1975).
37. United Housing Foundation, Inc. v. Forman, 421 U.S. 837, 852 (1975).
38. *Id.* (citing S.E.C. v. W. J. Howey, 328 U.S. 293, 301 (1946)).
39. 421 U.S. at 852-53.

lending acts must be examined to make certain that the disclosures required by these acts are contained either within the usual disclosure statement required by the condominium laws or in a separate document relating to the note and mortgage or contract for deed documents.[40]

B. REAL ESTATE LAND SALES ACT

All states in which the time units are to be offered for sale should be checked for applicable provisions of the local land subdivision acts[41] (which carry various names) as well as for the applicability of the Federal Interstate Land Sales Act.[42] It has been the position of the Housing and Urban Develpment (HUD) Office of Interstate Land Sales Regulations (OILSR) that, inasmuch as condominiums carry the indicia of real estate, units are a subdivision of real estate and, hence, are subject to the provisions of the Act.[43]

The filing and disclosure requirements apparently are confined (with regard to condominiums) to the sale of the units not yet in existence.[44] Section 1702 of the federal act, entitled "Exemptions," provides that "unless the plan is designed for the purpose of evading the provisions of this chapter," the provisions do not apply to the "sale or lease of any improved land on which there is a residential . . . building."[45] At least one case, however, has held that this exemption is not automatic or determined by the developer.[46] In effect, it requires a submission to OILSR and an approval of an exemption by that office.[47]

Registration in a foreign state in which sales are promoted is necessary.[48] The North Dakota Land Subdivision Act, however, provides that North Dakota may accept as registration a registration with the federal authorities or another state authority.[49]

The North Dakota Land Subdivision Act requires, in addition to the information required by the federal act, extensive information concerning location in relation to public facilities, principal businesses of each director and officer of the developer,

40. *See, e.g.*, 15 U.S.C.A. §§ 1601-1700 (West 1974 & Supp. 1980); MINN. STAT. § 47.201 (1980).
41. *See, e.g.*, MINN. STAT. § 83.20 (1980); N.D. CENT. CODE ch. 43-23.1 (1978).
42. Federal Interstate Land Sales Act, 15 U.S.C.A. §§ 1701-1720 (West 1974 & Supp. 1980).
43. 38 Fed. Reg. 23866 (1973).
44. *Id.*
45. 15 U.S.C.A. § 1702 (West Supp. 1980).
46. Happy Investment Group v. Lakeworld Properties, Inc., 396 F. Supp. 175 (N.D. Cal. 1975).
47. *Id.* at 187.
48. *See, e.g.*, N.D. CENT. CODE § 43-23.1-04(1) (1978).
49. N.D. CENT. CODE § 43-23.1-11(6) (a) (1978).

zoning regulations, copies of advertising materials (including, probably, transcripts of telephone presentations by sales agents), and such other information as the North Dakota Real Estate Commission may require.[50]

### C. FINANCING THE TIME UNIT SALES

When an entire project is subject to a lien of blanket mortgage, the lender normally will require full payment of the portion of the mortgage attributable before it will issue partial releases for the individual apartment units. The same practice does not apply, however, in the sale of a time unit (which is less than the ownership of the entire interest) in that apartment.

A time share project, to be economically feasible, requires the sale of a substantial number of time units. This in turn requires a large sales staff and will normally require commission payments upon closing the sale, which will ordinarily exceed the down payment. It will thus be necessary to generate from the sale of the purchase "paper" (usually at a discount) sufficient cash flow to keep the development afloat. Ideally, this should be committed prior to the first sale, for not only must commissions and other overhead be paid, but clear title must be delivered. This means that a release from the blanket mortgage must also be obtained. Aside from official regulations, there appears to be no legal impediment to the partial release of a time unit from the lien of the blanket mortgage.

## V. REPRESENTING THE PURCHASER

The attorney for a unit purchaser normally will not be furnished an abstract of title on the underlying real estate. The cost of furnishing a separate abstract for each week — 52 for the year — for each apartment would be prohibitive. Hence, title insurance is widely used. Careful examination should be made of the disclosure documentation, sales literature, and the purchase agreement, for these items can affect the purchaser's rescission rights.[51]

It should be kept in mind that the buyer's purpose in making the purchase is to acquire a vacation retreat. The buyer is primarily interested in what the rights, liabilities, and duties are with relation to new neighbors. The documentation will be voluminous, and the

50. N.D. CENT. CODE § 43-23.1-06 (1978).
51. *See supra* note 40 and accompanying text.

buyer will rely on the attorney to alert him or her as to matters which may affect those interests.

It would seem advisable for the attorney to organize recommendations under several independant topic headings. Preliminary discussions with the client will, of course, indicate the primary areas of concern. Nevertheless, every opinion should define the rights and obligations existing under the folowing headings: Type and effect of title acquired; meetings, voting and proxy provisions; restrictions on occupancy; liability for holding over after occupancy period; provisions for regular and special assessment; other charges and enforcement provisions; ownership of personal property and equipment; management provisions; exceptions noted in the title insurance; and general statutory rights and obligations. Additionally, if the purchase is made using a contract for deed or a note and mortgage, the pertinent provisions of these should be noted.

## VI. CONCLUSION

Two future developments seem assured. First, since the concept of interval ownership is not legally confined to either condominiums or to high intensity resort areas, it seems apparent that this type of ownership will begin to replace tenancy in common among a few individuals owning lake or mountain cottages. In such an event, two or three families may purchase a vacation residence, each being a sole owner for one summer month or other appropriate period. The remaining time ownership would be vested in a corporation or other entity which is, in turn, owned by the three families. Furthermore, it is certain that more and smaller commercial resorts will be converted to some form of time share development as taxes and operational costs rise and energy costs and conservation pressures restrict travel.

Second, as the time share concept develops, more states, and perhaps the federal government, will adopt statutes and regulations governing the development and operation of such programs.[52] It is to be hoped that any such regulatory provisions will be sufficiently detailed to allow a conforming project to proceed under the aegis of a single authority, rather than the multitudinous commissions previously discussed. Simplicity and regulatory stability will serve to increase the attractiveness and desirability of time share interests.

52. *See, e.g., supra* note 7.