

**LENDING OR INVESTING IN THE RESORT, TIMESHARE OR CONDOMINIUM
PROJECT; A DUE DILIGENCE APPROACH**

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I. THE LENDER'S AND INVESTOR'S POINT OF VIEW

A. Underwriting Concerns

1. Payoff and Realization of Investment

(a) Pre-Sales and Enforceability of Contracts

(i) Timing of Offer of Units/Intervals for Sale

- What does it take? Filing with Governmental Jurisdiction
- Different requirements for conversions, notices, etc.

(ii) Timing of Closing of Units/Intervals for Sale

- What does it take? Approval of Governmental Jurisdiction
- Recording of Regime Documents
- Finalization of construction

(iii) Rescission Rights of Purchasers

- Statutory cancellation rights
- Statutory Rights due to Fraud or Misleading Information relied upon by purchasers

2. Feasibility of Project

(a) Title/Survey

(b) Land Use/Entitlement Issues

(c) Operating Budgets

(d) Sales and Advertising

(e) Projections

(f) Governmental and Statutory Compliance

(g) Management

B. Statutory Compliance

1. Review of Public Offering Statement and Regime Documents

(a) Condominium, Timeshare & Condominium Hotel

(b) Consistency of POS and Regime Documents

(c) Accuracy of Disclosures in POS and Advertising with Regime Documents; No misleading or inaccurate Representations

(i) Estimated Dates of Completion of Units and Recreational Facilities

(d) Review of:

(i) Site Plan/Plot Plan/Survey

(ii) Operating Budget/Guarantees

(iii) Declaration/Master Declarations

(iv) License Arrangements/Franchise Agreements

(v) ILSFDA/HUD Filing

(vi) Securities Issues/Condominium Hotel

(vii) Parking/Zoning/Entitlements

- (viii) Title Instruments
 - (ix) Developer Warranties/Statutory & Common Law
 - (x) Turnover of Association Control
 - (xi) Easement/Use Agreements regarding Recreational Facilities and Commonly Used Facilities
 - 2. Evidence of Compliance with POS and Regime Documents with Governmental Authorities
 - 3. Legal Opinion of Developer's Counsel
- C. Loan and Investor Documents
 - 1. Loan Documents
 - (a) Covenants
 - (b) Operating Conditions
 - (c) Timing Requirements
 - (d) Assignment of Contracts
 - (e) Lender Review and Approval Rights
 - (f) No Amendments or Modifications without consent of Lender
 - 2. Investor Documents
 - (a) Land Sale and Development Agreement
 - (b) Review and Approval Rights