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# Timeshare Basics from TimeSharing Today

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## Introduction

Timesharing is a great way to vacation. It gives you the space and luxury of a resort villa or condominium apartment instead of a cramped hotel room, and the ability to exchange your timeshare for similar accommodations in desirable destinations all over the world. Moreover, because the price of your timeshare is established at the time of purchase, you get a hedge against inflation in your future leisure-lodging costs.

That's the good news – but it applies only when you understand what you are buying, buy only what you want, and say "no" to anything you don't want or don't understand.

Timeshare products are inherently complex, and thus potentially bewildering to the average consumer. This text will help you to avoid pitfalls as you consider a timeshare purchase and, after you buy, to make the best possible use of your timeshare.

## A Short History of Timesharing

### The beginning.

Timesharing was invented in France. Paul Doumier of the Société des Grands Travaux de Marseille development company created the concept for his firm's Superdevoluy ski resort in the French Alps. Monsieur Doumier coined a catchy advertising slogan which loosely translated means: "Don't rent the room – buy the hotel, it's cheaper." Oddly, the year of this innovation is in dispute. Various industry histories place it in 1964, 1965, 1967, and 1968.

Hapimag, a Swiss limited company, began in 1963 to acquire resort properties and sell share packages that entitle purchasers to vacation accommodations, but technically this isn't timesharing because shareholders buy holiday use rights, not real-estate ownership.

### Timesharing in the U.S.

According to a 1987 fact sheet compiled by the American Land Development Association, the first right-to-use timeshare resort in the U.S. appeared in 1969 on the Hawaiian island of Kauai. Called Kauai Kailani, it was developed by Hawaii Kailani of Bellingham, Washington. The fact sheet also says that the first deeded timeshare ownership program in the U.S. appeared in 1973 at Brockway Springs in Lake Tahoe, California. The developer was Innisfree Companies of Sausalito, California.

In the mid-1970s, Hawk's Nest of Marathon in the Florida Keys and Sanibel Beach Club on Sanibel Island, Florida, became the first resorts to be marketed, sold out, and turned over by the developers to their owners' associations. Sanibel Beach Club was the first purpose-built interval ownership resort (as opposed to a converted condominium, hotel, or motel) in North America. It opened in 1974, selling unit-weeks for \$900 to \$3,000. In recent years, resales of low-season weeks at Sanibel Beach Club have brought \$5,000 to \$6,000, and high-season weeks there have resold for as much as \$30,000.

### Points.

Point-based programs are designed to provide greater usage flexibility than traditional unit-week timesharing. Points function as a "currency" to allocate vacation-ownership accommodations according to location, unit size, and demand (which is based on days of the week and seasonality). Hapimag introduced the first point system in Europe in 1963. The U.S. originator of the point concept, Vacation Internationale, Ltd., established its program in 1974. The launch of the Disney Vacation Club's point-based program in 1991 gave new impetus to the points system, and many other development firms have since embraced it. In 2000, Resort Condominiums International (a major exchange company) introduced its own such program, RCI Points, which allows owners at participating RCI-affiliated resorts to swap the accommodations they own for a package of points. Many point-based programs are vacation clubs that offer a variety of travel and leisure-services benefits in addition to lodging.

### Exchanging.

Christel and Jon DeHaan organized the first exchange company, Resort Condominiums International, in 1974. They intended originally to help developers of vacation condominiums sell new units by offering the buyers of those units opportunities to exchange into other vacation destinations. When the mid-1970s condo boom went bust and many developers converted their whole-ownership condo properties to timesharing, RCI was in place with an exchange program that could enhance the attractiveness of the timeshare product.

The DeHaans subsequently divorced. As part of the property settlement, Christel won control of RCI in 1989. She sold the company in 1996 to Hospitality Franchise Systems, Inc., which merged in December of 1997 with CUC International, Inc., a firm specializing in membership-based discount consumer services. The company created by that

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merger, Cendant Corporation, owns RCI today.

In 1976, Miami attorney Thomas J. Davis, Jr., and Mario Rodriguez, a former accountant, formed Interval International specifically to compete in the timeshare exchange marketplace.

Davis left Interval International in 1982. Rodriguez sold his interest in 1988 to Leaguestar plc, a London-based holding company supported by European institutional investors. In 1992, Interval International became a wholly-owned subsidiary of CUC. Because the CUC-HFS merger would have placed both of the major exchange companies under the same corporate umbrella, raising anti-trust concerns, Interval International was sold in December of 1997 to an investment group formed and controlled by Willis Stein & Partners, L.P., a Chicago-based investment partnership; a group of Interval's senior executives; and a consortium of hospitality firms consisting of Carlson Companies, Inc.; Hyatt Vacation Ownership, Inc.; and Marriott Ownership Resorts, Inc., the vacation-ownership subsidiary of Marriott International, Inc.

### **Abuses in marketing.**

In the early years of the timeshare industry, sales and marketing misbehavior gave it a bad name. Particularly prone to abuse were sweepstakes and games of chance, which Florida banned outright in 1983. Misrepresentation of premiums was an early scam. One enterprising marketer offered consumers a boat with motor – trailer not included – as an inducement to tour his resort. For their visit, prospects borrowed or rented boat trailers and pickup trucks with trailer hitches. The boat turned out to be a small rubber raft with a plastic motor – a flimsy craft unsuited for all but swimming pools or the most placid of ponds!

### **Governmental regulation.**

In 1977, only three U.S. states regulated timesharing. The main thrust toward legislation came in the early and mid-1980s, and by the end of that decade 38 of the 50 states had passed specific timeshare laws. In the other 12 states, lawmakers amended other laws to cover timeshare sales.

"Prompting this legislative flurry were the bad motives and misbehavior of certain opportunistic developers and marketers who made promises to the buying public that they could not and did not keep. Some of these unkept promises reflected inexperience and inadvertent undercapitalization, but in other cases the developers and marketers were less than reputable," recalled Craig M. Nash, president and chief executive officer of Interval International, in a 1994 speech.

In 1983, the American Land Development Association adopted a Model Timeshare Act that became the basis for much of the subsequent state legislation. Its provisions were designed to curb scam artists while providing a framework

within which reputable developers and marketers could operate.

