

## KTOA SUMMER 2009 NEWSLETTER

**Fraud Alert- timeshare sales:** There are companies or persons advertising to guarantee to buy your timeshare. They often welcome you to come to a meeting at a local hotel meeting room with a group of similar folks wishing to sell their interest to terminate paying the dues each year. These are folks who often have used their resort for many years and now are unable to and wish to not have to pay the annual dues any longer.

The pitch is sign up now, fill out the papers at the meeting and time is of the essence. KTOA has heard of two cases recently where some of these owners have paid thousands of dollars to have a scammer “buy” their interest and “take over the annual dues”. So far, KTOA has received no dues or transfer fees. The property is gone and the owner is out thousands of dollars that they paid the scammer to take their property! Sometimes after you have paid a large fee to the scammer he will quickly sell the timeshare on the internet for as low as a dollar to get it off his hands. The resort then has a mess to untangle and you are out as well. This sometimes becomes an interstate mail fraud situation or it could be a sweet talking, convincing phone solicitor. The names change often but the scam is the same. If you, or someone you know, has been exposed to these pitches or has information and specific detailed scenarios similar to these scams please e-mail or fax the specifics to KTOA so we can pass the information to the correct Hawaii authority and the US Mail inspectors.

The other common scam is from a person who solicits you to list for sale your timeshare. If you are asked to pay a fee up front so that your timeshare can be listed for a very attractive price don't do it.. Often once you have paid the up front fee that is last you hear. A legitimate realtor will only be paid his fee at the close of sale escrow. That is when both you and he are paid by the escrow title company – not before, You have a right to know the realtors commission fees before you sign up to sell your time share. Be cautious, do some checking, sleep on it, call your resort. Don't be pushed into making fast decisions!

**You do not have to pay to sell your timeshare!** Assuming you have a legitimate right to use agreement or a properly executed fee simple deed for your timeshare interest you can first attempt to sell it. If you cannot find your title information, which you should have received when you first bought your time, call KTOA first. KTOA has a record of title on most of the weeks and is working on the few remaining. Many of our owners buy additional weeks from other owners. They are your best opportunity for a sale since they know the property. You can advertise your interest in selling your timeshare in our KTOA newsletter CLASSIFIED section- it is free. Often owners call Kayc looking for an extra week. Don't sit on an unpaid dues bill. Kayc can often connect you with a buyer who is a KTOA owner. If you are unsuccessful in finding a buyer and need to terminate your interest you can return your interest back to KTOA. All parties who signed the original papers need to be part of the paperwork which KTOA can supply. If one original owner is unable to sign, or has deceased, the remaining owner must include documentation naming the person holding power of attorney or m\ noting that he/she is

trustee of the estate. That person also is to sign the documentation. A copy of the original deed or agreement must also be included, the interest can then be legally transferred back to KTOA. All parties to the Warranty Deed need to have their signatures witnessed by a notary. This is the only cost and is often free at your local bank or credit union.

This is a far better option than simply not paying the annual dues and causing foreclosure of your interest in KTOA. The gifting back to KTOA could have tax benefits but only your tax advisor can advise you on that part.

**Quiet Hours at KTOA: 10 PM to 8 AM** please remember that many of your neighbors turn in early so they can enjoy the early morning. Others welcome the opportunity on vacation to sleep in. When you are coming or going please be considerate and keep the noise down- pretend it is a library where even the kids have to shuuss. Windows are open to catch the breeze and sound carries even from the parking lot. Thanks for caring!

**Occupancy this year:** KTOA has not been exempt from some of the difficulties caused by the current recession. However, our usage schedule shows no openings this coming fall and spring from the end of September through the first week in April. Yet, over 200 open weeks from this past April through this coming September were open and not booked. That open time represents about 38% of our owners despite lower airfares during that time. Also in January/ February we had 7 weeks cancelled. This was the reason the Board allowed immediate past year weeks to be used or weeks bought by an owner to be used as long as it was within 30 days of the use time.

