

## Frequently Asked Questions Concerning The Closing Process

### **Do I Need To Hire A Lawyer To Handle The Closing Process?**

No. You may want to contact a reliable, trustworthy timeshare closing company specializing in timeshare sales; these licensed and bonded title companies are selected by us on the basis of outstanding past performance. These title companies will provide security for both timeshare buyers and sellers, ensuring that the sale process goes "by the book". You may want to hire your own attorney when you buy timeshare. Timeshare closing companies can take charge of the closing process from beginning to end- including deed preparation, escrow of funds, estoppel certificate, closing statements and recording fees. They typically do all this for one low flat rate. Their work is scrupulously reviewed by in-house attorneys and guaranteed to be free and clear.

### **Does the Buyer or the Seller pay the timeshare closing costs?**

Generally the Buyer pays the timeshare closing costs, but this can be negotiated between the buyer and the seller.

### **How long does it take to close on a property?**

An average closing takes approximately 4-6 weeks as long as all parties return the documents on a timely manner.

### **What is an escrow account?**

An escrow account is a non-interest bearing account used to keep the funds while all aspects of the closing are being processed.

### **What is an Estoppel letter?**

An estoppel letter is given by the resort and outlines the exact status of the timeshare property. It contains maintenance fees paid and pending, as well as other information pertaining to the use of the timeshare such as availability of usage in the next calendar year, making sure a week hasn't already been exchanged or rented making it unavailable for the new owner to occupy.

### **What is a deed?**

A deed is a legal document used to transfer from one person or entity to another certain rights in a parcel of real estate. It is used in all purchases, sales, gifts or other transfers of real estate.

### **What is the difference between a Quit Claim Deed and a Warranty Deed?**

A timeshare quit claim deed makes no warranties or guarantees in regards to the quality of the sellers interest in the property; whether or not there are any liens against the property; or whether or not anyone else claims any interest in the property. The timeshare quit claim deed can be used if there is no consideration given for the property and/or if it is given as a gift.

A warranty deed is a deed that transfers all of the rights of the seller to the buyer. The seller also makes certain warranties, or promises, to the buyer. The seller is guaranteeing that they have a legal right to sell the property and that the property is, or will be, free of any liens or claims by third parties.

### **What are the various ways to hold title on my new deed?**

Joint Tenants (joint tenants with right of survivorship) means that if there are two or more owners on the deed and one owner dies, then the surviving owner will continue to own the property, and the estate and heirs at law of the deceased owner will receive absolutely nothing. All that the surviving

owner will need to do to remove the deceased owner's name from the asset is to show a death certificate.

**Tenancy by the Entirety:** Allows spouses to own property together as a single legal entity. Under tenancy by the entirety, a creditor of an individual spouse may not attach and sell the interest of the other spouse; only creditors of both may attach the interest.

**Tenancy in Common:** If property is owned by two or more people, as tenants in common, each owner will hold a percentage of ownership interest in the property. The percentages don't have to be equal and are determined by how much each owner contributes to the purchase of the property.

### **How should I own my timeshare?**

You may own your timeshare in your individual name or in joint names with another. Having two or more persons as the recipient of the property, called the Grantees, requires someone to decide on how the owners should own the property between themselves. If there are two Grantees, they each may simply have an equal one-half interest in the property that either of them can leave by will to their heirs at their death. This form of ownership is called tenants in common.

Alternatively, the deed may say that the property is to be owned by the two Grantees as joint tenants with right of survivorship. If this form is used, immediately on the death of one of the Grantees, the other surviving Grantee automatically owns the entire property, regardless of what the deceased Grantee's will may say. Recording the death certificate in the public records of the county of the property will provide proper evidence that the entire property is owned by the surviving party.

### **Who signs the deed?**

In most States, the Grantor is the person signing the deed. This is the person who is transferring their rights in the property to another. The Grantor's name should always be shown exactly as it appeared on the deed used when the grantor received his or her interest in the property. Some States require both the grantor and grantee to sign the deed.

### **Should a deed be recorded?**

To be legally valid, the deed is not required to be recorded although it is very risky not to do so. If the deed is not recorded, the Grantee's name (and rights) appear nowhere in the chain of title found in the public records of the county. Other parties may take actions or fail to take actions that could affect the property without knowledge of your ownership rights. For example, the grantor may have a lien filed against all of his or her property after you receive your deed but because you have not recorded it a question arises as to whether the lien has attached to your property or not. An unscrupulous grantor may even give another deed to the same property to someone else who has no knowledge of your claim to the property. To protect the rights of the Grantee, it is advisable to properly record the deed.