In 1994, the American Resort Development Association adopted a Model Vacation Club Act that recognized vacation clubs as a distinct product type and proposed a separate regulatory framework for them. Like the Model Timeshare Act, the Model Vacation Act was designed to protect consumers without imposing unreasonable limitations on legitimate developers and marketers.

### **Name-brand resorts.**

In 1984, Marriott Corporation became the first of the large hospitality companies to enter the timeshare industry. Marriott bought the assets and hired the top executives of American Resorts, Inc., which had developed two attractive and profitable resorts on Hilton Head Island, South Carolina, and was building a third. For the remainder of the decade, other hospitality firms watched quietly from the sidelines as Marriott Ownership Resorts Inc. thrived and grew. In mid-2001, the Marriott timeshare empire, known as Marriott Vacation Club International (MVCI), encompassed 51 resorts in 29 destination areas in the U.S., The Bahamas, the Caribbean, Spain, Egypt, and Thailand, serving more than 185,000 vacation-owners.

Another little-known event in the history of name-brand timesharing also occurred in 1984: the opening of Harbor Club, a 16.5-acre, 72-unit, RCI-affiliated timeshare property adjacent to the 154-room Sheraton Palm Coast Resort in Palm Coast, Florida. Harbor Club originally belonged to a corporate sister of Sheraton, ITT Community Development Corporation, which was developing the master-planned 42,000-acre Palm Coast community. For reasons of corporate synergy, the hotel handled property management for Harbor Club, offered access to all hotel facilities and services to the club's timeshare owners and exchange guests, and used some of the unoccupied timeshare villas as deluxe hotel suites.

That timeshare resort, now called The Harbor Club at Palm Coast, exchanges through both Interval International and RCI. It is independent of the hotel, which ceased to bear the Sheraton brand on March 1, 1996. In mid-2001, the hotel was called Palm Coast Golf Resort and was managed by Destination Hotels & Resorts, a wholly owned subsidiary of Lowe Enterprises, a privately-held commercial and hospitality development, investment, and management firm based in Los Angeles.

Sheraton could have drawn upon its Palm Coast experience to blaze new trails in brand-name timesharing in the 1980s and 1990s, but the firm's management wasn't interested and did not pursue such opportunities. Ironically, Sheraton became one of the most active timeshare brands as the 21st Century dawned. Starwood Hotels & Resorts Worldwide, Inc., bought Westin Hotels & Resorts and ITT

(Sheraton's corporate parent) in 1998, and the following year acquired Vistana, Inc., one of the timeshare industry's most successful resort-development firms. The Vistana purchase laid the groundwork for Starwood's timeshare division, Starwood Vacation Ownership, Inc., which is branding most of its timeshare properties with the Sheraton and Westin labels.

Other prominent hospitality brand names taking the timeshare plunge in the 1990s included Disney, Four Seasons, Hilton, Hyatt, Radisson, and Ramada. Another growing trend is development of mixed-use projects that contain a timeshare component within or adjacent to a franchised hotel bearing a popular brand name.

All of this name-brand hospitality activity has elevated the standards of the entire timeshare industry. Consumers associate a certain level of quality with a hotel brand name, so timeshare resorts bearing that brand name must match the quality of the brand's transient-stay hotels – and independent timeshare developers must match those same quality levels to compete with the branded resorts. From the developer's perspective, brand recognition boosts timeshare sales and exchange activity, and may even generate cross-product brand loyalty as owners of branded timeshares select transient hotels bearing the familiar name and logo-type.

### **Florida's key role.**

Florida had 497 active state-approved timeshare plans on July 1, 2001, with slightly more than 28,000 units and about 1.43 million timeshare weeks, comprising almost 28 percent of the entire U.S. timeshare inventory. This should come as no surprise. With its beaches and balmy subtropical climate, Florida was a natural timeshare destination from the start.

Another important contributor to the growth of timesharing in Florida is Walt Disney World, which opened its Magic Kingdom theme park in 1971. Attracted by Disney World's success, other entertainment and recreational attractions swarmed into Greater Orlando. Like a critical mass sustaining a nuclear reaction, these attractions have relied upon each other to draw a clientele into the area – and the local timeshare inventory has grown apace to house them.

At the end of 2000, Orange and Osceola counties contained a cluster of timeshare resorts unrivaled elsewhere in the world: more than 96 individual properties with 14,924 units and 761,124 unit-weeks. Resorts in the Greater Orlando area thus comprised close to one in five Florida resorts and more than one in 20 nationwide.

### **Urban timeshares.**

The first urban timeshare resorts in the United States appeared in New Orleans, San Francisco, and Washington, D.C.

Chateau Orleans in New Orleans sold 1,900 unit-weeks in four phases between 1980 and 1984. Powell Place in San Francisco, a 28-unit project on Nob Hill, began selling in 1981. Each continues to operate today, exchanging through both Interval International and RCI.

The Washington property, Barclay House, was a nine-story, 26-unit condominium apartment building converted from whole ownership to timesharing due to sluggishness in the real-estate market. Sales began in the fall of 1981; the developer filed for Chapter 11 bankruptcy in May of 1982.

In the early 1980s, industry observers predicted a bright future for urban timesharing and the spread of this concept to other U.S. cities, and those predictions are coming true. Large American cities with successful urban timeshare resorts now include Boston, Massachusetts; Charleston, South Carolina; New York City; and San Antonio, Texas. Varsity Clubs of America, Inc., a subsidiary of ILX Incorporated, has all-suite interval-ownership hotels near the University of Notre Dame in South Bend, Indiana, and near the University of Arizona in Tucson. Overseas cities with active urban timeshare resorts include Athens, Kuala Lumpur, London, Melbourne, Paris, Salzburg, Sydney, Venice, and Vienna.

## **The Product**

### **Product Types.**

Before buying a car, you must decide whether you want a convertible, mini-van, sedan, sports car, station wagon, or sport-utility vehicle. The timeshare industry also has a variety of product types. Before you buy, decide what is right for you.

Technically speaking, timesharing is ownership and use of real estate where purchasers acquire specific periods of time – usually by the week – in units of real property in a common-interest subdivision. Timesharing works like a condominium apartment in which you own your unit, but for only a week each year. Thus, an individual timeshare is a *unit-week*.