**The Budget:** We have about 20 owners who also have not paid their annual dues. This has a direct bearing on **our budget** which assumes every owner will pay by the December deadline each year. Much administrative cost could be saved if everyone paid on time. The Board and Management constantly struggle with budgetary costs and have worked hard looking for ways to save. Our budgets count on these efforts and a shortfall in collection makes their efforts even harder to stay within the budget. Kayc and Richard have done a great job and share our frugal commitment. Dan Bosse, our treasurer also looks at all the bills and invoices and every major expense issue is debated by the Board. Many of our expenses are beyond our control such as electric and taxes. Dues are due December 1 each year/

Dan has also worked on a twenty year guessimate of the expected life of everything in our units and has figured in a very conservative guess of what the annual inflation index increase cost of each item would be at the end of each items expected life. At the end of the expected life each item is reviewed to determine if it is worn out or outdated then a judgment is made to continue with the item or replace it. The final report will come before the Board for consideration shortly and will be the current basis for our necessary reserves and dues amount. Based on the economy and the value of the dollar, at best, this effort is a moving target in need of annual titrating.

**KTOA records:** Board member Lane Durgin's wife Virginia has been working, as an ad hoc committee of one, with Kayc to try to complete the last difficult ownership files which Lynette Poncin and her husband Bruce worked on in 2006. There are a few ownership records that still remain unsettled because of title report errors or omissions and old incomplete owner records. It sounds like a simple task but some trails are long and convoluted making for many phone calls and follow ups along with some professional assistance.

**The annual meeting this year:** The Annual meeting will be held in a different venue this year. The new location is in the Pullman Grill at Main Street Station which is connected by a walkover bridge from the California Hotel in downtown Las Vegas. The room is somewhat smaller but should be more than adequate to accommodate the number of owners who have come to the meeting the past few years.

**The meeting is September 19, 2009.** The doors open at 8:30 AM for registration and a continental breakfast. The meeting is from 9:00 AM to 12 Noon.

The official meeting notice and ballots will be mailed out the middle of August. **The ballots are to be received by KTOA before September 17 in order to be counted. All owners are asked to submit completed, filled out, ballots before that day.** Owners attending the meeting can correct any ballot they submitted by asking for a new ballot at the meeting which cancels the one submitted. **Proxies will only be used for a quorum of the meeting. Proxies will not be counted for election of Board candidates or determination of ballot issues. Ballots must be filled out with votes for the candidates and measures in order to be counted.**

**This is a transition year:** Last year the owners approved the changes to the CC&Rs and the Bylaws. **The Board now can expand from 5 to 7 maximum members.** There is one Board member who was elected last year for a two year term. All the other members have terms expiring so **there are 6 potential seats available** not considering some incumbents who may seek re election. In order to stagger subsequent Board term expirations the Board has agreed to the following protocol. The four persons receiving the highest number of votes will have two year terms. The next two highest vote recipients will have one year terms. Next year there then would be three seats available for two year terms and the following year there would be four two year terms available.

The Board members transacts business largely by e-mail and at least three teleconferences each year plus work as well as play when they are on Maui. Attendance at the annual meeting on the third Saturday in September each year and the in person meeting the day before the annual meeting is also expected.

Being on the Board is a way to get to know many more of your fellow temesharers and is an opportunity to see behind the scene what it takes to have KTOA function effectively. There is much to learn and it takes dedication, a sense of fairness and a time commitment to grow and understand the position in order to advance through the Board. The candidates should have good business skills. There are many judgment calls to be made to assist management. An effective succession plan is important now. All the Board needs, ever, are seven owners who are team players who can put service above self and fairly share the duties and responsibilities to keep KTOA moving ahead in a positive

direction - that's all! **If you have read the above and have considered being a Board member send Kayc by e-mail a 200 word introduction bio of your interest and experience by August 6.** You may include a photo. Your information and name on the ballot will then be included in the August 15 mailing and will appear also on the website. E-mail KTOA.maui@gmail.com

**Booking Protocol enhancement:** The Board has spent considerable time evaluating the changes that have been implemented the past three years and listening to owner comments.. Although much has been accomplished they have noted some concerns. After reviewing our owner preferences, the requirements of Hawaii law relative to annual availability of occupancy and the KTOA patterns of booking they have decided some changes were needed in order to be fair and equitable to all owners.

