The logo consists of a stylized, multi-colored geometric shape resembling a cluster of small triangles or a modern building facade, rendered in shades of blue and green.

# FREEHOLD CAPITAL PARTNERS

Learn How Reconveyance Fee Instruments Can Help You

[WWW.FREEHOLDCAPITALPARTNERS.COM](http://WWW.FREEHOLDCAPITALPARTNERS.COM)



# THINK ABOUT YOUR REAL ESTATE IN A NEW & INNOVATIVE WAY

“The three keys to real estate used to be Location - Location - Location. However, in today’s increasingly competitive environment, having a great location is not enough. Increased profits go to the innovative thinker.”

Freehold Capital Partners can help you extract more value from your projects, dramatically increase liquidity and gain a **competitive edge**.

**All you need to do is think about your real estate in a new and innovative way.**

## OVERVIEW

Freehold has become one of the fastest growing companies in the U.S. by showing developers and similar property owners that with Freehold they can...

- **APPORTION COSTS**
- **PAY DOWN DEBT**
- **INCREASE LIQUIDITY**
- **GAIN A COMPETITIVE EDGE**

...and that they can accomplish these goals in such a way as to make property more affordable while also building a better community...all at no cost.

Freehold accomplishes these goals through the creation of simple yet powerful Reconveyance Fee Instruments. Simply put, a Reconveyance Fee Instrument represents the right to receive 1% of the gross sales price each time a particular piece of real estate property sells. These rights represent a valuable fully collateralized long-term income stream with no risk of default.

...Not only is a long-term income stream a valuable asset but another compelling part of working with Freehold is the potential for selling the income stream in return for significant capital today...

Based on current market conditions and financial modeling, the property owner’s share of a Reconveyance Fee Instrument created through Freehold could be worth as much as 5% of the final improved value for the most common types of property. To the typical subdivision developer or commercial portfolio owner this could translate into significant additional value.

Given the tremendous economic value that can be derived from the use of a Reconveyance Fee Instrument, sellers can sell for less and buyers can buy for less. Buyers save on acquisition costs and carrying costs, and since they paid less they can sell for less.

In today’s challenging real estate environment it is becoming increasingly important to explore all options, to maximize economic efficiencies, and to be willing to take an innovative look at business strategies that can generate liquidity, increase profits and provide a competitive advantage.

**Increase profits. Increase Liquidity. Fairly Apportion Costs.**

**Gain a competitive** **EDGE**



# THE ECONOMICS OF RECONVEYANCE FEES

Traditionally a developer apportions 100% of the cost of improvements among initial buyers. Each buyer then has no choice but to pass along these costs to future buyers. However, creating reconveyance fees in a subdivision prior to the initial sale changes that. When a developer can impose a 1% reconveyance fee, and sell the rights for much-needed capital today, the developer can lower the price, the buyer can buy for less in return for paying a fee years down the road, and each buyer passes along the savings to future buyers.



Each and every buyer also saves on closing costs, carrying costs, etc., and gets to use the initial savings to reduce other more expensive debt such as credit cards, consumer loans, etc. This concept is similar to issuing school bonds to more fairly apportion the costs over future families instead of burdening initial taxpayers with 100% of the costs. It is an efficient financing tool for long-term improvements.

**EXAMPLE: Consider two identical properties: One has a 1% Reconveyance Fee and sells for 2% less.**

## Which home would you rather buy?



**OPTION A**  
**\$250,000**



**OPTION B**  
**\$245,000 + 1% when you sell**

In return for agreeing to the 1% fee, Buyer "B"...

- Buys for less & can sell for less (a competitive advantage),
- Enjoys the exact same home as Buyer A, for \$5,000 less,
- Saves on closing costs and sales expenses,
- Pays less mortgage interest, and
- Can use the savings to pay down credit card debt, etc.
- Developer sells the Reconveyance Fee Instrument for \$10,000.00+/- .

**By removing the cost of long-term improvements from the initial sales price, and financing the improvements through a reconveyance fee, property becomes more affordable and transaction/carrying costs are reduced by more than the 1% fee.**

Critics say there is no assurance that sellers will lower the price. This is a fallacious argument: a buyer will always pay less for property encumbered by a 1% fee than for the same property without the fee. No matter what a buyer pays, he would have paid more without the reconveyance fee.

***"To the extent the existence of a [reconveyance] fee impacts the value of property... the market will adjust to the fee." (Cal. Senate Staff Analysis - 2007)***

Reconveyance fees work equally well for commercial property, allowing buyers to defer a portion of the sales price, thus increasing operating income and ROI. Reconveyance fees represent an efficient way to restructure the economics of real property transactions.

