



STATE OF UTAH
DEPARTMENT OF COMMERCE
DIVISION OF REAL ESTATE

TIMESHARE AND CAMP RESORT RULES

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R162-57a-1. Title and Authority.

- (1) This section shall be known as the "Timeshare and Camp Resort Rules."
- (2) The authority to make rules for the timeshare and camp resort industries is granted to the division director by Section 57-19-3.

R162-57a-2. Definitions.

- (1) "Affiliation" means an employment or independent contractor relationship between a salesperson and a developer.
- (2) "Amendment" means a change to an original registration as to information submitted pursuant to Subsection R162-57a-5(3)(j)-(y).
- (3) "Annual report" means information submitted to the division in order to renew a project registration, including the following:
 - (a) the number of intervals, memberships, or other interests sold since the registration was issued or last renewed;
 - (b) the total number of intervals, memberships, or other interests sold since the date of initial registration;
 - (c) the number of intervals, memberships, or other interests reacquired by foreclosure or similar proceeding that had previously been reported as sold;
 - (d) the total number of registered but unsold intervals, memberships, or other interests as of the date of the annual report; and
 - (e) the total number of intervals, memberships, or other interests that have been registered.
- (4) The acronym "ATR" means ARELLO Timeshare Registry, which is the online database system through which developers may register projects with the division.
- (5) "Business day" means a day other than a:
 - (a) Saturday;
 - (b) Sunday; or
 - (c) state or federal holiday.
- (6) "Common promotional plan" means a plan whereby multiple timeshare or camp resort interests, whether in the same location or not, are advertised and/or offered for disposition without the ownership of the interests being differentiated or distinguished.
- (7) "Common facilities" means areas and amenities within a project to which all purchasers share an equal right of access and use.
- (8) "Consolidation" means the registration of additional interests in a project for which the director has previously issued a registration.

- (9) "Day" means calendar day unless specified as "business day."
- (10) "Direct sales presentation" means a meeting in which a salesperson provides information about project(s) or interest(s) to one or more prospective purchasers.
- (11) "Entity" means:
- (a) a corporation;
 - (b) a limited liability company;
 - (c) a partnership;
 - (d) a company;
 - (e) an association;
 - (f) a joint venture;
 - (g) a business trust;
 - (h) a trust; or
 - (i) another organization.
- (12) "Expired registration" means a project or salesperson registration that may not be used to market interests because the holder of the registration failed to renew it by or before the expiration date.
- (13) "Marketing of interests" means implementing a common promotional plan through:
- (a) print media;
 - (b) direct mailings;
 - (c) television, radio, or Internet advertising;
 - (d) in-person communication;
 - (e) sales presentations; or
 - (f) any other method of contacting a prospective purchaser.
- (14) "Notice of defect" means a written communication from the director informing an applicant that the applicant must submit additional information to clarify, complete, or correct an application for:
- (a) registration;
 - (b) consolidation; or
 - (c) renewal.
- (15) "Person" means an individual or an entity.
- (16) "Personal information" means data that may be used to identify or contact a prospective purchaser, including:
- (a) name;
 - (b) home or business address;
 - (c) home, business, or cell telephone number; and
 - (d) e-mail address.
- (17) "Prospective purchaser" means a person who:

- (a) attends a sales presentation;
 - (b) communicates with a developer or salesperson in order to obtain information about a project;
 - (c) provides personal information to a developer or salesperson; or
 - (d) is solicited by a developer or salesperson through any type of marketing.
- (18) "Property report" means a document that includes:
- (a) disclosures required pursuant to Section 57-19-11;
 - (b) a cover sheet as generated and provided by the division; and
 - (c) a receipt generated by the division.
- (19) "Public offering statement" has the same meaning as "property report."
- (20) "Registration" means:
- (a) as to a project, division approval of the project as being suitable for marketing of interests; and
 - (b) as to a salesperson, division approval for the salesperson to engage in the marketing of interests.
- (21) "Reinstatement period" means a 30-day period following the expiration of registration during which a person may reinstate an expired registration by submitting all required renewal materials and paying applicable fees.
- (22) The acronym "RELMS" means Real Estate License Management System, which is the online forum through which registered salespersons may submit forms and information to the division.
- (23) "Renewal" means extending a registration for an additional period on or before the date the registration expires.
- (24) "Supplement" means a change in the information submitted pursuant to Subsection R162-57a-5(3)(a)-(i).
- (25) "Temporary permit" means authorization from the division for a developer to engage in the marketing of interests for a period not to exceed 30 days.