In Florida for example, the deed must be recorded in the county in which the property is located. The agency that handles the recording is the Clerk of the Circuit Court. The Clerk's office serves many functions and will usually have a separate department to handle the recording of all legal documents, including deeds.

### **What is the legal description for a timeshare property?**

The legal description for a piece of real estate is the precise description of that property contained in the public records and is derived over time through the chain of title. It is the description used for transferring the property to another. The legal description is not the street address and is not the abbreviated form of description used on the real estate tax bill for the property. A deed preparer should

always use the legal description exactly as it appears in the prior deed for the property unless the property to be transferred is only a portion of or is otherwise different from the property as described in that prior deed.

#### **How long does it take for a county to record a deed?**

Most counties take an average of 2-4 weeks to process and return the recorded deed and documents. We know how the Counties handle the recording and submit special instructions so that your recording will proceed quickly. If you wish an expedited closing there would be an additional fee.

#### **When does the seller get paid?**

On a deeded property, the seller will get paid once we received the sellers and buyers properly executed documents and the funds have been confirmed as good.

On a right to use or membership property, the seller will get paid once we received the sellers and buyers properly executed documents and the funds have been confirmed as good and the resort has confirmed the transfer of ownership.

#### **How is the buyer's purchase money held while in the closing process?**

The Buyer provides the purchase price to the escrow agent by check made payable to the named Escrow Agent's Account. These funds are deposited into escrow account under the name of the Buyer. Unless Buyer's funds are delivered in the form of a Certified Check, Cashier's Check or federal wire transfer, closing does not occur until Buyer's purchase funds are cleared.

#### **Are there additional costs associated with a closing?**

There are some small additional fees associated with the recording of the deed. Typically, a recording cost of \$10 to \$55 depending on the number of pages and number of names on the deed and is paid by the Buyer. Additionally, a nominal transfer tax may be imposed. For example, Florida imposes a documentary stamp tax on the transfer of real estate equal to 0.007 times the value of the property transferred (rounded up to the next highest \$100). As an illustration, if a timeshare in Florida is purchased for \$2,995.00, then the documentary stamp tax is \$20.97. The transfer tax is customarily paid by the Buyer.

Finally, it is possible that the resort may charge a small transfer fee. It is up to the Buyer and Seller to decide who should pay this fee. Please indicate on the Order Form who should bear this charge and we'll take care of paying the resort at the time we notify them of the transfer.

#### **Who is responsible for the resort transfer fee (if any)?**

It is usually the responsibility of the buyer but the buyer and seller may negotiate who is responsible for the transfer fee. The closing agent needs to know who is responsible and they will collect the fee and send it to the resort with the required documents.

#### **What does "estate shall terminate" on my deed mean? I was told this is ownership forever...**

This is a standard clause in timeshare contracts. There is a good reason. There is always the very remote possibility that as a resort ages it could get run down, too expensive to maintain, the neighborhood may run down, or, as is more likely, the real estate will become much more valuable. There is a provision in the deed that on a specific future date it will be VOTED on as to whether or not to continue ownership as a timeshare. The ownership never ceases and all rights remain the same; it is and always will be deeded property. If it is decided not to continue as a timeshare, the property would be liquidated and the owners would divide the purchase funds.

**How long does it take for a resort to update their ownership transfers?**

Each resort is different in the amount of time to make the transfer in their system. We have seen several days to several months. This is one area totally out of anyone's control other than the resort.

**What is a First Right of Refusal?**

Some resorts require that they be given the right to repurchase the timeshare for the same price as other potential buyers. (This clause should be in the original sales documents the seller received when purchasing the unit.)

**What is timeshare title insurance? How much does it cost?**

Title insurance is a policy issued by an insurance company guaranteeing that the title to a parcel of real property is clear and properly in the name of the title owner and that the owner has the right to deed, convey or sell the property to another person. Should a problem later arise with the title (such as an inaccurate description), the insurance company will pay the damages to the new titleholder, or secured lender, or take steps to correct the problem. The cost for title insurance depends on the state in which your timeshare is located.