

HISTORY OF INTERVAL OR FRACTIONAL OWNERSHIP IN HAWAII

By Steven R Lee, Attorney ©2007

Hawaii has been at the forefront of innovative property ownership for many years. Most people do not know that Hawaii was the first state to have condominiums, when a law was passed in the 1970's when the United States Congress passed a law allowing condominiums in America. "Fractional" or "Interval" interests have evolved mostly within the last ten years in the United States, growing primarily in resort destinations. The "fractional" designation refers to having a percentage of ownership (1/2, 1/4, 1/3) and "interval" refers to the period of time an owner gets to use a property.

Condominiums in different forms have been around for over 300 years, beginning in Europe after the era when only noblemen owned the land. In fact, the name "real property" comes from the Latin, and means "Royal Property." Nearing the middle of the 1500's the merchant class rose in number and economic power. They often had more ready cash than the nobility; and it was only a matter of time before the laws and practices of various countries were modified to allow ownership by more "common" people. Since then it has been a continuing evolution of land law and practices to maximize the number of people who can own land, especially land that has traditionally been available only to the very wealthy.

As the centuries passed and people began to explore and visit the world, the "best" places became most popular, especially with royalty and the wealthy. Places like the Caribbean, the South of France, Hawaii, Monaco, Bali, Tahiti and many more became the stuff of legends and longing in the minds of most of the world. As the world, especially the West, became more and more wealthy, even "common folk" had the ability to visit exotic places. As air transportation became available to all, the world truly had no limits. The most desirable and accessible places became overrun with people, both locals and tourists. Many of the visitors wanted to live in paradise, and land ownership became both a challenge and a battle. Hawaii experienced exactly such a course of development, slowed only by periodic pressures from such events as national recessions, hurricanes and strikes. But the long-term trends in land values and the number of people who want the land has continued to climb, and today is no exception. The key now is how to find a piece of Hawaii that is both representative of a Polynesian paradise and at a price that people can afford.

Timeshares were the first breakaway movement from condominiums and apartment buildings, but prices and risks were high, and people who wanted their little "piece of the rock" were sometimes persuaded to buy overpriced weeks at overcrowded properties with per week assessments that make fractional ownership maintenance fees seem like a bargain in comparison.

In 2004 we began to see new growth of interval ownership in Hawaii because it combines all of the convenience of timeshare with a lower per-week price, a more secure investment and usage rules that apply from the outset to designate and require maintenance of the property in a high to resort-quality environment. Maintenance fees on a monthly basis are often less than a typical condominium timeshare maintenance fee for a single week in a similar property. With a dramatically larger percentage owned with a fraction compared to what are often "weekly membership" interests which float over a year's calendar, timeshares become an overpriced investment.

More recently financing for the sale of individual fractional interests has become available from different type of lenders, including local banks and financial institutions. As buyers and sellers become aware of the nature and attributes of fractional interests the markets that are already established in the mainland US will grow and develop in Hawaii. Interval and fractional ownership are available in Hawaii, and more projects are being added regularly.