# THE POWER OF FREEHOLD

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Freehold partners with property owners to create Reconveyance Fee Instruments, and it does this solely on a contingency basis. There are no fees involved and Freehold receives no compensation of any kind until the property owner receives compensation. Freehold has created Reconveyance Fee Instruments to billions of dollars worth of real property throughout the United States and in the process has created tremendous value for Freehold clients and the community.

Freehold's business was built around the simple but powerful premise that.... 1. Freehold could help property owners build a long-term income stream with no risk of default, secured by a superior interest in real property; 2. Freehold could aggregate the Reconveyance Fee Instruments into pools large enough to allow modeling of the income stream, and 3. the income stream could then be sold, providing much needed liquidity and project flexibility. The process is so powerful that it is the subject of business method patent filings covering imposition of Reconveyance Fees on a "for profit" basis.

The process of creating Reconveyance Fee Instruments across the U.S. was no small undertaking. Fortunately, Freehold's team of over 250 professionals was up to the task. To date the Freehold team has licensed the owners of billions of dollars worth of residential and commercial property of all kinds, from subdivisions to Class A buildings.

Q: What are the benefits for commercial property buyers and sellers?

A: Lower acquisition costs + lower carrying costs = higher cash flow = higher cap. rate = higher ROI.

Q: Since hold on to our properties, our portfolio will never generate fees. Should we impose Reconveyance Fees?

A: Absolutely. Reconveyance Fee Instruments are valued based on actuarial modeling - not on a specific property or the present owner's intent.

Despite the current situation in the financial markets, demand for income-producing assets still exists: it is the risk of default that currently has little favor. Fortunately, Reconveyance Fee Instruments have virtually no risk of default. As a major Wall Street investment bank attorney once remarked, "Reconveyance Fee Instruments appear to be an ideal securitization vehicle that could help fill the void left by the subprime crisis."

In addition to efforts with major investment banks on Wall Street, Freehold is constantly working to open monetization channels through hedge funds, pension funds and similar institutions as well as the public markets. These channels offer the potential for faster liquidity in return for a discount to estimated fair value.

A reasonable expectation for a property owner signing up with Freehold (in terms of the time frame for Freehold to obtain one or more offers to acquire a property owner's Reconveyance Fee Instruments) is 12 to 24 months from the date the Reconveyance Fee Instruments are created.

The process is straightforward: you execute our contingency agreement. (In lieu of fees of any kind, Freehold and other third parties involved in the process take a participation interest in the Reconveyance Fee Instrument, which speaks volumes about our confidence in the process.)

The Reconveyance Fee Instrument is reviewed by you and your legal counsel and, once you are satisfied with the Instrument, it is signed and then filed in the real property records, where it provides notice to future buyers and closing agents alike.

It's that easy.



# THE POWER OF FREEHOLD (CONTINUED)

## The process, and the concept, are simple:

- 1) Create a long-term income stream;
- 2) Use it to fund infrastructure and other long-term improvements, and thereby lower the sales price;
- 3) Segregate the income stream from the property;
- 4) And either keep the income stream or sell it for its present value.

In connection with each future sale the closing agent (e.g. title company) collects the reconveyance fee and sends it to a third party trustee, who then disburses the funds, including sending a portion to a non-profit within the community in which the property is located.

Once the document is recorded the process of working to aggregate and monetize the rights begins. You are free to accept or reject any offers made for your Reconveyance Fee Instrument.

Until such time as you have sold either the property or the Reconveyance Fee Instrument you can simply rescind the Instrument by filing a release. This right to rescind allows you to retain complete control over the Instrument.

Working with Freehold Capital Partners represents the best a joint venture has to offer by combining your property with Freehold's expertise in reconveyance fees, creating flexibility for sellers and buyers, all while generating either a long-term income stream or the possibility of significant capital today.

It is a true win-win scenario.

The process may be simple...

...but the results are ***powerful***.



Although Freehold believes that all Reconveyance Fee Instruments can be monetized, due to investor demand, interest rates, market acceptance, property type, property location, laws and regulations, and other factors beyond our control, there is no guarantee that an acceptable offer will be made for the rights to any particular tract of property or for any particular pool of Reconveyance Fee Instruments.



# BUSINESS METHOD PATENTS



Freehold's system is a "unique business method" and unique business methods can now be patented. Our process is so unique that it is the subject of a Utility Patent application filed with the U.S. Patent and Trademark Office. A business-method patent is just like any other patent, except the subject matter happens to relate in some way to a method of doing business. A business method patent can be issued for "concepts for conducting business transactions" and "unique business methodologies." Sophisticated property owners of all types, including developers, home builders, investors and attorneys, have all seen the benefits of partnering with Freehold to create Reconveyance Fee Instruments.