You may hear timesharing described as interval ownership, which it is – but interval ownership also applies to fractionals and biennials.

A *fractional* product provides a longer ownership period than one week per year. A twelfth-share, for instance, gives its owner a week of use each month of the year, or a three-week block of time in each of the four seasons. Other types of fractionals include tenth-, eighth-, sixth-, and quarter-shares.

A *biennial* is an every-other-year product. It typically costs about 60 percent of an annual timeshare product, not 50 percent. The difference covers the developer's administrative costs.

All of the foregoing fall under the umbrella term vacation ownership, which also includes vacation clubs and point programs.

A *vacation club* is a membership product with no ownership rights. Usually it involves vacation accommodations at multiple sites, and it also may include travel and other leisure products and services. Vacation clubs offer their members one-stop shopping and the expectation that they are prepaying for future vacations at favorable prices.

*Point-based programs* are designed to provide greater usage flexibility than traditional unit-week timesharing. They employ points as a "currency" to allocate vacation-ownership accommodations according to location, unit size, and demand (which is based on days of the week and seasonality). An owner with a given number of points may be able to occupy a studio for a high-demand three-day holiday weekend, or apply the same number of points to a three-bedroom unit for up to two weeks in the "quiet" season. Many vacation clubs use points, and some timeshare developers have created point-based programs pegged to the underlying value of traditional unit-weeks. Resort Condominiums International (a major exchange company) has created RCI Points, through which consumer members may swap access to the accommodations they own at a participating RCI-affiliated resort for a package of points.

### **Legal Structure.**

From a legal standpoint, a vacation-ownership resort may be structured in one of four ways:

*Fee simple.* Nine out of ten U.S. vacation-ownership resorts provide a fee-simple deed with title insurance, similar to what you receive when buying a house or condominium apartment. A difference is that fee-simple timeshares don't last forever. At a date specified in a resort's condominium documents, the timeshares terminate and the owners become tenants in common. Then they may vote to sell the property and split the proceeds, or to reinstate the timeshares for a specified length of time, followed by another vote.

*Right-to-use.* Purchasers of a right-to-use product gain usage rights for a specified amount of time, but lack real-estate ownership rights. A vacation club generally is a right-to-use product, as explained above. Timeshares at individual resorts also have been structured this way.

*Club membership.* A vacation club isn't the only kind of club membership. Another variety creates a right to use a single resort's accommodations and facilities. In countries that prohibit foreign ownership of real estate, a citizen may own a parcel of land and lease it to a foreign developer, or a bank may hold it in trust. Either arrangement allows the foreign developer to build and operate the resort and sell memberships entitling the purchasers to vacation there.

*Leasehold.* A leasehold assigns all ownership rights to real property for a specified number of years. Vacation-ownership leaseholds occur primarily where leaseholds for all types of real estate are common, including Hawaii and the center of London, England.

### **Usage Arrangements.**

In the early years of timesharing, most developers sold a fixed unit-week, which means an owner occupies the unit he or she owns during the same week of each year – i.e., unit 103, week 27. More recently, innovations have emerged to give owners flexibility in using the product.

*Floating time* (also called *flex time*) allows owners to vary their week in residence from year to year, though usually within a particular season. Owners reserve their time each year on a first-come, first-served basis. At some resorts, the unit itself remains fixed while the time floats; elsewhere, the unit also floats.

The *split week* allows owners to divide a week into segments of two, three, or four consecutive days for multiple short vacations within a year. Many urban timeshare resorts have some kind of split-week arrangement.

As mentioned above, *points* serve as a "currency" to allocate vacation-ownership accommodations. Some point-based programs are limited to a single resort; others offer access to multiple sites through a vacation club or a developer's internal-exchange program.

### **Development Types.**

Most early timeshare resorts were conversions of old hotels, motels, rental-apartment complexes, or unsold condominiums. Today conversions typically undergo extensive renovation, and they may involve adaptive reuse of historic structures.

Most new resorts today are purpose-built specifically for timesharing. Many include a lock-off portion that can function as a separate unit, allowing the owner independent use or exchange of each segment for a single maintenance fee.

### **Capacity.**

Timeshares range in size from a hotel room or studio apartment to a four-bedroom apartment, but the crucial question is how many people can stay in a timeshare unit. Capacity is measured two ways – maximum occupancy (maximum sleeping capacity), and private occupancy (private access to a bathroom). If a unit has sleeping quarters for up to six people, but two of them must go through someone else's sleeping quarters to reach a bathroom, the unit's private-occupancy limit would be four people.

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# How to Buy a Timeshare

## Becoming A Customer.

Now that you understand the diversity of timeshares and other vacation-ownership products on the market, decide which kind will best meet your needs, and then compare offerings within that product category in destinations where you might want to own.

If you are visiting such a destination, you may encounter an off-premises contact (OPC), a person who will engage you in conversation and invite you to take a sales tour of the resort he or she represents. Indeed, in communities with an active timeshare marketplace, you may encounter multiple OPCs. They work at desks in hotel lobbies, booths or kiosks in restaurants and shopping centers, in tourist-information centers, and even on street corners or the beach in some communities.

Because most people don't go on vacation intending to shop for a timeshare, OPCs typically offer prospects a gift or premium – such as ski-lift or theme-park tickets, a scenic cruise, or dinner at a nice restaurant nearby – as an incentive to visit the resort and submit to the salesperson's entreaties. Accepting a premium does not obligate you to buy a timeshare. With or without a purchase, you should receive the premium at the end of the tour.

Don't be surprised if an OPC asks you to make an appointment to tour and requests a deposit, which will be applied to the purchase or refunded after the tour if you don't purchase. Developers take deposits to discourage no-shows, because the sales staff relies on a steady flow of prospects to tour. Giving a deposit helps to ensure that you will keep your appointment and become part of that flow.

If you are interested in a certain resort, you don't need an OPC's invitation to obtain a sales tour. Just telephone to make an appointment, or stop in. The sales staff will be glad to see you. If you buy, you may even receive whatever premium has been offered to prospects referred by OPCs – but if you don't buy during a self-initiated tour, you probably won't get the premium.

