



David Martin

## Q&A

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Q. Master planned resort communities, resort municipalities, quarter-interests, seasonal occupancy restrictions, ninety-nine year subleases of lands located on Indian Reserve Lands, rental pool agreements, time-shares... How should potential buyers navigate these terms and concepts when considering the purchase of a resort property?

## ASK A LAWYER

A. Over the last ten years, the level of complexity of the legal agreements and ownership structures for resort developments has significantly increased. The legal documentation packages buyers receive when purchasing their dream getaway are now hundreds of pages long. Reading the fine print can be challenging.

It is important for the buyer to receive legal advice before entering into purchase contracts for recreational properties, or before their right to rescind the purchase contract expires. Legal advice is particularly recommended for issues that involve: (a) occupancy restrictions or unit reservation systems, (b) strata bylaws or similar type rules, (c) protocol for selling the buyer's unit in the development, including consents required from third parties, (d) the buyer's ability to obtain financing to purchase the unit, (e) the right of the community association or rental pool manager to call upon the owner to make additional capital contributions beyond the original purchase price, and (f) arrangements the developer has made to construct proposed amenities.

Although the complexity of the legal documentation and ownership structures for resort developments continues to intensify, both the public and financial institutions are becoming increasingly comfortable with these developments. The Sun Rivers master planned resort community located on the Kamloops Indian Reserve is one such development. Only a few buyers expressed concerns regarding the leasehold nature of the property interest when units were sold by the Cambri Group in the first two buildings in the Talasa Village Centre, signifying the greater public confidence today in leasehold rights on Indian Reserve Lands. Further, two financial institutions who offered buyers conventional mortgage financing had no issues with the leasehold nature of the property interests.

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