## ACTUAL CASE STUDY

A developer partners with Freehold to create reconveyance fee rights to 703 "paper lots"\* listed at \$5m. The subdivision is sold for \$4,966,750 (99% of asking price), closing on 9/15/06 (GF#06039192). Recently the reconveyance fee rights were appraised at \$12m (the value is based on the final improved value (lot + home)). Developer was able to lower the sales price, create an estimated \$1m endowment for the community and increase total returns.

### Representative Projects

Freehold creates reconveyance fee rights to all types of real estate projects, including...

- RESIDENTIAL SUBDIVISIONS
- MIXED USE PROJECTS
- HOTEL/MOTEL
- APARTMENT
- RETAIL
- WAREHOUSE / INDUSTRIAL
- CONDOS
- OFFICE BUILDINGS & more.



A Proposed 300,000 Square Foot Office Building in the Freehold Capital Partners' portfolio.



## CREATIVE WORKS & ROYALTIES

From initial layout to final vertical improvements, a significant amount of creativity goes into a real estate development.

As such, it is a rare developer who has not driven by projects developed in years gone by and reflected upon the creative process of the past and the value today. However, despite the fact that their creative work lasts for generations, and will be used and enjoyed for generations, real estate developers and others who improve property have traditionally accepted a lump sum payment for their work.

Just like authors who write books and musicians who write songs that will be enjoyed for generations to come, those who improve property are also engaged in the creative process, and the economics of the transaction should reflect that reality.

Reconveyance fees represent a fair and equitable way to tie long-term funding to long-term benefits.

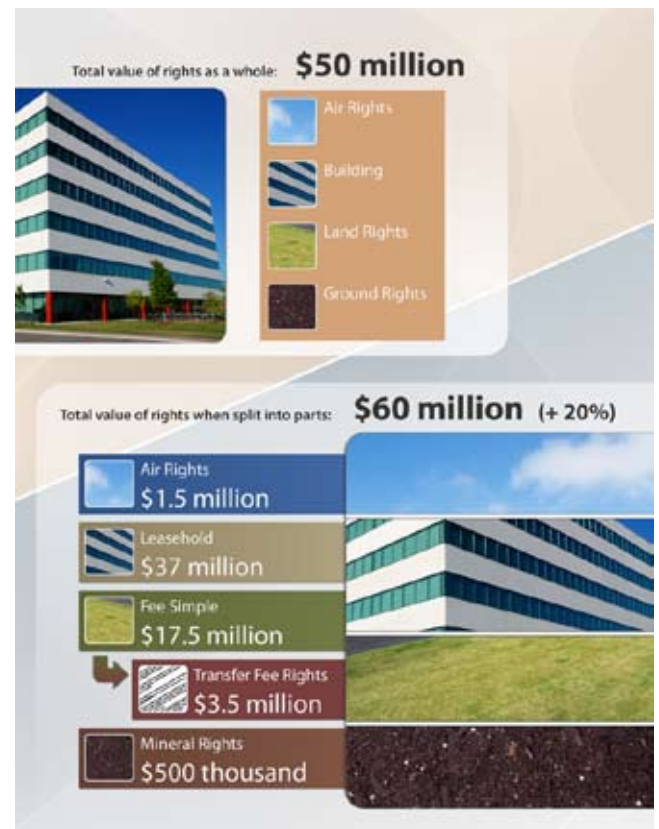
# UNBUNDLING PROPERTY RIGHTS

Traditionally, “property” was thought of as a single economic unit. An investor acquired the land and everything above and below it. However, over time sophisticated property owners began to realize that “unbundling” these rights increased economic efficiency.

Modernly, it is not unusual to see different parties owning the surface rights, leasehold rights, air rights, water rights, mineral rights and of course reconveyance fee rights, to the same tract of land.

When a property owner “unbundles” the various property rights it usually results in the parts being worth more than the whole. The process is analogous to taking a large company and spinning off the various components into separate entities. The process is also referred to as “asset segregation” and it is a proven means of extracting additional value.

By creating and unbundling reconveyance fee rights with Freehold Capital Partners, property owner’s may find that the estimated value of the Reconveyance Fee Instrument plus the property itself far exceeds the value of the property without reconveyance fees.