The foregoing assumes that you're visiting a destination where you may want to buy. If not, you may put your name and contact information in a promotional box at a restaurant or shopping mall, explore a resort's Web site and express interest via e-mail, or receive a direct-mail piece or a call from a telemarketer inviting you to visit a timeshare resort as part of a mini-vacation (also called mini-vac).

In years past, some mini-vac offers included free accommodations at the resort itself or a nearby hotel. Today a deep discount is more common, because developers have found that mini-vac prospects willing to pay something toward their visit are more likely to buy.

Most mini-vacs are hooked, which means you must

take a sales tour of the sponsoring resort to receive the accommodations for free or at the promised discount. Less common is the unhooked mini-vac, for which the tour is optional. Before you accept any mini-vac offer, be sure you understand its ground rules.

Instead of a mini-vac with a resort tour, you may be invited to visit an off-site sales center in an office building or shopping mall near your home. Although a walk-around tour of the resort isn't possible in an off-site setting, you'll probably see a film or video, an assortment of wall displays, and a furnished model of a typical timeshare-unit interior.

## The Sales Process.

Some developers use a team approach to timeshare sales. A salesperson makes the presentation and conducts the tour, then summons a closer (also called financial manager or turnover person) to complete the sale. After the paperwork is prepared, a verification officer (also called button-up person, developer representative, or quality-assurance officer) reviews all the details to be sure customers understand the product and the contract terms.

Comparison shopping drives timeshare sales personnel to distraction. Everyone wants you to listen to a presentation, tour the resort, then commit to a purchase – all within an hour and a half to two hours. You may even be offered special "first-day incentives" – a price discount, perhaps, or an additional premium – to purchase immediately following the initial presentation. Don't succumb to their pleas unless you are sure you really want to buy that product on that day. It's OK to be what the industry calls a be-back, as in, "We want to think about this. If we decide to buy, we'll be back another day."

Even after you have agreed to purchase, you still may change your mind. State laws mandate a rescission period, during which you can cancel a timeshare purchase and receive a full refund. The length of the rescission period and the procedures you must follow to rescind vary from state to state. The resort must honor your decision to rescind if you follow the proper procedures, but nothing prevents the sales staff from trying to talk you out of canceling the sale – or offering to adjust the deal in response to whatever reasons you express for wanting to rescind. All in all, waiting to buy until you're sure is a lot easier than rescission after you buy and change your mind.

## Finding Bargains.

The foregoing discussion assumes that you visit a resort's sales center, like what you see, and purchase the product at the "retail" price quoted to you by the salesperson. In fact, although a few developers set firm prices, most are willing to negotiate. The pricing schedule typically contains enough profit to allow for some flexibility. Indeed, if

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you express interest in the product but concern about the price, the salesperson may allay that concern with an immediate price reduction, a practice the industry calls a drop. Though you may question the ethics of a drop, you might as well take advantage of it.

If you finance a timeshare purchase, be concerned with finance terms as well as price. If you can negotiate a lower interest rate for a loan with a shorter term than the salesperson initially offers, your monthly payments may be higher but your total outlay will be less. The longer-term loan will make your monthly payments more affordable, but you will pay more in the end due to the longer term and higher interest rate.

Also ask your salesperson about discounts for:

- A special "first-day" incentive if you buy immediately following the initial presentation.
  - An all-cash payment.
  - A down payment larger than the standard 10 percent.
  - A quantity discount if you buy more than one unit-week, or more than a certain number of points in a vacation club.
  - Electronic funds transfer of monthly payments from your checking account or credit card.
  - Resale of a previously owned product. As a courtesy to owners who want or need to sell, some developers operate a resale program. At a resort being built in phases over a period of years, you may pay less for a resale unit-week in an older section of the resort, where your accommodations won't be brand-new and may lack certain amenities and refinements present in the newest units.
  - Purchase of a new unit-week in a phase or at a resort approaching sellout. With just a scattering of unsold unit-weeks remaining in units of varying sizes, sales become more difficult, so many developers offer discounts to move the remaining inventory quickly.
- In addition to developers' sales centers, other places you may find timeshare bargains include:
- Classified advertising in newspapers and timeshare-related consumer publications such as TimeSharing Today, and on Web sites including [www.timesharingtoday.com](http://www.timesharingtoday.com).
  - Resorts with unsold units in less-than-prime locations. Instead of a golf course or ocean view, you may be looking out at an interior courtyard – or the garbage dumpster. Your salesperson should be especially flexible in negotiating prices for such accommodations.
  - Mature resorts with resales. The owners' association may be assisting owners who want to resell, and/or trying to sell timeshares it acquired through foreclosure from owners who failed to pay maintenance fees and property taxes.
  - Independent real-estate brokers. In some resort ar-

eas, certain brokers specialize in timeshare resales.

- Timeshare auctions. TRI West Timeshare in Los Angeles ([www.triwest-timeshare.com](http://www.triwest-timeshare.com)) sells close to a hundred resale timeshares a year at an annual auction. Online, timeshares also may be available at auction sites such as eBay and Yahoo.

### Shopping Wisely.

If you're truly serious about buying a vacation-ownership product that you will use and enjoy for many years, don't just squeeze sales tours in around the edges of theme-park visits and other vacation activities. Take your time, and ask plenty of questions, including:

- If I want to exchange, what kind of trading power will this resort have? (One way to tell is to look for resorts that have received their exchange company's quality ratings – the Interval International Five Star Award, and RCI's Gold Crown or Resort of International Distinction.)
- If/when exchange isn't practical, will I be content to spend at least some of my vacations here? (If you don't ski and aren't fond of snow, don't buy a prime winter week at a ski resort. Even if you expect to exchange every year, reality may confound your expectations.)
- Does this resort meet my needs at a price I'm willing and able to pay?
- How big a unit, or how many points, should I buy? Can I upsize or downsize later if my needs change?
- What amenities and recreational facilities does the resort offer? Is there an additional charge for their use? (See next section.)
- For how many years will I have the use of these accommodations? If this is a fee-simple timeshare, how many years remain until the timeshare terminates?
- Tell me about the development entity. Is it an individual, a private company, or a public company? May I have some business and financial references to check? (This assumes an independent private developer you've never heard of. With a publicly traded firm, such as a brand-name hospitality company, information should be readily available in libraries and on the Internet.)
- What do other owners say about the development entity and the resort you are considering? (If the resort is already operating, discreetly approach and interview owners on the grounds. Third-party commentary may be available on TimeSharing Today message boards at [www.timesharingtoday.com](http://www.timesharingtoday.com), and on other consumer-oriented timesharing Web sites.
- Is the development entity a member of the American Resort Development Association? (If so, it must adhere to ARDA's Code of Standards & Ethics.) Does the development entity encourage its personnel to participate in the ARDA Education Institute's professional certifica-

tion program? (Such participation is another measure of confidence.)