R162-57a-5. Project Registration.

- (1) Registration required.
- (a) A person may not engage in the marketing of interests unless:
 - (i) the project is properly registered with the division pursuant to Section 57-19 et seq. and these rules; and
 - (ii) each individual who will engage in marketing is registered as salesperson pursuant to Section 57-19 et seq. and these rules.
 - (b) (i) A project is not considered registered until the developer seeking registration obtains from the division:

- (A) a complete property report, approved by the division; and
 - (B) an order of registration.
 - (ii) A salesperson is not considered registered until the individual receives a registration from the division.
 - (c) Absent the issuance of a property report or registration, acceptance by the division of a registration fee does not authorize a person to engage in the marketing of interests.
- (2) Registration procedure. A developer shall submit all information required under Subsection (3) to the division:
- (a) through the ATR; or
 - (b) if the developer obtains advance permission from the division, directly to the division.
- (3) Required Information. A developer shall submit to the division:
- (a) property report pursuant to Section 57-19-11 and Subsection R162-57a-11;
 - (b) as to each officer, partner, director, and owner of the developer:
 - (i) as applicable, documentation of any disciplinary or adverse licensing action taken against a professional license held by the individual in any jurisdiction;
 - (ii) (A) a statement of the type and extent of any financial interest the individual has in the project; and
 - (B) an explanation of any options the individual may exercise to acquire additional financial interest in the project;
 - (iii) as applicable, court records from any criminal proceeding taken against the individual in any jurisdiction, regardless of whether the proceeding was resolved by:
 - (A) conviction;
 - (B) plea in abeyance;
 - (C) diversion agreement;
 - (D) sentence of confinement; or
 - (E) dismissal; and
 - (iv) as applicable, documentation of any bankruptcy filing by:
 - (A) the individual; or
 - (B) an entity in which the individual has held:
 - (I) an ownership interest; or
 - (II) a position as a manager, officer, or director;
 - (c) evidence that the developer is registered in good standing with the Utah Division of Corporations;
 - (d) corporate resolution naming a resident agent to act on behalf of the developer;
 - (e) copy of the current articles of incorporation or other instrument creating the developer entity;
 - (f) copy of the current bylaws of the developer entity;
 - (g) (i) states or jurisdictions in which the developer has filed an application for registration or similar document;

- (ii) copy of the property report or other disclosure document required to be given to purchasers by any jurisdiction in which the project is registered or the developer is otherwise authorized to market interests;
- (iii) full documentation of any adverse order, judgment, or decree entered in connection with the project by any regulatory authority in any jurisdiction;
- (h) name of any salesperson who will market the project;
- (i) name of the individual who will be responsible for directly supervising the salesperson(s) marketing the project;
- (j) legal description of the property upon which the project is located;
- (k) statement, generated or updated within the 30-day period preceding the date of application, of the condition of the title to the property upon which the project is located, including encumbrances;
- (l)
 - (i) copy of any instrument by which the developer acquired interest in the project; or
 - (ii) if the developer does not hold fee title to the property, evidence that the developer is legally entitled to use the property, as follows:
 - (A) if the property is situated within Utah:
 - (I) a title opinion from a title insurer licensed in Utah; or
 - (II) an opinion letter from an independent, third party attorney actively licensed in Utah;
 - (B) if the property is situated outside of Utah, an opinion letter from an independent, third party attorney who is actively licensed to practice in the jurisdiction where the property is situated; and
 - (C) if the property is located in a jurisdiction such as a foreign country where property title opinions are issued by parties other than title companies and attorneys, other evidence of title as specified and approved by the director;
- (m) copy of any instrument creating a lien, easement, restriction, or other encumbrance affecting the project, including any recording data, but redacted as to the consideration paid upon acquisition of the project;
- (n) statement of the zoning and other governmental regulations affecting the use of the project;
- (o) existing and proposed taxes or special assessments that affect the project;
- (p)
 - (i) copies of the instruments that will be delivered to a purchaser to evidence the purchaser's interest in the project; and
 - (ii) copies of the contracts and other agreements that a purchaser will be required to agree to or sign;
- (q) topographic map and accompanying statement describing the general topography and physical characteristics of the project, including:
 - (i) terrain;
 - (ii) soil conditions;
 - (iii) flood control; and
 - (iv) climate;
- (r) copy of any:
 - (i) recorded declaration of condominium;