**Reconveyance Fees Represent A Fair and Equitable Way To Extract Additional Value From Your Real Estate Portfolio.**

## THE GROWING POPULARITY OF RECONVEYANCE FEES

Not only has Freehold created Reconveyance Fee Instruments to billions of dollars worth of real estate but ample evidence of the increasing popularity of Reconveyance Fees exists, including:

- Publicly traded St. Joe (NYSE: JOE) has used reconveyance fees to generate more than fifteen million dollars for their charitable foundation (see [www.stjcf.com](http://www.stjcf.com)).
- Lennar has sold an estimated 36,000 homes with reconveyance fees in place. The fee is paid to Lennar’s charitable foundation.
- 35 states + the District of Columbia impose reconveyance fees in one form or another, raising an estimated seven billion dollars in revenue in 2007. ([www.taxadmin.org](http://www.taxadmin.org))



# BUILDING A BETTER COMMUNITY

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Freehold believes in building strong communities, which is why every Reconveyance Fee Instrument created by Freehold irrevocably assigns a portion of the income stream to non-profit organizations. In connection with each future transfer of title to the property a portion of the reconveyance fee goes directly to non-profits, and this means significant long-term funding for...

green space initiatives, affordable housing,  
parks, clean air/water and much more...

By helping to fund non-profits, reconveyance fees help relieve some of the burden from government and re-allocates resources back into the community. This creates a win-win for all parties because...

strong communities build strong property values,  
which in turn generates Reconveyance Fees  
to build even stronger communities.

Freehold's system of combining economic incentives for property owners with a charitable component means that total reconveyance fee income generated by Freehold is estimated to far outpace the income stream generated by reconveyance fees imposed in a pure "non-profit" basis.

it is about creating a cycle of growth & prosperity,  
and bringing private solutions to public problems.

"...developers have used private reconveyance fees to purchase open space as environmental mitigation for a project or to support the development of affordable housing and homeless shelters."

- California Senate Staff Analysis 2007





# WHAT OTHERS SAY

"Home builders ... look at the best way to absorb and spread ... costs and still sell their products. [Y]ou can't put all those costs on home buyers and still sell at an affordable price." ... "[Reconveyance Fees] represent an alternative to other financing mechanisms that can affect home affordability. If builders weren't allowed to pass along costs in a reconveyance fee, they'd have to make up for it by adding thousands of dollars to their homes' initial selling price, shutting out buyers." ... "REALTORS never complain that a house is too expensive, and that's precisely what happens when builders lump all of their costs into the price of the first home. Why shouldn't the second and third buyers share the costs?"

- Kimberly Dellinger,  
California Building Industry Association.  
Source: Builders, Realtors square off ... May 16, 2007. Inman News.

"Reconveyance financing...helps keep home prices low by spreading costs over all beneficiaries of a project."

- Julie Snyder.  
Policy Director for non-profit Housing  
California.

"[T]he Freehold...System ... provides a very real opportunity to restructure the economic substance of the real estate transaction...in a way that can operate to the benefit of the initial seller as well as each buyer in the transaction chain. ...it accomplishes this by allowing a property owner to reduce the sales price in return for a future income stream. This...allows a buyer to acquire property for lower transaction costs, reduces carrying costs, and allows the buyer to pass along these benefits in a subsequent sale."

- Michael Gagne  
Northwestern University (Economics)

"A bill to ban transfer fees, backed by the California Association of Realtors, was defeated in a Senate committee earlier this month. Private transfer fees, a relatively recent financing tool, are a way to bankroll multimillion dollar development concessions without necessarily affecting a home's initial purchase price."

- Jim Sanders, Sacramento Bee  
(May 21, 2007)



## Officers 2008

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Gary Wilkerson  
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Mike Hollaway  
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Becky Oliver  
Executive Vice President

April 28, 2008

## To Builders and Developers

We are pleased to recommend Freehold Capital Partners to Texas builders and developers.

As the Executive Director for the Greater San Antonio Builders Association, it has been my pleasure to work with Freehold Capital Partners and to introduce them to our members. We have found Freehold Capital Partners to be a knowledgeable and professional organization that helps builders and developers restructure the economics of their projects in an important and valuable way. In fact, I truly believe that Freehold's process of creating Reconveyance Fees represents an increasingly popular way of more fairly apportioning ever-increasing development costs and, in consequence, helping to keep property affordable.

No longer can a builder or developer be content with business as usual. In today's increasingly competitive environment it is important for builders and developers to look at every tool available that can help them stay competitive and deliver a better product at a more affordable price. After having been involved in numerous presentations and meetings, and having seen the positive reaction from our members, I believe Freehold's system absolutely accomplishes this goal. Freehold's process of creating Reconveyance Fee Instruments allows our members the opportunity to generate a long-term income stream that can be retained for the income or sold for much needed capital. The value and flexibility this brings to a project cannot be over-emphasized. Freehold's efforts, supported by legislators who saw the value of this important tool, resulted in Texas Property Code 5.017, effective January 01, 2008, which placed Reconveyance Fee squarely into Texas law.

Texas Property Code 5.017 preserved an important tool for residential and commercial property developers while protecting residential home buyers from being surprised at the closing table.

