

Time-share Condominiums: What is their value?

In 1983, The town of Stowe had three time-share condominium projects started. They were the Trapp Family Guesthouses, Mountainside, and Village Green projects. Each of these projects were very different with the Mountainside project of lower quality units, Village Green of average quality and the Guesthouses of very good quality. All had special sales teams and terms to sell their product.

A time-share estate is a deeded right to occupy a condominium unit for a specified time period with the right to sell that specified time period to another owner. A State Property Transfer Return form is filled out citing the amount paid for that time-share estate, and a tax is paid to the State based on the amount paid just like any other real estate transaction. There were no State Statutes which explained how these time-share estates were to be taxed by the towns. Lacking clarity, Stowe was looking at adding over 3,000 grand list entries to its Grand List as each of these time-share projects were to have 48 time-share estates for every unit in their projects. This meant putting a value based on 1983 values ranging from \$25,000 for a holiday week to \$3,000 for a poor week, keeping track of all the mailing addresses, and possibly putting up for tax sale a delinquent time-share estate owner's week.

The time-share industry understood the problem that was being put on the town. It also did not want to have a holiday week taxed at a higher value as it would curtail the selling of the more valuable weeks. The time-share industry was going to have to bill and keep track of the time-share estate owners for maintenance fees and were willing to take the GL entry problem from the town and prorate the unit's tax burden among the time-share estate owners in the maintenance billing.

The result was the passage of Section 3619 of Title 32. This statute states that the towns were to assess the units of a time-share project to the owner's association, corporation, or whatever entity is authorized by the project instruments to manage the common property and that entity would have the responsibility to prorate the tax burden among the time-share estate owners and add this prorated tax burden to the maintenance fees billed to each time-share estate owner.

This statute was a win for the towns as it alleviated them from keeping track of and billing the time-share estate owners directly. It was a win for the time share industry as it would not base the prorated share based on value, but on an average per week basis. It, also, would not allow a delinquent tax payer to forfeit their ownership rights by not paying his/her property tax, a big win for the industry.

However, the statute did not address how to value the units.

This, in itself, presented a major program to the town of Stowe. When a project is started, there is ample evidence of what each time-share estate is worth due to the volume of sales. The marketing of these sales is high pressured with special incentives given to potential buyers such as free televisions, weekend get a-ways, ski passes, etc which adds to the cost of the marketing. Included in these costs are the personal property of each unit as well as the common elements that pertain to each project. Stowe did not tax personal property and did not want to add to the value of each time-share estate the extra cost of marketing that was very evident in the initial purchases. Village Green had similar projects at Loon Mountain in New Hampshire. Stowe went to Loon Mountain and was able to find resales of time-share estate owners that were selling at 45% to 60% of the initial sales that had occurred. Stowe then set up a formula to deduct from the original sale prices the higher marketing cost, personal property cost and

allocated common value cost of the projects from each weekly time-share estate. It was a complicated formula but arrived at a much lower value for a unit than what the initial time-share estate prices established. This value, however, was higher than what whole condominium units in the same project were selling for. Village Green had some units that were being sold to whole owners as well as units that were dedicated to time-share estate owners. Village Green challenged Stowe all the way to Superior Court stating that there should be no difference in value for a whole unit than for a time-share estate unit. Stowe prevailed in convincing the court that a “sum of the parts” deductive methodology was a valid way of measuring a time-share estate’s unit for an equitable and fair grand list value of a project’s unit.

40 years later – a Cambridge VT Smugglers Notch time-share case.

Smugglers Notch started to develop time-share estate condominiums in the mid 1980’s. It started out as each unit having a winter and summer time-share estates with a float week. Over time, the makeup of the time-share estates evolved to Equi-Share Weeks to Family-Share weeks, and other variations. Some of these weeks were given with a 20-year use of free ski passes or summer facilities to the original owners which could not be transferred to another purchaser.

