My Experience with Annual Assessments…

"Possession without obligation to the object possessed approaches felicity."

- George Meredith -

There is an old saying about death and taxes being sure things. For those who count among the things they possess a timeshare or vacation ownership interest, another sure thing is the annual assessment or maintenance fee which, to most, is the furthest thing from felicity. The reaction to the receipt of this annual billing is as varied as is that of the ownership base, however happiness is very seldom the emotion which surfaces. While each owner was aware of the assessment reality from the outset of their venture into the world of owned vacations, the very thought of this reality generally places a frown on their face, not a smile. This somewhat negative reaction has always been a mystery to me because this minor annual monetary supplement is necessary if they are going to reap any of the benefits envisioned at the time they purchased their Timeshare Plan.

*After about 15 years away, **Soim Frugal** recently had occasion to visit his old hometown. While there, he took an evening walk aimlessly down Main Street, not looking for anything in particular, just attempting to become reacquainted. As he approached the corner of Main and Fourth Avenue, he noted that a new car dealership had replaced the drug store. Just then a flash of light, coming from the window on his left caught his attention. **Soim** stopped and turned fully toward the window where, to his amazement, this vehicle, unlike anything he had ever observed, was slowly rotating on a pedestal. An array of multicolored lights had been places so as to strike the many unique highlights of its form as it went round and round. The small theatrical billboard off to its right proudly proclaimed this bright yellow marvel to be a 2001 Plymouth Prowler. The display was so appealing **Soim** that he just had to enter the dealership and take a closer look. Almost at once, a salesman approached and **Soim** quickly advised him that he was **Frugal** and was just looking.*

*Like most salesmen, this one was persistent and proceeded to explain that the vehicle on display had two purposes. The firs purpose was obviously to attract prospects into the showroom and the second to provide a driving experience unlike any other. **Soim Frugal** replied: "Well, the first was obviously successful because I'm here, what is the catch to the second?" The salesman then stated: "First, there are conditions which must be abided by such as obtaining a driving license and acquiring full coverage insurance." **Soim** then said: "Yes, yes, what else?" The salesman then said: "Well, if you are going to get the full benefit of long-term ownership, you must keep the vehicle well maintained and full of fuel!" "Just what does the maintenance entail?" **Soim** asked. "You must change the oil, the filters, grease the joints, change the coolant, and replace the tires, the battery, and the soft top. You must keep it washed and waxed, tune the engine, balance the wheels, vacuum the floorboard, check the tire pressure, change the wiper blades, and much, much more!" said the salesman.*

To this, ***Soim*** *replied: "My* ***assessment*** *is that sounds like a lot of money over the years just for a driving experience unlike any other!" To which the salesman replied: "Many, many others feel that the annual cost of operating and maintaining such a unique vehicle is an exceptional value, however, that's just their* ***assessment****!"*

Typically when an individual has problems with the annual assessment or maintenance fee of his/her timeshare plan it is because they do not fully understand the concept of prepayment or why the funds are necessary. For most plans the regular assessment or fee includes three distinct segments.

OPERATING ASSESSMENT

The operating assessment is the amount assessed each year against an interval interest as the allocable share of the common expenses and operating expenses. The common expenses cover those things which are attributable to things in common with all owners and would include (however not be limited to) the amenities such as pools, tennis courts, club house, as well as roadways, walls, sidewalks, landscaping, operating facilities such as housekeeping, laundry, maintenance, storage and vehicles such as service carts. The operating expenses cover those things, which are attributable to the residence units: such things as (however not be limited to) the furnishings, house wares, supplies, equipment, utilities, personnel, bedding, linen & terry, decor items, flatware, glassware, dinnerware, utensils, pots, pans and more. Within the common and operating expenses would also be the costs of the various types of insurance required to protect the assets. In reality all the things we have and use in our daily lives and none of which are free.

RESERVE ASSESSMENT

The reserve assessment is the amount assessed each year against an interval interest as the allocable share of the fund to be accumulated and set aside for the time when some component of the common area or residence units has achieved its useful life. For lack of a better term, we can reference the rainy day fund. Let us use just one component as a point of reference to assist in clarity as to reserves. Please note that the laws of each state will determine whether reserves are required to be collected by an association and may even set the levels at which the reserves must be funded.

