

THE VOICE OF THE VACATION OWNERSHIP INDUSTRY

Developments

May/June 2018

40! TIMESHARE THROUGH THE DECADES

40TH ANNIVERSARY
1978-2018
Developments

arda.org

Law, Legacy, and Looking Ahead: Making the Multigenerational Commitment

BY NICOLE S. EVANS AND STEVEN D. PETERSON

Congratulations to *Developments* magazine on 40 years of serving as the professional voice of our dynamic industry.

Like the timeshare industry itself, ARDA and *Developments* have evolved, adapted, and modernized over the decades to meet shifting member needs. Through the decades, the organization and its flagship publication have remained focused on a commitment to industry excellence.

We're proud to say we've been there since the beginning. Ballard Spahr's legacy in the timeshare industry generates from our now-retired partner, Harry E. McCoy, an industry pioneer who received the ARDA Circle of Excellence Lifetime Achievement award. Harry was one of the timeshare trailblazers who worked in the 1970s to establish a legislative framework to protect consumers while allowing legitimate developers to thrive. Later, Harry was a founding director of the ARDA International Foundation (AIF), the association's all-important research and education arm.

Harry's example spawned a lineage we're proud to be part of—multiple generations of lawyers with deep knowledge and commitment to our clients in the hospitality industry. We've worked with you over the years as the industry has matured: through the early, unregulated days of mostly mom-and-pop shops, the advent of exchange programs, the introduction of federal and state regulation, the entrance of major hospitality brands into the market, and the historic ongoing expansion driven largely by the influx of well-capitalized public companies.

Through the years and across generations, we've also carried on Harry's dedication to

ARDA by serving in leadership positions and supporting the organization with the devotion he modeled.

Just as Harry mentored Steve and Steve mentored Nicole, today we're cultivating a new generation—yes, those Millennials—to support new timeshare products and navigate the new challenges and opportunities they create. Millennial lawyers like our colleague Victor Copeland in the firm's office in Salt Lake City will generate the next phase of our vision, a legacy practice with a multigenerational commitment to serving the timeshare industry.

And ARDA remains integral to the mission.

The Early Years: Establishing a Framework

In its infancy in the mid-1970s, timeshare was an unregulated industry, subject to marketing abuses that marred its reputation. Harry McCoy and some of his fellow industry pioneers had formed ARDA's predecessor organization, the American Land Development Association, to represent resort developers in response to passage of Interstate Land Sales Full Disclosure Act in 1968.

As timeshare got off the ground, they realized the budding industry needed a regulatory framework and worked to establish a model for state laws that included a registration component. In time, they would settle on timeshare as the association's focus, and ARDA was born.

The legal issues were simpler then compared to today's regulatory climate of scrutiny from multiple agencies at the state and federal levels. From the start, Harry's deep involvement in the nascent industry, combined with his natural astuteness and

business acumen, cast him as a strategic business adviser, providing insights and counsel beyond strictly legal representation. Steve began to practice with Harry in the late 1970s as timeshare exchanges and more flexible products drove greater popularity. Steve emulated Harry's 360-degree approach to serving hospitality industry clients by adding the value of his experience and insight. We continue to practice this philosophy today—we invest time and resources to stay ahead of important legal and business developments, so that we can spot issues and propose innovative and effective strategies and solutions.

Timeshare Grows Up: Bring on the Brands

The entrance of hospitality brands into the timeshare market in the 1980s marked a watershed occurrence in the history of the shared vacation ownership industry. Steve has played a major role in representing leading brands—mostly publicly traded companies—as they created, registered, marketed, and began to operate timeshare and fractional programs. In the 1990s, Harry and Steve identified Mike Clowdus as a kindred spirit who shared their 360-degree philosophy and representation of leading brands. All three joined Ballard Spahr to forge the powerhouse reputation its new leaders—Nicole and Chris Payne—continue to enjoy.

The public company foray into timeshare led to an explosion of growth in the industry. Large amounts of capital enabled these companies to ratchet up their marketing efforts, spurring the biggest boom in timeshare history. When hotel brands stepped into the highly fragmented shared

ownership market, they started a wave of consolidation that continues today.

**Hallmarks of Maturity:
Consolidation and Consumerism**

Many of today's legal and business issues in the timeshare market stem from consolidation, as hotel brands look to build scale and distribution strength globally. This is the core of Nicole's and Chris' practices and the hallmark of their generation's slice of the industry timeline: working with brands, owners, franchisors, and franchisees on due diligence, branding, and development of hospitality properties and products, along with the negotiation of accompanying management and franchise agreements.

It's also a new age of consumerism, in which end users have informational resources and consumer rights they never did before. There's a new generation of consumer out there, looking for products and experiences that fit their lifestyle.

Today's vacationers are not always angling for the beach; they want new experiences. Urban tourism, for example, presents a host of issues for shared vacation ownership products, such as the complications that arise from mixed-use sites that have become the rage in downtown development.

Which raises the question: What's next?

A Whole New World: Rise of the Millennials

At Ballard Spahr, we are raising a generation of millennial lawyers to support the timeshare industry. The conversation has been happening for a long time, but we're still asking, "What is the new product?" and brainstorming about how the future will look. Issues such as the shared economy and data security are going to be key considerations for this generation, and clearly the importance of innovative technology isn't going away any time soon.

It's exciting to look to the future with anticipation and optimism. And it's

reassuring to have a strong foundation—a legacy of commitment to the industry and a lineage of that spans generations. ■



Nicole C. Evans is a partner and Steven D. Peterson is

senior counsel in the Resort, Hospitality, and Timeshare Group at Ballard Spahr LLP in Salt Lake City. Nicole, an ARDA Trustee and member of the Developments Editorial Board and State Legislature Committee, counsels owners, franchisors, and franchisees nationally and internationally on a range of resort and hospitality matters. Steve, a member of the ARDA Board of Directors and Chair of the ARDA Ethics Committee, has more than 30 years' experience in the spectrum issues arising in the industry.