In addition to creating a valuable financial tool for our members, Freehold Capital Partners' process of designating a portion of each Reconveyance Fee for charity provides long-term funding solutions for important community initiatives. On this subject I encourage you to consider the Greater San Antonio Education Foundation as your charity of choice. The Greater San Antonio Education Foundation, a 501.C3 corporation, awards scholarships to Construction Science degree programs at Texas AM University and the Real Estate and Finance Development program through University of Texas at San Antonio and our St. Phillips College partnership for students in the Mechanical, Electrical, and Construction related courses. In addition, the Education Foundation supports both of our NAHB student chapters at TAMU and UTSA, which the Greater San Antonio Builders Association sponsors. With Freehold's help we have made great strides in creating a longer-term funding stream for our scholarship programs, so please keep us in mind. You will be giving back to this great industry by naming GSAEF as your charity of choice.

Sincerely,

Becky Oliver  
Executive Vice President

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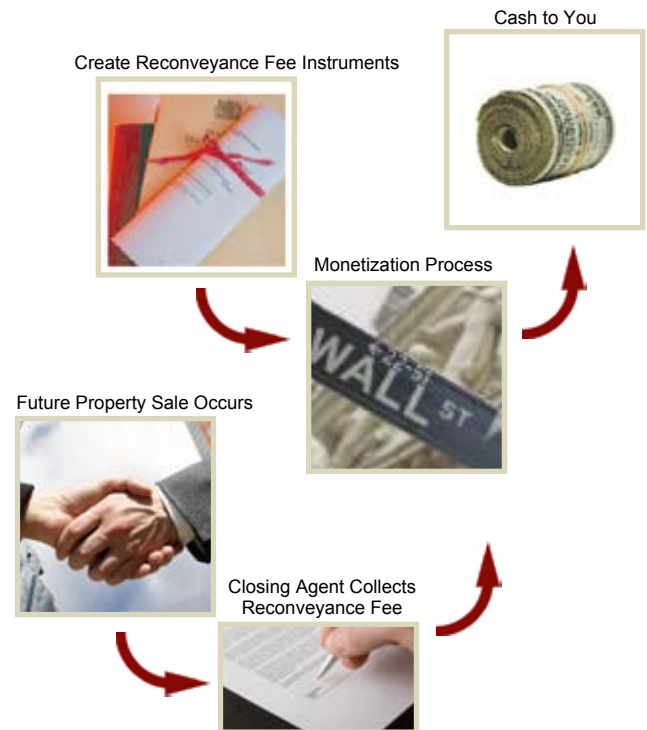
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# THE POWER OF MONETIZATION

Reconveyance Fee Instruments represent a fully-collateralized financial instrument with no meaningful risk of default. These desirable characteristics led one major investment bank to remark, "Reconveyance Fee Instruments represent an ideal securitization vehicle." Freehold is constantly working to open monetization channels through major financial institutions, investment banks, pension funds, publicly-traded companies and similar entities.

In order for monetization of Reconveyance Fee Instruments to be feasible, the future income stream has to be estimated with a reasonable degree of accuracy. This requires estimating how often a particular type of property will sell, and at what price. Although extensive data exists regarding property sales trends and price appreciation, these statistics can only be applied if the pool of properties is sufficiently large, which is where Freehold comes in.

Freehold has the ability to aggregate Reconveyance Fee Instruments, thus making realistic income predictions possible, which in turn makes monetization feasible.



This is not an offer to sell, buy, broker or securitize Reconveyance Fee Instruments. There is no assurance that any particular Instruments will be suitable for sale or securitization.

## SELLING RECONVEYANCE FEE INSTRUMENTS

The sale of Reconveyance Fee Instruments is not complex.

A buyer (whether a hedge fund, investment pool or other entity) will first determine the value of the Instruments (and the amount of their offer) using economic modeling, risk analysis and appraisal techniques.

An offer is then made. You decide whether or not to accept the offer.

The buyer will want to insure that they will acquire good title.

Once the buyer determines the price they will pay, and satisfies themselves as to good title, and you accept their offer, a closing occurs.

In connection with the closing you execute conveyance documents and the buyer pays the purchase price.

Depending upon the type of buyer and buyer requirements, the process may vary from the general description provided.





# VALUING THE INCOME STREAM

Estimating Reconveyance Fee income is a fairly straightforward process. Provided that the “pool” of properties is large enough, the future sales price, sales frequency and resulting reconveyance fee income can be predicted with a reasonable degree of accuracy simply by looking at widely available statistical data, including Fannie Mae and Freddie Mac data on more than thirty million home sales, tax revenue from the 35 states with some type of reconveyance fee, MLS data, census data and more.