The time-share industry, not just in Vermont but across the world over this time period, started to get a bad eye as many time-share estate owners wanted to get out of the obligation of their time-shares estates due to the high maintenance costs. Families, also, had out grown the need to use the vacation as the children had left the nest. These time-share estate owners found that there was no marketing technique to sell these estates. The value of the estates was so low and demand, due to the industry’s black eye, did not make it profitable for real estate brokers to sell them. Many time-share owners walked away from their obligations This left the owner’s association or the corporation’s entity holding these unowned time-share estates with a financial problem. They and the remaining time-share estate owners would have to make up for the lost maintenance fees and property taxes.

Fortunately for Smugglers Notch in 2013-2014, an outside corporate entity, Club Wyndham, purchased all the unsold time-share estates. Club Wyndham did not resell the time-share estates as time-share estates, but used them to sell as vacation points. The town did not see what these points were worth as no deed was transferred or a PTR filed with the State. As a result, the town reappraised all the time-share projects in 2017 as whole units This increased the unit’s value on the grand list as Cambridge no longer followed the Stowe format of appraising time-share units. This, however, did put the time-share units on a comparable level of value as whole units. As an example, a three-bedroom Tamarack V unit was now assessed at \$331,800 compared to \$300,000+ prior to the 2017 reappraisal.

In 2020, the time-share projects appealed. The Appellant’s fee appraiser looked at the current resale market of time-share estates and established that a three-bedroom Tamarack V unit built in 2004 was worth \$66,000 based on time-share estate sales ranging from \$1,250 to \$5,900. He based his estimate on a sale price of \$3,000 times 22 weeks of time-share intervals. This, after making the following statements:

The complex common area and the unit inspected are well maintained and in good condition with no items of deferred maintenance or functional obsolescence. There is evidence of regular preventive maintenance and overall the quality of the interior finishes and fixtures is good/average. And; The Resort now operates a system, as funding allows, for weekly timeshare owners to quitclaim their property back to the resort. The benefit for the owner is to dispose of an asset they no longer use but requires maintenance fees, and the benefit to the Resort is additional inventory for rent and sale.

The appraiser did not do a cost approach to value even though he stated that the Tamarack V three-bedroom unit of 1,740 square feet was well maintained and overall in good/average condition with no functional problems. The appraiser did not use an income approach even though a portion of the time-share estates were rented by the Resort and could be rented by the time-share estate owner, if inclined.

The appraiser never surmised that the sale prices that were being used were liquidation values by an owner who wanted *"to dispose of an asset they no longer use"* which was costing them maintenance fees, even though he asserted this in his report. He never questioned why a unit of 1740 sf that was built only 15 years ago and had been well maintained should have such a low value. His value calculates out to \$37.93 per sf and includes the unit's interest in the common facilities and residual interest in the land.

The appraiser did not acknowledge the ownership interest that Club Wyndham had into the time-share projects or the fact that there was no evidence of a value that could be attributed to these interests. It came out during the appeal process that Club Wyndham had a 43% interest in the Tamarack V project. Club Wyndham had ownership interest in all the projects, one even as high as 53%. Club Wyndham has the right to resell these time-share estates as points and also to rent these units.

The result of these appeals was a settlement lowering of the Tamarack V three-bedroom unit by 52% to settle the appeals. 17 of the 19 projects appealing accepted this settlement. Two of the projects went further to the State Appeal Board, and after much expense on both sides, reached another settlement that lowered these 2 projects even more, one by 13% less and the other by 23% less.

The town lost Over 45 million on its 2020 and 2021 grand lists. This equated to almost \$300,000 in loss revenue to the town and over \$800,000 in lost revenue to the State Education Fund for each year. It is expected that the remainder of the time-share projects will appeal on the 2022 GL. If this happens, it is expected that there will be an even greater loss in revenue to the town and to the State Education Fund.

The Cambridge Board of Listers seek clarity from the Vermont Legislature and the Tax Department to hopefully expand Section 3619 to better define how time-share units are to be appraised for tax valuation purposes. This is being done to assess the time-share units at an equitable level of fair market value and not at a liquidation value compared to the fair market value of other properties on the grand list.

We are asking that Section 3619 be expanded by adding:

- (d) The town shall assess each timeshare unit taking into consideration the location, quality of construction, size, age, condition and amenities comparable to wholly owned units with similar characteristics within the framework of establishing fair market value for taxation purposes.

Dated: December 7, 2021 _____

Board of Listers, Cambridge, Vermont