- Is title insurance available? (Title insurance should be available for a deeded product you buy from an organized sales operation or independent real-estate broker. If you buy a resale timeshare from an individual, try to arrange for a title search and title insurance, even if you have to pay for them. Otherwise, you could unknowingly assume responsibility for the previous owner's unpaid maintenance fees, property taxes, special assessments, and/or liens against the property.)

- Who provides the resort's financing? (Lending institutions and financial-services companies evaluate developer creditworthiness and project feasibility before loaning money. While such an evaluation does not guarantee success, it indicates that someone with expertise has looked with favor upon the product you are considering for purchase.)

- Can the resort finance my purchase? On what terms? (Expect a loan term of five to 10 years, at an interest rate higher than your bank would charge for a home-equity loan or unsecured personal loan.)

- What about the down payment? (The standard industry down payment is 10 percent, for which most developers accept a credit card. For buyers who don't want to tap into or tie up their existing credit while on vacation, some Interval International-affiliated resorts now offer a separate, unsecured revolving credit line through MBNA America Bank, N.A..)

- Do I have to use the developer's financing? (No.)

- If I accept the developer's financing and then pay it off before the end of the loan term, will I incur a prepayment penalty? (Timeshare financing typically carries no prepayment penalty. Many people accept the developer's financing at the point of sale to facilitate the purchase, then pay off the loan from their own resources soon after returning home.)

- What happens later if I can't make the payments? (If you're in default, whoever is servicing the loan may offer an extended term to reduce your monthly payments. If restructuring the loan won't solve your problem, the ultimate solution is foreclosure, in which the developer sues to regain title to the property. To avoid foreclosure and its attendant costs, many developers ask defaulting buyers to relinquish the title without a lawsuit – a procedure called deed in lieu of foreclosure. Whether through foreclosure or deed in lieu, defaulting buyers lose any money they already paid when the title reverts to the developer.)

- If I decide I don't want the timeshare any more, will the developer help me get rid of it? (Some developers will buy back your timeshare at a discounted rate, or help you resell it and charge a commission on the purchase.

Unlike foreclosure or deed in lieu, these alternatives may help you recapture at least some of the money you paid.)

- As an owner, what additional fees must I pay? (See next section.)

### Additional Fees.

The annual *maintenance fee* covers the costs of staffing, operating, and maintaining the resort. A portion of the maintenance fee should be set aside in a reserve fund to pay for major repairs (and sometimes for improvements). Ideally, money should be allocated to the reserve fund based on a reserve study, which estimates the useful life of major components (appliances, carpets, climate-control system, furnishings, parking-lot pavement, roof, swimming pool, etc.) and anticipates redecorating on a defined schedule. The resort's documents should estimate the maintenance fee, discuss the results of the reserve study, and explain the reserve-fund allocation.

A *special assessment* is a one-time charge levied against each owner. For example, \$800 toward the cost of a new roof because the board of directors had not set aside enough money in the reserve fund to cover the cost. (That resort now has a new board of directors.) Special assessments also may fund improvements that weren't contemplated in a resort's reserve study, such as a new parking garage or recreation center.

A *property tax* is levied against timeshare resorts because they are real estate, like a house or residential condominium. Typically, your resort will send you an annual bill that includes both your maintenance fee and your portion of the property tax.

At some resorts, a local or state law requires collection of a *bed tax*, *occupancy tax*, or *transient tax* at the same rate charged by hotels and motels in that jurisdiction.

Some resorts impose a separate *utility surcharge* on owners and guests in residence. This practice is most common on islands and in other remote locations where energy and/or water are very expensive. The alternative – including utility costs in the maintenance fee – would force owners who don't come to the resort in a given year to pay for utilities they won't use.

Some resorts charge *recreation, activity, and service fees* that can greatly increase the cost of vacationing for owners in residence. Beach chairs and cabanas, water-sports equipment, tennis courts, videos, etc., may be available with or without a rental fee. If a resort offers golf, horseback-riding, scuba-diving, skiing, or other typically fee-based activities, owners may or may not receive preferential rates. The cost of picnics, receptions, and similar functions for owners and guests may be included in the annual maintenance fee, or admission may be charged to cover some or all of the costs. Mid-week housekeeping service may be supplied as an amenity to all occupants, or offered

at additional charge to those who want it. Local telephone service may be free, or charged on a per-call basis. Some resorts also charge a per-call access fee for every call – even to toll-free long-distance numbers.

### **Reading the Documents.**

Resort-specific answers to many of the questions discussed above should be in the resort's documents. Regulators assume that disclosure equals consumer protection, so most jurisdictions require a development entity to disclose in writing every conceivable detail of the product it is selling. The problem with this assumption is the size of the resulting compendium of disclosures, typically written in turgid legalese. One reason for the rescission period is to give prospective purchasers time to read and absorb the contents of the documents.

Ideally, however, you should pause to look at the documents before completing the sale – if only to get a basic sense that your salesperson is giving you a factual summary of what the documents say you are buying. Ask to be ushered to a quiet spot where you can read without interruption, then study the documents until you feel comfortable with what they say. Timeshare documents vary in name and content from state to state. In general, you can expect to find the following items:

*Purchase Contract.* The document defining the terms of the relationship between the seller and you as the buyer.

*Public Offering Statement* (also called *Disclosure Document*). The document describing the project, including the developer's plans for completing all accommodations and amenities, and for managing the project. Also included may be a public report from an official regulatory body.