A common question that arises is how to value the income stream for subdivisions and similar partially improved property. A common approach is simply an extension of the model described above. When reconveyance fees are imposed the character and location of the land is analyzed, and a model is developed as to the type and timing of final improvements. For example, if a residential subdivision is in an area that predominately develops out with an average home price of \$250,000.00 when fully developed, income predictions can be made based upon this data. Obviously a discount will be applied for uncertainties. The development and income assumptions may or may not coincide with the current developer’s plans for the property. However, since the property is not yet fully developed income must be modeled using historical data and actuarial analysis.

What makes this type of modeling possible is the aggregation of Reconveyance Fee Instruments into large pools. By way of further example, although the subdivision used in the above example may develop out at slightly more, or slightly less, than the predicted \$250,000 per home, the pool as a whole should perform as modeled. In other words, although some tracts may fall short of the model, and some may exceed the model, the pool as a whole should perform consistent to the model. The key to accurate modeling is a sufficiently large pool of properties, which is where Freehold comes in.

A Reconveyance Fee Instrument is a fully-collateralized, asset-backed...

## FUTURE INCOME STREAM

...with no meaningful default risk.

Reconveyance Fee Instruments represent an ideal investment opportunity for pension funds, mutual funds, insurance companies, endowments and others seeking long-term income with no meaningful risk of default.

In particular, the passive nature of the income stream, combined with the opportunity for built-in inflation protection that comes from the fact that property prices have historically correlated very favorably with inflation, makes Reconveyance Fee Instruments ideally suited for today’s risk-adverse investor.

FURTHER INFORMATION CAN BE FOUND AT

[WWW.FREEHOLDCAPITALPARTNERS.COM](http://WWW.FREEHOLDCAPITALPARTNERS.COM)

*All information, conclusions, opinions, historical data and estimates contained throughout this document are believed to be reliable, but no guarantee of accuracy is expressed or implied and no reliance shall be made thereupon. This is neither an offer to sell nor an offer to purchase securities in any jurisdiction where such an offer would be unlawful.*

# THE FREEHOLD TEAM

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Freehold has an impressive team of over 250 highly qualified professionals who work with the owners of substantial real estate portfolios, helping to educate them on the benefits of creating this unique asset.

These agents reach into large and small communities all across the United States, helping to create the diverse pool of Reconveyance Fee Instruments that is critical to portfolio diversification and, by extension, reliable modeling of the future income stream.

Our team includes graduates from Princeton, Yale, Stanford Law, Harvard Business School, Northwestern, the U.S. Military Academy & similar respected institutions.

In addition, our team includes over twenty attorneys, numerous MBAs, a PhD economist, former bank officers, investment bankers, developers, real estate agents and brokers, all with the in-depth knowledge necessary to help our clients.

**Freehold's strength comes from its team of experienced professionals.**

## AGENT LOCATIONS

Las Vegas NV • Atlanta GA • Los Angeles CA • Charlotte NC • Seattle WA • San Francisco CA  
San Antonio TX • New York NY • Bethlehem CT • Phoenix AZ • Houston TX • Clearwater  
FL • Cambridge MA • Athens GA • Chicago IL • Washington DC • Laredo TX • Birmingham  
AL • Fresno CA • Fayetteville NC • Salt Lake City UT • Bridgeport CT • Trenton NJ • Dallas  
TX • Tulsa OK • Wichita KS • Sandy UT • St. Augustine FL • Alexandria VA • Greenville  
MS • Destin FL • Springfield IL • Monroe CT • Fall River MA • Pittsburgh PA • Bronx NY  
Baltimore MD • Savannah GA • Columbia SC • San Jose CA • Tampa FL • Asheville NC  
Panama City FL • Jackson MS • Mesa AZ • Honolulu HI • Battle Creek MI • New Fairfield CT  
Miami FL • Medford OR • Austin TX • Hartford CT • Sumter SC • Ft. Myers FL • Park City  
UT • Brooklyn NY • Ft. Lauderdale FL • San Diego CA • Englewood NJ • Lake Tahoe CA and  
other U.S. Cities.

FOR ADDITIONAL INFORMATION, VISIT  
[WWW.FREEHOLDCAPITALPARTNERS.COM](http://WWW.FREEHOLDCAPITALPARTNERS.COM)



# RECONVEYANCE FEES RIGHTS & THE LAW: A PRIMER FOR LAWYERS

A covenant that runs with the land is a servitude, and few areas of the law are more complex and misunderstood. A few of the common issues are discussed below.