Two areas stood out.

1) Owners of current weeks have to be accommodated to book their time within the current year every year

2) Saved weeks are to be booked in open weeks. KTOA has only 15 weeks that are not owned by individuals, at this time. Because of the historical booking patterns at KTOA the Board has looked at a broader and more liberal opportunity to use saved weeks throughout the year. HL 514E 8.8(d) implies that open, unused weeks can only be booked within 60 days of usage. The plan still allows the immediate past year's weeks to be saved and used anytime in available open weeks but only after each owner's current years weeks have been booked. There now are opportunities for saved week usage throughout the year but used weeks have to remain secondary to primary current year weeks.

The Board resolution below describes the intended changes and the **Board is seeking a yes vote** to this more liberal, fair to all, change which will be on the ballot each owner receives in August prior to the annual meeting. The Board has unanimously approved this change.

The Board proposes:

1. Eliminate "high time"
- 2, Allow only owned weeks, not saved week, to be booked at the initial booking session.
3. Allow subsequent booking immediately thereafter of only additional unused current owned weeks, not saved weeks, to book an additional unit for families vacationing together, subject to availability.\*
- 4.Saved weeks can only be booked on the tail of the total of owned weeks.\*\* An owner wishing to book saved weeks must wait the total of owned weeks time before a second booking session to book an available additional week open at that time using only immediate past year's saved weeks.

\* The same owner, using owned weeks, could vertically book two weeks, for instance, side by side or two weeks vertically by scrolling down.

\*\*this means that a one week owner who has booked an initial one week of current year owned time can book an available open week using a saved week from the prior year after waiting one week from the initial booking session. A two week owner who has booked two current year weeks must wait two weeks before booking an available open used week and so on. Once an available open week is obtained an owner with saved weeks can then enter and book an additional available open week each week from their remaining weeks saved from the immediate past year. No scrolling is permitted for saved weeks. They must be available open weeks.

This proposal makes the booking process fair, open and equal to all KTOA owners though out the year. All the booking sessions are subject to availability in any given week based on first come, first booked by a click on the booking calendar. Everyone has the same chances to obtain a reasonable booking. No system will please everyone all of the time but every floating week is randomly open to every owner at Kihei Timeshare Owners Association. The auto confirmation of each booking session also is sent to Management.

**RCI:** Currently RCI has a contract with KTOA and the trading relationship continues to benefit those who still belong to RCI. The Board has had to require a protocol change in the following situation: If an owner, who has paid dues to KTOA for the current calendar year books a week for RCI in the next year ie. 2010 they must pay for the next year's dues at the time of booking in 2009 in order to secure the 2010 RCI trade. Also, if the dues changes for the next year the balance between what dues were charged at the time of the booking in 2009 and the actual dues in 2010 will then be billed and due by December 1. The Board has had to make this change because of unpaid dues in the year of use and the need to honor the week that RCI has committed to a trade.

Owners in KTOA who trade their weeks to RCI cannot later change their minds and rescind the trade since RCI most likely has already committed the time to someone trading into KTOA and it has proven difficult to have their different departments communicating that fact to KTOA even when we call.. Errors have occurred.

**KTOA website:** Information on our website currently can be copied or accessed by search companies such as Google or directly by brokers and is then disseminated and available or used often too broadly. Information on the site can be misused or harmful to KTOA management or KTOA when it gets beyond our intended audience of owners. In order to continue to offer information to our owners including our classified listings and newsletters the front page of the site is being changed. All the information is being moved behind the wall where only owners can view the information after first putting in their access code and password. The same codes owners currently use to reach the booking calendar will open the site. The classified section then can be updated more frequently as long as we feel unauthorized persons are not accessing the site.

Prepared by Don Swatman with Board review