Ownership Change and Modifications, Right of First Refusal and Unpaid Loan Balances of California Timeshares Tip Sheet by Deed and Record

Ownership change and modifications of California timeshares are by deed recorded with the County. But the deed may be rejected by the timeshare resort if an outstanding balance remains or if the resort has the right of first refusal as explained in this Tip Sheet by Deed and Record.

HUNTINGTON BEACH, Calif. (PRWEB) December 13, 2018 -- Current owners of a timeshare in California may want to add or remove co-owners of the timeshare or sell the timeshare. Most resorts will not accept a change in ownership if a balance remains outstanding on the timeshare. In the case of a sale, the resort may exercise its right of first refusal. This Tip Sheet by Deed and Record examines the underlying problem associated with ownership change of a timeshare which has low fair market value.

Most often the purchase of a California timeshare from a timeshare company is financed by a mortgage secured by the timeshare. Timeshares are purchased with an optimism of the value that greatly exceeds the resale value. The result is an asset with a market value substantially less than the loan balance. As a practical matter no ownership change can occur as long as there is an open loan with an outstanding balance because refinancing options are not available and few people will want an underwater asset.

The only ownership change with an outstanding balance that could be acceptable to a timeshare company is a transfer to a living trust. An owner changing title out of his or her name to himself or herself as trustee of his or her living trust has not changed ownership. What has changed is how the timeshare is owned.

The outstanding loan balance hinders change of owners in the resale of a timeshare. The low market value does not allow for financing by the buyer. The buyer would have to assume the loan which is greater than the value of the timeshare. As a result, a resale market does not exist until the loan is paid off. Then the issue of right of first refusal could come into play.

Many timeshare sales contracts have a right of first refusal. The low resale value comes into play here. The sales price will be pennies on the dollar of the original purchase price. The timeshare company may want to purchase back the timeshare at the lower price. To the seller, this will not make any difference as long as he or she has a buyer. But a lot of time and energy will have been expended by the first buyer.

Prior to any change in ownership, it is an excellent idea to obtain prior approval from the timeshare company as long as there is an outstanding loan balance. This includes adding or removing co-owners, transfers due to marriage or divorce. Even if approval is obtained removing a co-owner of a timeshare with an outstanding balance does not relieve him or her of the obligation to payoff the loan.

If a timeshare owner has died and there is an outstanding loan balance it is probably best to let the timeshare company foreclose and take back the timeshare. But if the balance is paid off, an heir may want the timeshare. If that is the case the process for transfer depends if the timeshare is owned by a trust or not.

Trusts are created to avoid probate court. But the county recorder’s records must be updated. The updates are made with two documents, an affidavit death of trustee that identifies the successor trustee and a deed signed by the successor trustee changing ownership out of trust to beneficiary/heir.
Even if the timeshare is not owned by a trust the low fair market value of a timeshare is helpful in this situation to avoid probate. California law has a shortcut, or expedited probate procedure for real property with a market value less than $50,000 known as “Affidavit re Real Property of Small Value.” No court hearing is needed. A lot of paper work is involved. But it is manageable.

Ownership change and modifications of California timeshares are by deed recorded with the County. But the deed may be rejected by the timeshare resort if an outstanding balance remains or if the resort has the right of first refusal. The major problem is the loan balance will exceed the value of the timeshare and refinancing is not available.

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