- Filing the Freehold Reconveyance Fee Instrument in the public records obligates future sellers to pay a 1% fee at the time of sale. The obligation is secured by a LIEN that will arise and RELATE BACK to the date of filing. The public filing provides “CONSTRUCTIVE NOTICE” to future purchasers. The process is analogous to deed restrictions and common subdivision restrictions, though the Freehold instrument has been crafted with particularity to Reconveyance Fees.
- In order to constitute an UNREASONABLE RESTRAINT ON ALIENATION, the restraint must (a) be unreasonable and (b) actually restrain alienation. The mere obligation to pay money will generally not suffice to unreasonably restrain alienation because the sales price will adjust to account for the restraint. This is particularly true when the restraint is limited to a de minimus fee (e.g. 1%).
- The Freehold Reconveyance Fee Instrument does not violate the RULE AGAINST PERPETUITIES because the term is limited of 99 years and because the rights VEST immediately upon filing.
- If a state passes laws to ban Reconveyance Fees, not only must they ban them for charitable purposes (or run afoul of the constitution) but they would have to “GRANDFATHER” existing Reconveyance Fee Instruments or it would be an impermissible “TAKING”.
- Under common law both the BENEFIT AND BURDEN traditionally had to “TOUCH AND CONCERN” the land. Modernly, and under RESTATEMENT (THIRD) of PROPERTY, the touch and concern doctrine has been largely abandoned in favor of a contract approach, focused mainly on disclosure. The Freehold instrument satisfies both the traditional (“Touch and Concern”) requirement and the modern Restatement.



## REPRESENTATIVE CASES

The Freehold system is based upon sound legal principals.

### *A few representative cases are:*

An affirmative covenant, as opposed to a restrictive one, does not restrict the use of land in question, but instead, imposes a duty on a party to the agreement to perform an affirmative act. Bessemer, 381 So.2d 1344; Hills, 956 S.W.2d 349; Restatement (Third) of Property (Servitudes), section 1.3. In interpreting affirmative covenants, principles of contract law apply. Hills, supra; Spain, 622 S.W.2d 309. If the covenant is clear and unambiguous then the covenant is not subject to rules of contract “construction.” Mullikin, 142 S.W.3d 822. When a Covenant is clear and unambiguous, the parties will be confined to the meaning of the language employed and it is improper to inquire into the surrounding circumstances or the objects and purposes of the restriction for aid in its construction. Publix Super Markets, 876 So.2d 652 (4th DCA 2004). Smith, 338 Ark. 65; Mullikin, supra; Roling, 851 S.W.2d 792.

The creation of a lien by acceptance of a deed relates back to the time of the filing of the covenant. In accepting a deed with actual or constructive notice of a lien provision of a declaration of restrictions, the property owner manifests the intent to let the real property stand as security for the obligation. Imperial Golf Club, 752 So.2d 653 (2nd DCA 2000); Bessemer, supra.

The fundamental rule in construing covenants and restrictive agreements is that the intention of the parties governs. That intention is gathered from the entire instrument by which the restriction is created, the surrounding circumstances and the objects which the covenant is designed to accomplish. Carr, 210 W. Va. 240; Vesci, 909 S.W.2d 708; Roling, supra. The modern trend is to enforce covenants and avoid strict application of anti-alienability, so the benefit may need to be a token one, including a benefit that is traced only to the original grantee, whose successors in interest are thereby bound. Mercer Is., 816 P.2d 1224.

# CREATING RECONVEYANCE FEE RIGHTS THROUGH FREEHOLD CAPITAL PARTNERS

## STEP 1:

### UNDERSTANDING RECONVEYANCE FEE INSTRUMENTS

Consider the information, and consult with legal and financial counsel of your own choosing.

## STEP 2:

### AGREEMENT

Review and sign our simple 2 page agreement. There is no charge. Return it to Freehold and the process of creating Reconveyance Fee Instruments begins.

## STEP 3:

### REQUEST RECONVEYANCE FEE DOCUMENTS

Provide us with all of the necessary information and we will return documents to you for review.

## STEP 4:

### REVIEW AND FILE RECONVEYANCE FEE DOCUMENTS

The documents are reviewed by you and your attorney, signed, and filed in the public records

## STEP 5:

### WHEN EACH FUTURE SALE OCCURS

The trustee and closing agent work together to insure a smooth transaction. The closing agent collects the reconveyance fee from the seller, and your portion is then distributed to you by the trustee.

## STEP 6:

### THE MONETIZATION PROCESS

Freehold will work to obtain offers for the Instruments. There is no charge for this service.

