

An Ounce of Prevention....

By Gregory Crist

In 1735, Benjamin Franklin was quoted in the Pennsylvania Gazette as saying, “An Ounce of Prevention is Worth a Pound of Cure!” Franklin had lobbied for an organized response to fire problems of the day. He pointed out, how careless handling of “Hot Coals” had led to fires that burned out of control and that quickly caused great damage. The very next year, Franklin formed what would later be called the “Bucket Brigades”, Philadelphia’s first volunteer fire department and was credited with saving the community from ever dealing with such a catastrophe.

In our last article, we stressed the importance of applying a similar “ounce of prevention” when we outlined why all timeshare associations and management companies should implement procedures to combat fraudulent timeshare transfers.

To gain better insight on the subject, I recently sat down with Peter Grant and Richard Wolf, co-creators of the Timeshare Transfer Registry (TTR) and asked them to share their observations about this growing problem. They also agreed to illustrate some key steps on how an association can develop sound transfer policies that will ultimately help protect their timeshare owners from these suspect practices.

Grant and Wolf are both industry veterans, who feel that many timeshare resorts have made progress in this area; better understanding and responding to the numerous transfer challenges that are happening across the nation. They also expressed concern regarding the number of resorts that were still not adequately addressing the problem. Our conversation quickly turned into a detailed step by step guide that associations and management companies can easily follow and implement.

According to Grant, “Virtually all timeshare associations, within their governing documents, are empowered to adopt sound transfer policies as well as employ detailed best practices. This can help better manage the many issues they may face.” So let’s get into some solutions.

KEY STEPS

1.) Review Your Governing Documents

Confirm with your Board and resort counsel, that the association has the authority to adopt a transfer policy (most do). “We recommend that all resorts begin with a review of their governing documents. Most will discover language addressing the “Sale of Timeshare Interest”, which, among other things, provides for the Associations maintenance of their Member rosters”, said Wolf. “For resort’s that question their authority to implement a Transfer Policy, we believe that most resort Declarations clearly provide for this.” Confirming that you have the authority to adopt a reasonable transfer policy should get everyone headed in the right direction.

2.) Determine the Extent of your Current Exposure

Carefully examine your Member Rosters and, specifically, your delinquent accounts and most recent Owner Transfers. Attempt to clearly identify the accounts that are held by suspicious entities and/or individuals (TTR performs searches of public records and their own database to help identify both suspect members and suspicious prospective transferees). “We consistently find that resorts that have employed a sound transfer practice for some period of time have less of an existing suspect transfer problem than resorts that haven’t”, says Grant. So, if you have not already done so, identify the known and suspicious entities and individuals among your member roster and determine the extent of your resort’s current exposure. And, as part of your overall Transfer practice, plan to communicate with those known suspect entities and individuals (and their escrow agents) and demand they not engage in future transfer activity that is outside of your resort’s established policy.

3.) Adopt a Sound Transfer Policy

Assuming you have confirmed your association’s authority to adopt a Transfer Policy and armed with an understanding of the scope of the problem within your existing member roster plus, the current transfer activity taking place at the resort, move expeditiously to adopt a formal transfer policy at your resort. “All Associations are different but, typically a

resort can adopt a Transfer Policy by action of the Board of Directors based on input from management and the association's counsel", says Wolf.

"A thorough Transfer Policy should include a minimum notification period prior to transfer and basic information about the prospective transferee including an accurate statement of identity, a serviceable address (adequate for process service in the case of a future collection or foreclosure action), proof of liquidity, a copy of the conveyance documents (for review before recordation) and approval of any Power of Attorney to be utilized.

Additionally, standardized documents and communications can be readily adopted and utilized in the course of the transfer process". The National Timeshare Owners Association encourages your association to adopt an effective transfer policy if they haven't already done so. When you stop to understand the calculation of lost dues to suspect transferees, timeshare boards should have little reason for dragging their heels on this issue.