- (ii) recorded covenants, conditions, and restrictions (CCRs); and
 - (iii) instrument governing the project and incorporating all covenants of the grantor or lessor;
 - (s) copy of any plan to create an association for project owners;
 - (t) narrative description of the promotional plan for the disposition of the project;
 - (u) statement disclosing any inducement that will be offered in connection with the marketing of the project;
 - (v) map showing:
 - (i) the location of the interests and other improvements on the property;
 - (ii) the relation of the project to existing streets, roads, and other off-site improvements; and
 - (iii) the relation of the project to factors that might negatively impact the quiet enjoyment of an interest;
 - (w) (i) statement of improvements and amenities to be installed that have not been completed;
 - (ii) schedule for completion;
 - (iii) evidence that the developer has obtained all necessary permits; and
 - (iv) if the city or county in which the property is located does not require means of assurance that all improvements and amenities referred to in the application will be completed, copies of:
 - (A) escrow or trust agreements;
 - (B) performance bonds; or
 - (C) other documentation to evidence that adequate financing is available and arrangements have been made for the installation of all streets, sewers, electricity, gas, water, telephone, drainage, and other improvements;
 - (x) (i) provisions for maintenance to both existing and planned improvements and amenities; and
 - (ii) estimated cost of such maintenance to purchasers;
 - (y) description of any corrective work that must be performed on or relating to the project before particular interests are suitable for use;
 - (z) completed application as required by the division; and
 - (aa) a nonrefundable registration fee.
- (4) The director may waive production of an item required pursuant to Subsection (3) if the developer shows that the item is not necessary to fulfill the purposes of Section 56-19 et seq.
- (5) Consolidation.
- (a) An application for consolidation shall be prepared and submitted in the same format as an application for initial registration.
 - (b) Where there is no change in the information submitted by the developer for the initial registration, the documents required by Subsection (3) may be incorporated by reference to documents on file with the division.
 - (c) An incomplete application for consolidation shall be treated as provided in Subsection (6).

- (d) New inventory added to a project through consolidation is subject to inspection by the division.
- (6) Notice of defect.
- (a) If an application is incomplete, or otherwise fails to comply with Section 57-19 et seq. or these rules, the director shall send a notice of defect to the developer or the developer's legal representative specifying:
 - (i) what additional information is required to cure the defect; and
 - (ii) the deadline by which the division must receive the additional information.
 - (b) After receipt of a notice of defect, the developer may not offer units to the public:
 - (i) until the defect is cured and a registration obtained; or
 - (ii) without obtaining a temporary permit pursuant to Section 57-19-6(3) and Subsection (8).
 - (c)
 - (i) If the additional information is not received by the division by the deadline specified in the notice of defect, the director may deny the registration.
 - (ii) An order of denial may be appealed pursuant to Section 57-19-17.
- (7) Standards for approval.
- (a) The director may not approve an application for registration of a project unless:
 - (i) the documents submitted pursuant to Subsection (3) meet the requirements of Section 57-19 et seq. and these rules; and
 - (ii) the developer demonstrates the ability to convey or cause to be conveyed the interests offered for disposition.
 - (b) The division may not issue a project registration to a developer that has an officer, partner, director, or owner who has:
 - (i) been prosecuted for a felony that resulted in a:
 - (A) conviction within the five-year period preceding the date of application;
 - (B) plea agreement within the five-year period preceding the date of application; or
 - (C) jail or prison release date falling within the five-year period preceding the date of application; or
 - (ii) been prosecuted for a misdemeanor involving fraud, misrepresentation, theft, or dishonesty that resulted in a:
 - (A) conviction within the three-year period preceding the date of application; or
 - (B) jail or prison release date falling within the three-year period preceding the date of application.
 - (c) If the director determines that a registration application and supporting documentation meet the criteria for registration, the division shall issue:

- (i) an order of registration designating the form of the property report that the developer is required to provide to a prospective purchaser pursuant to Section 57-19-11;
 - (ii) a property report cover sheet, which the developer shall attach to the property report as its first page; and
 - (iii) a receipt for property report, which the developer shall attach to the property report as its last page.
- (8) Temporary permit.
- (a) To apply for a temporary permit, a person shall:
 - (i) make application by submitting a written request to the director;
 - (ii) comply with Section 57-19-6(3); and
 - (iii) pay all fees required for registration.
 - (b) A temporary permit issued by the director is valid for a period of 30 days from the date of issue.
 - (c) A temporary permit may not be renewed.
- (9) Notification of changes.
- (a) A developer whose project is registered under Section 57-19 et seq. shall report to the division within 10 business days any change in:
 - (i) the developer's contact information;
 - (ii) the disclosures required under Section 57-19-11;
 - (iii) the information provided under this Subsection (3), including changes in salespersons employed or contracted to market interests in the project;
 - (iv) (A) the bankruptcy of an entity controlled or owned by the developer that engages in the marketing of interests; and
(B) if the developer is an individual, the filing of a personal bankruptcy;
 - (v) the suspension, revocation, surrender, cancellation, or denial or a professional license or professional registration issued to the developer, whether the license or registration is issued by this state or another jurisdiction;
 - (vi) the entry of a cease and desist order, a temporary or permanent injunction, or a regulatory action:
 - (A) against the developer by a court or a government agency; and
 - (B) based on:
 - (I) conduct or a practice involving the marketing of interests; or
 - (II) conduct involving fraud, misrepresentation, or deceit; and
 - (vii) a judicial proceeding instituted by a purchaser against the developer and arising out of or relating to:
 - (A) the advertising or sale of an interest;
 - (B) disclosures required under Section 57-19-11;
 - (C) rescission rights;
 - (D) fraud; or
 - (E) misrepresentation of interests represented by the registration.

- (b) If a deadline for notification falls on a day when the division is closed for business, the deadline shall be extended to the next business day.
- (10) Amendment and supplement to initial registration.
- (a) To submit an amendment to a registration, a developer shall:
 - (i) complete an amendment filing through the ATR; or
 - (ii) obtain prior permission from the division to submit the information by mail.
 - (b) To submit a supplement to a registration, a developer shall:
 - (i) complete a courtesy filing through the ATR; or
 - (ii) obtain prior permission from the division to submit the information by mail.

R162-57a-8. Restrictions on Proposed Advertising.

- (1) Advertising that promotes gifts and other awards in connection with attending a sales presentation shall:
 - (a) disclose any conditions precedent to the receipt of the gift or other award; and
 - (b) if receipt of a specific advertised gift or other award is not guaranteed by virtue of attendance at the sales presentation, state the odds of any attendee's chance of receiving the gift or other award.
- (2) A substitute gift, inducement, or award:
 - (a) shall be equal in value or use to the gift, inducement, or award that was originally promised; and
 - (b) may not burden the recipient with additional travel expense in order to receive the value of the gift, inducement, or award.

R162-57a-9. Renewal and Reinstatement of Project Registration.

- (1) Project registration renewal. To renew a registration of a project, a person shall submit to the division, no later than the expiration date set forth on the order of registration:
 - (a) an annual report;
 - (b)
 - (i) an updated property report, with changes underlined in red; or
 - (ii) a statement that no changes have occurred in the property report that is on record with the division;
 - (c) a description of any change in the information provided in the application for registration;
 - (d) documentation of any judicial proceeding or regulatory investigation instituted by complaint of a purchaser against the developer and arising out of or relating to:
 - (i) the advertising or sale of an interest;
 - (ii) disclosures required under Section 57-19-11;
 - (iii) rescission rights;
 - (iv) fraud; or

- (v) misrepresentation of interests represented by the registration; and
- (e) a nonrefundable renewal fee.

(2) Reinstatement.

- (a) To reinstate an expired project registration, a person shall submit to the division, no later than 30 calendar days following the expiration of the registration:
 - (i) all materials required for a timely renewal; and
 - (ii) a nonrefundable late fee.
- (b) A registration that is expired more than 30 days may not be renewed or reinstated. To obtain a registration, a person shall apply as a new applicant.

R162-57a-11. Disclosure Required.

