



Kyneton Bushland Resort Ltd.

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The Secretary,

Parliamentary Joint Committee on Corporations and Financial Services,

Parliament House,

Canberra, ACT, 2006

Re: Submission on inquiry into regulation of the time share industry.

Dear Sir,

I make this submission to the Joint Committee on the recommendation of my Board, my involvement in the industry since 1987, and my personal involvement in four other time share resorts. My submission focuses on the management of fully sold out title-based entities, namely Sunrayasia Resort (approx. 3500 members), Lake Edge Resort (1780), Murray Valley Resort (2200), Nepean Country Club (3700) and Kyneton Bushland Resort ("KBR") (2800). I have read with interest the submission of the Law Institute of Victoria ("LIV") and offer our support and agreement with all the points made in reference to Section 4. of that submission.

All the above resorts are managed by boards of directors who are shareholders and are elected by the shareholders pursuant to their individual constitutions and Corporations Law. All are managed by a board appointed resort manager and at this time has no involvement with outside management companies or any developer.

As suggested by the LIV the issue of shares linked to titles by way of a long lease encumbrance (usually 99 years) is a problem when members do not pay annual contributions and after a certain period time management is forced into a forfeiture process so that it may recover outstanding debts by on selling to new owners. Delinquent members will not return documentation, including titles, and if the company has no mechanism of splitting tile from the share then it is not presently possible to affect a transfer. Well managed companies appear to have a natural annual attrition rate of up to 2%. Time share companies are essentially "cost based" businesses: i.e. an annual budget is prepared, divided by the number of shares on issue and the maintenance levy is struck on a per share basis. If 100% of the levies are not received in a reasonable timeframe it becomes a financial burden on all other shareholders and too often general up keep of the resort tends to lag behind unless one has other sources of revenue available to the company such commercial rental.

Member's resales have always been an issue. Management of time share resorts are not really geared for this function, particularly with today's ASIC requirements. I am not aware of any effective resale body in Australia. We at the management level have to face owners who have paid up to \$20,000 for their time share with lots of promises made by developers and salespeople that the resale market is very difficult to find and to expect prices of \$1000-3000. Management endeavours to handle resales of delinquent/forfeited weeks so as to recover outstanding debts on behalf of the company.

Your committee should give careful consideration to differentiate between the interests of developers and their marketing/sales teams and those of the management of resorts and the shareholders of sold out developments. We would contend that the industry body ATHOC is dominated by the interest of developers, marketers and exchange companies with little real representation from the membership bases of time share resorts. The costs of ASIC compliance, audits and legal costs are ever increasing and becoming a significant impost within a resort's annual budget and management time.

Unless we address some of these underlying problems of title based resorts today we are going to be leaving an awful mess for our grandchildren with which to contend. We need to come up with a mechanism to recover titles for the benefit of the time share company and its ongoing shareholders. Also to allow the board/management to resell forfeited shares without the rigors of operating under a dealers licence, which is essentially set up for primary sales, and where a resort company is in a financial position to do so, to buy back members' shares and to on sell in an orderly manner to new or existing members without the cost issuing a prospectus. Maybe the level of buyback could be restricted to 2-3% of issued capital in any 12 month period.

Thank you in advance for giving us the opportunity to contribute to your committee decision making process and should you have any queries regarding this submission please direct your comments and questions to myself:

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Yours truly,

John A. Nissen
Resort Manager