At Scottsdale Camelback Resort (SCR) in Arizona, we have 111 units, each of which is equipped with a dishwasher. The manufacture of the dishwasher indicates that the useful life of one of its products is approximately 10 years; however, they only provide a two-year parts warranty *(see special note below).* The cost of the original dishwasher was $299 when installed in 1992; so, the total cost for SCR dishwashers was 111 X $299 ($33,189, excluding tax). Assuming that the rate of inflation was maintained at 3% for the past ten years, approximately $44,600 (excluding taxes) would need to be accumulated in the reserve fund by 2002 in order to replace the 111 dishwashers. In order for this to occur, $4,460 needs to be added to the reserve fund each year for the 10 years, and the allocable share for each of the 5,661 intervals at SCR would be approximately .79

cents per year (.79 X 5661=$4,472). This same exercise must be repeated for each component contained within the resort.

Typically, a resort and its management staff would rely on a third party reserve requirement analysis to determine the reserve funding necessary to ensure reserve fund accumulation adequacy. Supplemental information concerning the adequacy of the reserve funds may be required to be contained in the Annual Audited Financial Statement from a CPA firm.

If that "rainy day" does come around and the accumulated reserve funds are not adequate to provide for the necessary replacements of vital components, the dreaded special assessment could occur. This type of an assessment is separate and distinct from the normal annual assessment and is most often used to supplement the accumulated reserves for major rehab and/or refurbishment of the residence units. For clarity the following is the definition of "Special Assessment" taken directly from the SCRA Declaration of Dedication: **"Special Assessment means an amount determined by the Association and assessed against an interval interest on a nonrecurring basis as the Allocable Share for such interval interest of expenditures for (1) capital improvements, (2) amounts in excess of available reserves expended for construction or acquisition of new facilities or equipment, (3) deficits arising from damage not fully covered by insurance proceeds, and (4) similar expenses."**

(Special note: If a part breaks during the extended life cycle, its replacement or repair is paid from the general operating fund and not the reserve fund.)

TAX ASSESSMENT

In some jurisdictions, the agency involved will bill taxes to the individual owners rather than the owners association or managing entity. If this is the local practice then the annual assessment or fee will not include a tax assessment portion. This practice is difficult to administer and often leads to problems where portions of the taxes are not paid. Many of you are aware of the occurrence of tax sales in such areas as Palm Beach County, California. Therefore, an association should consider the benefits and burdens of this approach before agreeing to its implementation.

While this segment of the annual assessment or fee is the smallest of the three, it nevertheless is vital to the well being of the resort and the owners thereof. The tax assessment amount generally includes not only the amount of the actual taxes but also any amount related to taxation such as funds for the appeal process or filing fees. Typically, the timeshare or vacation ownership interval is part of a whole condominium, and the actual tax bill is for the whole. In order to establish the allocable share for the individual intervals the whole condo billing must be divided by the number of actual intervals sold. Assuming that the tax bill for a single condo was in the amount of $920.00 and 51 intervals were sold the allocable share would be $18.04 to which you would add the share of any other tax related expenses.

The operating assessment, the reserve assessment and the tax assessment are combined to make up the general assessment. In any year where there is a special assessment it is billed along with, but not a part of, the general assessment. Because these funds are assessed for specific purposes it is essential that, upon receipt, these funds never be co-mingled.

In addition to understanding the components of the annual assessment or maintenance fee, the owner of a timeshare plan interval should be fully aware of two additional provisions of the plan, which are typically directly related to assessments. These are the ABC (annual billing and collection) policies and the penalty provisions for nonpayment. The ABC policy will spell out the billing and due dates as well as the specific times (upon default) when late fees, interest and third party collection efforts and associated fees will be applied to the balances due. The final nonpayment provisions are generally forfeiture of use benefits and at some point foreclosure and possible monetary judgments.

Final Thought on My Experience

In the end, ***Soim Frugal*** *determined that he just had to have that Prowler, and he was able to work out all the purchase arrangements and financing provisions. The initial 5,000 miles seemed to just appear on the Prowler's odometer, and it was time to return to the dealership for routine maintenance. Upon receipt of the bill for said maintenance,* ***Soim*** *began to berate the cashier as though she had anything to do with his decision as to transportation or his assessment of the benefit values. "This is ridiculous!" he yelled. "What is this amount for environmental impact?"*

So it is that many owners of timeshare plan intervals fail to understand that annual assessments or maintenance fees are part and parcel to said ownership. However, it is clear to all that the clerk in the accounting office at their home resort is fully responsible for the preposterous amounts and deserves all the abusive treatment they can dish out.