- (1) The disclosures required by Section 57-19-11 and submitted to the division as part of the application for project registration shall be:
 - (a) (i) reproduced on good quality white paper 8-1/2 by 11 inches in size;
 - (ii) typed in a font no smaller than 10-point type, except that financial statements or other statistical or tabular matter may be set in type as small as 8-point type; and
 - (iii) organized into reasonably short paragraphs or sections with appropriate captions or headings to identify each paragraph or section; or
 - (b) if acceptable to the director, approved by another state.
- (2) (a) Upon approving the developer's disclosures, the division shall supply to the developer:
- (i) a cover sheet, which the developer shall use as the first page of the property report; and
 - (ii) a receipt for property report, which the developer shall use as the last page of property report.
- (b) The developer shall provide a copy of the complete property report, reproduced in a manner that allows all text to remain visible and legible, not obscured by shading or watermarks, to each prospective purchaser:
- (i) at the beginning of a direct sales presentation; or
 - (ii) if the prospective purchaser does not attend a direct sales presentation, at the same time the developer obtains the prospective purchaser's personal information.

R162-57a-13. Unprofessional Conduct.

- (1) Developer.
 - (a) Affirmative duties. A developer or an individual designated by the developer shall:
 - (i) actively supervise project salesperson(s) to ensure compliance with Section 57-19 et seq. and these rules;
 - (ii) provide the complete property report to each prospective purchaser;

- (iii) obtain a signed receipt for property report from a prospective purchaser prior to:
 - (A) executing a purchase agreement; or
 - (B) receiving any item of value toward the purchase of an interest; and
 - (iv) clearly inform a purchaser of the purchaser's right to rescind the agreement if, during the rescission period mandated by Section 57-19-12, the purchaser contacts:
 - (A) the developer;
 - (B) a subsidiary of the developer; or
 - (C) a person affiliated with the developer or a subsidiary of the developer.
 - (b) Prohibited conduct. A developer is subject to discipline if the developer or an affiliated person:
 - (i) makes a misrepresentation or material omission in a document submitted to the division; or
 - (ii) fails to comply with an order of the division.
- (2) Salesperson. A salesperson shall comply with:
- (a) Section 57-19 et seq.;
 - (b) these rules; and
 - (c) this Subsection (1)(a)(ii)-(iv).

R162-57a-15. Application for Registration of Project Salespersons.

- (1) An individual applying for registration as a project salesperson shall provide the following information to the division:
 - (a) identifying information, including:
 - (i) full legal name;
 - (ii) date of birth; and
 - (iii) social security number;
 - (b) contact information, including:
 - (i) home address;
 - (ii) home telephone and cell telephone numbers;
 - (iii) mailing address;
 - (iv) e-mail address;
 - (v) sales office location and e-mail address;
 - (vi) sales office telephone number; and
 - (vii) name of developer or an individual designated by the developer who will supervise the applicant pursuant to Subsection R162-57a-13(1)(a).
 - (c) (i) disclosure as to whether the individual has ever been licensed or registered in a real estate-related profession; and
 - (ii) documentation of any adverse regulatory action on such license or registration, including:
 - (A) denial;
 - (B) restriction, including probation;
 - (C) suspension;

- (D) revocation; or
 - (E) fine;
 - (d) disclosure as to whether the individual has ever resigned or surrendered a real estate-related license or registration, or allowed such a license or registration to expire, while under investigation or while action was pending against the individual by a government agency;
 - (e) information as to any disciplinary action pending against the individual at the time of application by any real estate, professional, or occupational licensing agency;
 - (f) documentation of any criminal investigation proceeding against the individual at the time of application;
 - (g) complete documentation of any past criminal offense, including:
 - (i) charge(s) filed;
 - (ii) plea(s) entered;
 - (iii) case disposition; and
 - (iv) terms of sentencing;
 - (h) complete documentation of any past civil judgment entered against the person in a case brought on allegations involving fraud, misrepresentation, or deceit;
 - (i) completed five-year employment history form as provided by the division;
 - (j) affidavit stating whether the individual has ever been terminated from employment on an allegation of theft, fraud, or dishonesty; and
 - (k) a nonrefundable application fee.
- (2) An application for registration as a project salesperson shall be signed by:
- (a) the applicant; and
 - (b) (i) the developer with which the salesperson is affiliated; or
 - (ii) the developer's authorized representative pursuant to Subsection R162-57a-13(1)(a).
- (3) Standards for approval. The director may not issue a salesperson registration to any individual who:
- (a) submits an incomplete application;
 - (b) has been prosecuted for a felony that resulted in a:
 - (i) conviction within the five-year period preceding the date of application;
 - (ii) plea agreement within the five-year period preceding the date of application; or
 - (iii) jail or prison release date falling within the five-year period preceding the date of application; or
 - (c) has been prosecuted for a misdemeanor involving fraud, misrepresentation, theft, or dishonesty that resulted in a:
 - (i) conviction within the three-year period preceding the date of application; or
 - (ii) jail or prison release date falling within the three-year period preceding the date of application.
- (4) Notification of changes.