*Declaration of Timesharing.* The document describing the timeshare plan, arrangements for establishing the owners' association, the association's proposed bylaws and how they may be amended, and when control will pass from the developer to the association.

*Estimated Operating Budget.* The document estimating the resort's operating costs, ideally including contributions to the reserve fund (see the Additional Fees section), and revenues including the amount of the annual maintenance fee per unit-week for units of various sizes.

*Covenants, Conditions, and Restrictions.* The document describing utility easements and other encumbrances, and stating what can and cannot be done with the property.

*Management Agreement and Rules and Regulations.* Document(s) describing how the property can be used, who will manage it, the rights and conduct of management and owners, guest policies, and other operational issues.

*Exchange Affiliation Agreement.* The document that specifies the resort's relationship with an exchange company.

*Physical Description.* Documents describing the resort property, including a survey, plot plan, floor plans, and a written legal description.

*Escrow Agreement.* Some jurisdictions prohibit developers from using all or part of buyers' payments for construction purposes. Where this occurs, an escrow agent (usually an attorney or bank) receives buyers' funds and holds them in trust until the legal requirements for disbursement to the developer have been met.

### **Buying a Foreign Timeshare.**

The foregoing discussion has assumed that you live in the United States and are buying a timeshare in a U.S. location – but timesharing is a global industry, with close to 6,000 timeshare resorts in more than 110 countries as of mid-2001, according to ARDA. In recent years, the industry has grown faster outside the U.S. ARDA estimated that, in 2000, over 3.5 million U.S. households and another 2.5 million in more than 150 countries elsewhere in the world owned a vacation interval.

If you are contemplating a timeshare purchase outside the U.S., some additional issues deserve your consideration. In the first place, the timeshare product in many parts of the world beyond North America is a non-deeded right-to-use interest for a specified number of years. Such an arrangement isn't intrinsically bad, so long as you understand it. Recognize that it has a finite time limit, and know what that limit is. Recognize, too, that you won't actually share in ownership of the resort's real estate – but because it is a right-to-use project, it may be less expensive than a deeded timeshare at a comparable resort somewhere else.

Consider these issues when contemplating a timeshare purchase in another country:

- How stable is the government at all levels – national, regional, and local?
- What protection exists against substandard construction materials and methods?
- To what extent does the government regulate the timeshare industry? If the government has no formal registration procedures for timeshare projects, similar to those that exist in the U.S., you should evaluate very carefully the developer's financial capabilities and reputation.
  - Has the government passed consumer-protection laws? If so, do they cover timesharing, and what are your rights as a timeshare buyer under those laws?
  - With or without government regulation, has the industry in that country undertaken its own program of self-regulation?
  - Will you receive a contract, resort rules and regulations, and other key documents in your own language or another language you know very well? If not, beware of misunderstandings due to language differences.

- Is title insurance available? (The answer is almost certainly no in a foreign right-to-use setting, and probably no even in most foreign deeded settings.)

- Does the resort have a U.S. office? If so, does it accept payments there in U.S. currency? Does it have a domestic toll-free telephone line on which you can discuss reservations and other aspects of ownership with someone in English?

- Even without a U.S. office, can you pay for the timeshare in your own currency? If you must pay in a foreign currency, anticipate currency-exchange fees, which can increase your costs significantly. Remember, too, that fluctuations in currency values may work in your favor or against you. A foreign timeshare purchase can be a long-term commitment to pay maintenance fees, taxes, and whatever personal expenses you incur while in residence there. The positive or negative impact of dealing in a foreign currency will be with you for many years.

- What taxes will you have to pay? As a foreigner, are you being taxed differently from citizens of the country in which the timeshare is located?

- What are your estimated maintenance fees? In foreign locations where most foodstuffs and supplies for a resort must be imported at considerable cost, high operating expenses are likely and will be reflected in the maintenance fees.

- Who will manage the resort? The developer? An owners' association? A management firm? A local resident manager? Although management at the best foreign resorts meets or even exceeds the highest U.S. standards, horror stories also exist. Especially in a foreign land far from home, look for some assurance of competent management.

- Exchange affiliation. As noted above, the best way to assure decent trading power and a receptive ear if exchange-related problems arise is to look for a resort with a quality rating from either Interval International or RCI.

## Using Your Timeshare

If you own a fixed week in a fixed unit at a single-site timeshare resort, when and where you will vacation year after year is predictable (unless you make other arrangements). Many resorts send owners a letter about a month in advance of their week in residence, reminding them of their scheduled arrival and departure dates.

If you own a floating week, you must reserve a specific week each year. If you own a point-based product, you must convert your annual allocation of points to some form of usage during the period to which the points apply. In each instance, you will be notified when the reservation period for the coming year begins. Many floating-week and point-based programs accept reservations close to a year

in advance on a first-come, first-served basis.

With some floating programs, you may be able to arrange a longer vacation by banking your week from one year to the next, or borrowing next year's week to use in conjunction with the current week. Many point-based programs also allow banking and/or borrowing of points, and some even let you "rent" additional points if you don't have enough for the vacation accommodations you want.

### Internal Exchange.

An internal exchange occurs when you relinquish a week at your home resort for another at the same resort, or at another resort with some connection to your home resort.

If you want to vacation at your home resort, but not during the week you own, a type of internal exchange called an alternate exchange may be possible if space is available. Some resorts handle such arrangements themselves, informally and without charge, as a courtesy to their owners. Others have a formal alternate-exchange procedure that requires payment of an administrative fee. Still others refer alternate-exchange requests to their exchange company, which processes them and charges the appropriate exchange fee.

In a multi-site context, internal exchange may involve exchanging into:

- Another resort developed and managed by the same entity as your home resort.
- Another resort managed by your home resort's independent management company, which operates an internal-exchange program for its client resorts.
- Another resort in your multi-location vacation-club program.

### The Major Exchange Companies.

The vast majority of exchanges take place through one of the two major exchange companies, Interval International and Resort Condominiums International. Each publishes a resort directory, has a Web site where exchanges can be arranged electronically, and employs vacation advisors stationed in call centers to answer toll-free telephone calls from members.

Interval International operates the Quality Vacation Exchange Network, which in mid-2001 included nearly 1,900 resorts and over 1.2 million member families worldwide. It confirmed 634,217 exchanges in the year 2000.