4.) Employ your Transfer Policy Consistently and Engage

Once adopted, employ your resort's transfer policy and be sure to do so consistently. Whether a prospective transferee is known to the resort or not, it is important to apply your resort's transfer policy uniformly and in a non-discriminatory manner. "Suspicious escrow companies and unburdening entities tend to argue that resorts don't have the authority to require such information. In our opinion, as long as the requirements aren't unreasonable, associations not only have the authority, they have the duty to take reasonable steps to maintain and protect the membership rosters", says Grant. As part of your transfer policy, plan to actively engage questionable transfer requests and demand they comply with your resort's policies. Again, standardized documents and letters can be readily created and adopted to support your communications during the course of a transfer request.

5.) Educate Your Owners

Many resorts struggle with educating their owners about extensive transfer related exposures and risks. The fact is, some of these "Viking Ships" have already sailed. It's imperative to have regular communication with your timeshare owners and provide constant advisories about transfer activity through newsletters, e-blasts and on-site education, advising them of the perils that exist within the timeshare transfer world. One of the most effective and proactive steps a resort can take is to create awareness which will reduce the volume of fraudulent transfers and negative financial impact to the association.

The Timeshare Transfer Registry (tregistry.com) is a subscriber based program which is endorsed and supported by the NTOA. For more information or to learn how your Association can develop new transfer program safeguards, contact Grant Wolf, Inc. at 775-588-5160.

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The Timeshare Transfer Registry Overview

Resort Trades Publication, September 2014

Initially developed in 2010, the Timeshare Transfer Registry (TTR) was created in response to the alarming activity occurring with the transfer of timeshare intervals that appeared both questionable and illicit. These occurrences resulted in thousands of timeshare intervals being transferred to asset-less entities and individual that had no intention of every paying the ongoing maintenance fee obligations.

By 2005, timeshare associations were regularly discovering suspicious owner names, primarily amongst the delinquent and defaulted portions of their Member Rosters, which, coincidentally, included no reliable contact information. Grant Wolf, Inc. partners, Peter Grant and Richard Wolf, long time developers who had remained involved with their resorts as Board Members and consultants, had made similar roster discoveries within the Associations they worked with. Since then, Wolf has spent the past nine years tracking timeshare transfer activity (and the numerous operations involved) and developing best practices and strategies to support associations with managing the many transfer related challenges.

By 2012, ARDA-ROC (American Resort Development Association Resort Owners' Coalition) had made a commitment to develop or partner with a third party to create an on-line database to address the transfer company business model and its related effects on timeshare owners and associations. At this time, Grant Wolf, Inc. was already 16 months into the development of a transfer company database and had developed and put into practice Best Estoppel Procedures and Practices for a number of the timeshare resorts to which they consulted. Based on their evaluation of Grant Wolf's progress to date, ARDA and ARDA-ROC formally announced its support for TTR and the website, tregistry.com was launched.

Since many associations currently respond accommodatingly to transfer requests without requiring basic information about the new Owner ("Transferee"), TTR first urges all associations to adopt sound transfer policies and gather information about prospective transferees prior to authorizing a transfer. "We urge resort to work closely with their board, Management Company and association counsel to establish sound transfer practices and procedures. Among these practices should be the requirement that all transfer requests include a completed copy of the resort's membership applications that identifies the new transferee, includes a physical address and provides proof of liquidity." Say Wolf.

With information in hand, resorts can now search a prospective transferee on the TTR website to determine if public information exists that creates suspicion. This might include numerous timeshare intervals being owned and corresponding reports of dues delinquencies or questionable liquidity to meet the obligation of the ongoing maintenance fees or the lack of a verifiable serviceable address. TTR emphasizes that suspect information, while necessarily the basis for rejecting a transfer request is justification for seeking additional information from the Escrow Company or agent representing the transferee.

Footnotes:

Founded by Peter W. Grant, President and Richard S. Wolf, Executive Vice President, the Timeshare Transfer Registry is a division of Grant Wolf, Inc., a 30 year ARDA Member company, based in Stateline, NV. Features of the Timeshare Transfer Registry include a dynamic contemporary database, sophisticated search capabilities, and custom review and reportin. Searches of potential transferees that do not already appear in the database are researched and the results are classified and added into the database daily. Additionally, there is a resource center that provides downloadable Best Estoppel Procedures and Practices, including model documents, letters and suggested transfer policy language for adoption by homeowner associations (HOAs).

Subscriptions to the Timeshare Transfer Registry are available for an annual fee. Ttregistry.com