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APPLICANT GUIDE FOR TIMESHARE PROGRAM REGISTRATION

Q: What will I need to complete an application for a timeshare program registration?

A: You may obtain the necessary application materials from the Commission's website at www.ncrec.gov/Resources/Forms or upon request to the Commission's office. Please refer to [N.C.G.S. § 93A-53](#) and [NCREC Rules Subchapter 58B](#), specifically Rules B .0101 and .0102, while completing your application.

Q: Why is it necessary to follow the form requirements for the documents?

A: We ask that documents be submitted in proper form: bound between firm covers; pages numbered consecutively (or at least numbered consecutively document by document); and documents clearly labeled and tabbed. This allows us to handle the files efficiently during the examination process and to easily identify any part in a document.

Q: Can a developer make the filing without the assistance of an attorney?

A: A developer may make the filing without an attorney, but the Commission staff strongly advises developers to obtain the services of an experienced attorney. The Real Estate Commission cannot recommend particular attorneys. In any event, the required Title Opinion must be prepared by an attorney.

Q: Are there timeshare legal foundation documents available from the Commission?

A: There are no form or "fill-in-the-blank" documents available from the Commission.

Q: Are there timeshare documents on file with the Commission, which I may use as a guide?

A: All timeshare program registration files are public record and as such, are open to inspection. However, each timeshare program is substantially different from every other project. Thus, a declaration of timesharing composed for a multi-condominium program, consisting of a series of phased construction condominiums, would be of little use to those planning a Tenants-in-Common arrangement in a motel being converted to timesharing.

It is best to have legal foundation documents fashioned expressly for your particular project. Remember that documents that are well-written, internally consistent, well thought out, and describe a program, which will operate practically and efficiently, will benefit the developer not only during the sales period, but will be essential to protect the developer from future lawsuits by disgruntled owners.

Q: Can I ask for assistance from Commission staff during the process of applying?

A: Yes. We cannot give individual legal advice or draft your documents for you, but we will be glad to answer questions, give general drafting advice and otherwise be as helpful as possible.

Q: What is the procedure for examining the application after it is received? How long will it take for the Commission to accept my Application for Registration of my timeshare program?

A: We must first receive the application properly completed with all the items required by the TimeShare Act

and the Commission Rules. We cannot process an application unless the appropriate registration fee is received. Without the fee, we will return the application to you unprocessed. A fee schedule is located on the Commission's website at www.ncrec.gov/Resources/Forms.

After receiving an application, we have thirty (30) days to determine whether it appears to be "properly completed." Proper completion is when the application is wholly and accurately filled out and when all required documents are appended to it and appear to be in compliance with the provisions of the Timeshare Act, and, where the program is a condominium, the Condominium Act or Unit Ownership Act."

All the documents submitted will be carefully examined for compliance with the applicable laws and rules. Although we make every effort to examine applications rapidly, the developer should allow the full thirty (30) days for review. Almost always, a "Notice of Improper Completion" will be prepared in the form of a deficiency letter. The letter will specifically identify incomplete items, revisions we request, and may pose certain questions. To expedite the process, the developer should reply in writing to the notice as soon as possible. After a response is made, staff will ask the Commission to either accept or deny the application at its first regularly scheduled meeting following the receipt of the completed application and response to any deficiency letter. The Commission will consider all materials submitted by the developer at its next regularly scheduled meeting, as well as the moral character of those directing the sale and management of the program. If the program is accepted, the developer will be immediately notified in writing and will be issued a Timeshare Program Registration Certificate, which must be displayed at the program. If the application for the program registration is denied, the developer will be notified of the specific reasons for the denial and be given the opportunity for a hearing under the provisions of Chapter 150B of the General Statutes.

Q: Will the Real Estate Commission "approve" my application?

A: No. The Commission is unable to "approve" any developer's application or to express an opinion as to the merits of the offering. G.S. 93A-52(c) provides, "The acceptance by the Commission of an application for the registration shall not constitute the approval of its contents nor waive the authority of the Commission to take disciplinary action as provided by this Article."

Q: Can my application be given special consideration or be placed in front view of other pending applications?

A: No. As explained earlier, every effort is made to promptly examine the applications, but the process does take time. A careful review ultimately benefits the developer, as problems are caught and can be solved in the examination process. Those in genuine hardship situations may make a written request for an expedited review. The developer's financial problems are not considered justification for an expedited review.

Q: What are my responsibilities after my application has been accepted?

A: The developer is obligated by G.S. 93A-44(b) and the Commission Rule B.0201 to ensure that information in the public offering statement is accurate on that date it is distributed to purchasers. You are required by G.S. 93A-52 (a3) and the Commission Rule B.0104 to submit amendments, making necessary changes promptly. Most developers will find it is necessary to make some amendments during the sale period, when management firms change, when recreational facilities are completed, when additional phases are added and so forth. Also, changes in the timeshare law or in the Commission's Rules change from time to time, requiring all developers to make certain revisions. The Commission's Timeshare Rules can be located on the NC Office of Administrative Hearings website at <http://reports.oah.state.nc.us/ncac.asp>, Title 21, Chapter 58.

Remember that amendments must be submitted in the format required by Commission Rule B.0104. Please also remember that only the developer or his attorney may make amendments, not program brokers, managers or other individuals.

Q: What if I change program brokers, registrars or independent escrow agents after the initial filing acceptance?

A: Promptly submit an original Affidavit of Program Broker, Registrar or Independent Escrow Agent along with an original Affidavit Notifying of Change to the Commission's office. These affidavit forms are located on the Commission's website at www.ncrec.gov/Resources/Forms. Be sure that all such affidavits are submitted promptly and are accurately completed.

Program Brokers should be told that their execution of the affidavit for timeshares does not relieve them of the duty to file the necessary forms as usual with our records section.

Q: How do I indicate a change in brokers during the sales period?

A: The broker must file the necessary forms as usual with our records section. Additionally, the timeshare section must be kept up-to-date independently. Use a cover letter and simply list the personnel changes.

Q: What about the annual renewal of my timeshare program?

A: All developers selling or offering to sell timeshares must renew their registration on or before June 30 of each year. Renewal may be accomplished by properly completing the renewal form located at www.ncrec.gov/Resources/Forms and enclosing a certified check or money order made payable to NC Real Estate Commission for \$800. Annual renewals must be done throughout the sales period. It is unlawful to offer to sell or to sell timeshares when the registration has expired. Unauthorized sales can subject those involved to discipline by the Commission, a possible civil suit or potential criminal liability.

Q: What is the procedure when I have completed sales, sell my interest in the program to another, or wish to cease selling for any reason?

A: N.C.G.S. 93A-52(a3) requires the developer to notify the Commission of the situation and Rule B.0105 describes the "Notice of Termination" which must be filed with the Commission. The "Notice of Termination" form is located on the Commission's website at www.ncrec.gov/Resources/Forms.