RCI in mid-2001 had more than 3,500 affiliated resorts in more than 90 countries, and more than 2.6 million members living in more than 200 countries. It confirmed 2,101,189 exchanges in the year 2000.

Some 15 percent of vacation-ownership resorts are affiliated with both exchange companies, allowing owners

to become members of either or both. Otherwise, you must join the exchange network with which your resort is affiliated. Your initial membership – lasting a year or two – is part of the vacation-ownership product you purchase. After that, you must renew and pay a membership fee. The exchange companies' services (including rental of excess inventory to members for weekends or additional weeks) and other leisure-oriented benefits are so appealing that over 90 percent of exchange-company members renew their membership year after year.

To exchange a week through one of these companies, you must relinquish your week to the exchange company's network before selecting a week at another location and/or time. (Interval International also offers an alternative "request-first" arrangement, allowing you to confirm an exchange destination of your choice before relinquishing your own week.) Depositing your week with the exchange company costs nothing, but you must pay an exchange fee to confirm an exchange.

If you own a floating week or a point-based product, you must contact your resort to secure a suitable unit-week to give to the exchange company before making an exchange.

From their inception, both exchange companies exchanged only complete unit-weeks, but in recent years both companies have considered split-week exchanges. Participants in the RCI Points program already can exchange for less than a week.

To arrange an exchange a year or two in advance, you must pay ahead on your exchange-company membership. (To make that requirement more palatable, both exchange companies offer multi-year renewal discounts.) In addition, if your resort has a pre-clearance agreement with its exchange company, you must pay estimated maintenance fees and property taxes for the future exchange year before the resort will authorize the exchange company to accept your exchange request.

To give the gift of an exchange to a friend or relative, request a guest certificate. Interval International and RCI issue guest certificates (for a fee) that allow people you designate to obtain a unit-week using your exchange privilege. Do not abuse this system by renting your exchange privilege. If caught, you and your alleged "guests" may lose access to the unit-week in question, and the exchange company may even cancel your membership.

**Tips For Getting Good Exchanges.**

Request accommodations similar in unit size, quality, and level of demand to what you own. Both exchange companies try to achieve what Interval calls "comparable exchange" and RCI calls "fair exchange." Thus, if you own a week at mud-time in Michigan, you probably won't get Christmas week in Orlando or Mardi Gras week in New

Orleans. Each exchange company uses a color code to distinguish between weeks in the high season, the shoulder season, and the off season (sometimes described as "quiet season"):

**Color Codes.**

Seasonality	Interval International	RCI
High demand	Red	Red
Medium demand	Yellow	White
Low demand	Green	Blue

Buy with exchange in mind. If you want to go to popular destinations on exchange vacations, purchase a time-share at the best resort you can find in an equally popular destination.

Plan ahead. All things being equal, you stand a better chance of getting what you want if you deposit your week and request an exchange well in advance of your planned travel dates.

Be flexible. If you can adjust your travel dates, or are willing to consider alternate resorts or alternate destinations that offer a similar vacation experience, you are more likely to receive an exchange that meets your satisfaction.

Trade down. Even if you own red time, request a shoulder- or off-season week. When you relinquish a higher-demand unit-week for one of lesser demand, you stand a better chance of receiving what you request.

If you can handle uncertainty, disregard all of the above advice. Wait until the last minute, when the exchange companies strive to fill as much of their vacant inventory as possible by eliminating all restrictions and confirming whatever exchanges anyone requests. Interval calls its short-notice program Flexchange; at RCI it's called Instant Exchange. Stories abound of people who have exchanged into the week of their dreams using this strategy – but it doesn't always work. You could wind up spending Christmas in Biloxi, Mississippi.

**Alternative Exchange Companies.**

In addition to Interval International and RCI, about a dozen smaller exchange firms also exist. Each year, TimeSharing Today publishes in its July/August issue a Comparison Chart of Exchange Companies, profiling the majors and several reputable and well-established alternative firms. As this chart illustrates, alternative exchange firms have found a niche by being less expensive than the majors, and potentially more flexible and responsive to individual owners' requests. The differences may include:

- Lower or no membership fees.

- Lower exchange fees.
- Upgrades on a space-available basis into a larger unit and/or a more highly demanded season – without charge in some cases, for a fee in others – without having to wait until the last minute to arrange a vacation.
- Split-week exchanges.
- Bonus weeks for an additional fee.
- Access to resorts affiliated with both major exchange companies, because some alternative firms accept inventory affiliated with both from individual owners.

Alternative exchange also has some drawbacks. Alternative firms typically have less inventory and make far fewer exchanges in a year than the majors. This limits the availability of exchange opportunities in terms of the number of destinations for which inventory exists, and the amount of inventory in any given destination.

Quality issues also may arise in alternative exchange. Although many resorts with alternative-exchange relationships also are affiliated with one or both of the majors, some cannot meet the majors' requirements for various reasons, including financial difficulties, unit size and/or quantity, advanced age, and upkeep deficiencies.

### **Direct Exchange.**

Direct exchange occurs when one timeshare owner finds another who is willing to swap accommodations. Beyond word of mouth, one way to pursue such a quest is placement of a classified advertisement in *TimeSharing Today* and other publications and Web sites popular with timeshare owners.

In addition, some help may be forthcoming from an owner's home resort, especially if it belongs to the Cooperative Association Of Resort Exchangers, Inc., a non-profit industry organization established in 1985. C.A.R.E. is a network of individual developers, association-controlled resorts, and property-management companies working among themselves to satisfy the vacation needs of individual owners and members by arranging direct exchanges and trading inventory. In mid-2001, it had 130 members.

## **Renting Out Your Timeshare**

When I bought my timeshare years ago, the salesman assured me that if I didn't want to use it in a given year, I could always rent it out for more than enough money to cover that year's maintenance fee and property taxes. Not true. I've tried twice, receiving less than half of the maintenance fee in one year and nothing in the other.

In addition to telling me a falsehood, the salesman violated the federal law that distinguishes securities sold with expectation of financial gain from timeshares sold for the owner's use and exchange. This arcane distinction is what separates a rental pool from a rental program.