- (a) A registered salesperson shall inform the division within ten days of:
 - (i) any change in the individual's legal name;
 - (ii) any change in the individual's contact information pursuant to Subsection (1)(b);
 - (iii) as to a criminal offense, whether prosecuted in Utah or in another jurisdiction:
 - (A) a conviction;
 - (B) the entry of a plea in abeyance;
 - (C) a diversion agreement; or
 - (D) any other agreement under which a criminal charge is held in suspense for a period of time.
 - (b) To notify the division of a name change, an individual shall:
 - (i) complete and submit a paper change form; and
 - (ii) attach to the form official documentation such as a:
 - (A) marriage license;
 - (B) divorce decree;
 - (C) driver license; or
 - (D) court order.
 - (c) To notify the division of a change in contact information, an individual shall submit a change form:
 - (i) by mail or fax, until such time as RELMS is configured to accommodate timeshare salespersons; and
 - (ii) through RELMS, once the system is configured to accommodate timeshare salespersons.
 - (d) To notify the division of proceedings in a criminal case, an individual shall:
 - (i) send to the division a cover letter explaining the circumstances under which charges were brought; and
 - (ii) attach all available documentation, including:
 - (A) charging documents;
 - (B) police reports; and
 - (C) court dockets.
- (5) Renewal and reinstatement.
- (a) A salesperson registration expires two years following the date the registration is approved by the division.
 - (b) To renew a salesperson registration, an individual shall submit to the division, no later than the date on which the individual's registration expires:
 - (i) a completed renewal application as required by the division; and
 - (ii) a nonrefundable fee.
 - (c) To reinstate an expired salesperson registration, an individual shall submit to the division, no later than 30 days following the date on which the individual's registration expires:
 - (i) all materials required for a timely renewal; and
 - (ii) a nonrefundable late fee.
 - (d) An application that is expired more than 30 days may not be renewed. To obtain a registration, an individual shall apply as a new applicant.

R162-57a-17. Administrative Procedures.

The following matters shall be decided by the director through an informal adjudicative proceeding, with no hearing permitted:

- (1) issuance of an initial registration;
- (2) renewal or reinstatement of an existing registration;
- (3) denial of any application for registration; and
- (4) a request:
 - (a) to amend a property report;
 - (b) for consolidation of a registration;
 - (c) for waiver of, or exemption from, registration requirements; and
 - (d) for a temporary permit pending registration with the division.

R162-57a-26. Exemptions.

- (1) The following sales are essentially noncommercial and, therefore, exempt from the requirements of Section 57-19, et seq. by operation of law:
 - (a) the bulk sale of interests by a developer to another person who will become the developer of the project;
 - (b) after a project has been sold out and its registration with the division has expired, the resale of interests that are foreclosed by the developer or the developer's successor-in-interest, so long as:
 - (i) no more than ten interests in the project are foreclosed and resold over the life of the project; and
 - (ii) the foreclosed interests are not offered with interests in other projects as part of a common promotional plan;
 - (c) the resale by a lender of foreclosed interests, so long as the lender does not foreclose more than ten interests in the project over the life of the project;
 - (d) the sale, to a person who has previously purchased an interest in a project, of additional interests in the same project, provided that the person is timely provided with a valid property report at the time of the original purchase; and
 - (e) the sale of a purchaser's individual interest on a for-sale-by-owner basis.
- (2)
 - (a) A person who believes a sale not specifically delineated in Subsection (1) is essentially non-commercial shall apply to the division for an order of exemption.
 - (b) An exemption granted under this Subsection (2)(a) is valid for a period of one year and expires unless renewed through reapplication.