In a rental pool, the resort's management accepts inventory for rent, combines the gross revenues from all rentals, subtracts all rental expenses, and apportions the remaining proceeds to all participating owners regardless of whose accommodations were rented and whose were not. In the U.S., although many whole-ownership condominiums have a rental pool, you're unlikely to see one at a timeshare resort. Properties with a rental pool must comply with stringent rules for dealers in securities, which most timeshare developers and property managers want to avoid.

In a rental program, your home resort or its management company may function as a rental agent, advertising the availability of rentals and taking a commission – but each rental is a separate transaction. You get rental income only if someone actually rents your unit-week. As an alternative to operating a rental program, some resorts establish a relationship with an independent local real-estate broker who agrees to operate such a program on behalf of the resort's owners.

In the absence of a resort-based rental program, you may try to rent your timeshare to a friend or relative, put notices on bulletin boards, place a classified advertisement in *TimeSharing Today* and other publications and Web sites where prospective renters may see it, or find on your own an independent rental agency specializing in timeshare rentals. A Web search using the key words "timeshare" and "rental" will give you an extensive list of such firms to investigate.

As you interview timeshare-rental firms, keep the following caveats in mind:

- Be sure you are bringing a legitimately rentable unit-week to the transaction. If you own a fixed week, confirm the dates with your resort before beginning the rental process. If you own floating time or points, contact the resort to obtain a specific week. If you own a right-to-use or point-based product, also confirm that you are allowed to rent out the specific week that you have obtained. Don't try to rent out bonus or upgrade weeks for which you have paid an additional fee; doing so may be against your resort's rules, and makes a decent return on the rental harder to obtain.

- Deal only with a licensed real-estate broker.
- Look for a broker with a commission structure ranging from 20 to 50 percent, which gives the sales staff an incentive to work your listing.

- Don't agree to an upfront fee. Determine that the broker has a trust account into which rental funds will be deposited to await distribution within a specified time after the rental takes place.

- Ask about the price at which each firm you are considering expects to rent your timeshare. A general rule of thumb is the average of twice your maintenance fee and half the usual rack rate for nearby hotels, but other factors

include the size of your unit, the season of the year, rental demand, and the presence or absence of an exchange company's quality rating. If you set too high a minimum price, you risk not renting your unit at all.

- Allow plenty of time – to select a broker, and then to give the sales staff an opportunity to promote your accommodations.

## Reselling Your Unit

Timesharing can be a great way to vacation, but it's a lousy investment. Buying a timeshare with the intention to resell it later at a profit almost certainly will bring you disappointment. The product should not have been sold to you as an investment; if it was, and the sale occurred in the U.S., the salesman violated the same federal securities laws that discourage most timeshare developers from creating a rental pool.

The resale marketplace automatically discounts a developer's marketing and administrative expenses, which make up half or more of the original selling price. Other factors that tend to depress resale prices include competition from the original developer (who still may be selling at your resort or another nearby), and from your resort's owners' association (which may be trying to resell weeks the association acquired through foreclosure for non-payment of maintenance fees and property taxes). Under these circumstances, timeshares are unlikely to retain their original value – and even unlikelier to appreciate in value – except in the rare instance (such as on Sanibel Island, Florida) where government imposes a moratorium on additional timeshare development, leaving a thin supply in a high-demand destination.

Thus, the vast majority of resold timeshares change hands for 50 percent or less of their original selling price – not including a commission of 10 to 25 percent of the selling price for transactions arranged through a broker. Taking such a loss may be harder to rationalize if you bought your timeshare only a year or two ago than if you have used it for a decade or two, derived from it a full measure of enjoyment, and now need to extricate yourself from it and move on because of a change in your finances or lifestyle.

### How To Resell A Timeshare.

Before beginning an effort to resell your timeshare, be sure you know what you are reselling. If you own a deeded week, have your deed handy and confirm the unit number and week (for fixed time) or season (for floating time). If you own a right-to-use or point-based product, determine how many years of use remain and what documents you need to effect a sale.

The first place to look for a buyer is your own resort. The developer, management company, or owners' asso-

ciation may have an in-house resale program, or the association may have a relationship with an independent local real-estate broker who is willing to promote and facilitate resales at the resort.

Other sources of resale assistance include :

- Classified advertising in newspapers and timeshare-related consumer publications such as TimeSharing Today, and on Web sites including [www.timesharingtoday.com](http://www.timesharingtoday.com).
- Independent real-estate brokers specializing in timeshare resales. For your own protection, be sure that you are dealing with a licensed broker; don't agree to an upfront appraisal, listing, or marketing fee; don't agree to an exclusive listing that requires you to pay a commission even if you find a buyer yourself; and don't give up your usage rights during the listing period.
- Timeshare auctions. These are conducted by some resale timeshare brokers. Online, timeshares also are accepted for sale at auction sites such as eBay and Yahoo.

### Financing A Resale.

Because most timeshare financing isn't assumable, the new buyer can't simply take over your scheduled payments if you resell a timeshare before you have finished paying for it. You'll have to pay off your entire debt when you resell the timeshare, then make a separate set of payment arrangements with the new buyer.

Financing for buyers of resale timeshares is available from some resort-based resale programs and independent brokers. If you resell a timeshare through such an outlet, the people handling the transaction will remit your portion of the sale proceeds. Otherwise, you'll have to find a buyer who will pay cash for your timeshare, or finance the purchase yourself by accepting a cash down payment and a land contract for the rest. Then, if the buyer defaults, you could reclaim the timeshare.

Also, if the transaction takes place in the U.S., seller and buyer alike must comply with any federal, state, and local tax and recording requirements the transaction may trigger.

### Reselling Outside the U.S.

If you own at a resort outside the U.S., an additional wrinkle is the need to comply with whatever legal requirements the host country imposes on such transactions.

If you have listed your timeshare with a resort-based resale program or an independent broker experienced in international timeshare resales, your reseller should know what to do.

If you try to locate a buyer on your own, determine in advance what the host country will require to legalize the transaction, and be prepared to comply. Also determine whether selling a foreign timeshare imposes upon you any obligations to any level of government in the U.S. when the transaction takes place within the U.S.