- Our agreement gives you the right, *but not the obligation*, to create reconveyance fees in partnership with us.
- Once you file a Reconveyance Fee Instrument you can still remove the Instrument at any time until such time as you have sold either (1) the property or (2) the Reconveyance Fee Instrument.
- No reconveyance fee will be assessed when you sell. You also can exempt all sales through a future date.
- Freehold's compensation is limited to a participation interest in the Reconveyance Fee Instrument. The "contingency" nature of our relationship insures that our interests are aligned.
- The only expenses you can expect to incur are nominal recording fees and fees paid to your own legal and professional advisors.
- Once you file your Reconveyance Fee Instruments, you own a long-term income stream. In connection with each future transfer of title the fee will be collected from the seller and your portion remitted to you.
- Freehold will begin the process of presenting the valuable future income stream to prospective buyers and other monetization channels.
- Whether or not a satisfactory offer is received depends upon numerous variables such as property type and location, prevailing interest rates and similar factors. You are under no obligation to accept any offer Freehold may obtain for your rights.





# FAQs

## **Does Freehold charge any fees or expenses of any kind?**

No. Freehold is compensated solely on a contingency basis.

## **What types of real estate projects are eligible?**

Virtually any type of large development, including (but not limited to) office, industrial, apartment, commercial, warehouse, subdivision, retail, office, mixed use, hotel, condominium, etc.

## **Who pays the Reconveyance Fee?**

Future sellers pay the fee at the time of sale.

## **How are we compensated?**

If you sell your Reconveyance Fee Instrument you receive a lump sum. If you retain the Instrument, at each future closing the closing agent collects the fee and forwards it to a third-party Trustee who pays you.

## **What will our interest in the Reconveyance Fee Instrument be worth?**

It varies depending upon the type, age and location of the property as well as prevailing interest rates, discount rates, etc. Recent valuations indicate that 4-5% of the final improved value of the property is a reasonable initial assumption for most developments.

## **When we sell our real estate, will we have to pay the fee?**

No. There are numerous exemption, including your own sale. In addition, you can choose to exempt all sales thru a future date (e.g. Jan. 01, 2012).

## **If we sell our Reconveyance Fee Instrument, do we make any reps and warranties as to value or enforceability?**

No. Generally speaking, the buyer will make an independent determination as to value and enforceability. Of course, the foregoing is general in nature and the exact terms would be contained within any offer that might be made (and which you would then be free to accept or reject).

## **Why can't we just develop our own documents in lieu of partnering with Freehold?**

Federal law provides for potentially severe penalties for infringement of a business method patent, and Freehold aggressively protects its intellectual property. Why run a substantial risk when you can partner with us solely on contingency? In addition, monetization is only realistic when the rights are bundled into large pools, and we are the only reconveyance fee company in the U.S.

## **Does every use of a Reconveyance Fee require a Freehold agreement?**

No. Freehold's business method patent filings only cover "for profit" Reconveyance Fees. If the fee is truly for a non-profit use (100% charity-owned, government tax, co-op, HOA, etc.), it is exempt.

## **Does a portion of every Reconveyance Fee go to a non-profit?**

Yes, a percentage of each Reconveyance Fee that arises from an Instrument created through Freehold benefits the community in which the property is located. This provides important long-term funding that benefits communities nationwide.

## **Do future owners really benefit?**

Yes. Property encumbered by a 1% fee should sell for less than property without a fee. A buyer paying less at the time of purchase in return for paying 1% at the time of a future sale will typically have lower carrying costs, lower acquisition costs, etc., and the savings are estimated to equal or exceed the 1% fee paid at the time of sale. A buyer who buys for less can also sell for less, and thus has a competitive advantage.

## **How is the Transfer Fee apportioned at the time of each sale?**

The majority to the property owner with the balance typically to the title

company (where allowed by law), attorneys, agents, brokers, non-profits and Freehold.

## **Do future unwilling parties become obligated to pay the fee?**

No. Every seller paying the fee was a willing buyer who bought the property with full knowledge of the obligation to pay the fee at the time of their sale. In return, they negotiated price and terms accordingly.

## **What about future owners who claim not to have been aware of the fee?**

The Reconveyance Fee Instrument is in the public records. A buyer receives notice in the same manner as ordinary deed restrictions. Courts routinely reject "lack of notice" claims when it comes to public documents. In addition, many states have disclosure laws (which Freehold supports).

## **Do we need lender consent to file a Reconveyance Fee Instrument?**

Since a Reconveyance Fee will not be due until a future sale (at which time the lender is paid off) the Instrument will generally not be deemed an impairment of a lender's collateral or violation of a standard loan covenant. However, be sure to check your particular loan terms.

## **Won't this interfere with our ability to sell property?**

The Reconveyance Fee is just one of numerous factors that influence a purchase decision. Experience says the modest 1% fee will not generally be deemed substantive by most buyers, particularly since they can adjust the purchase price, do not pay the fee until the time of their future sale, and can plan accordingly.

## **Can we set the fee higher than 1%?**

No.

## **If the Reconveyance Fee does interfere with our ability to sell our property, can we void the Instrument?**

Absolutely. At your sole discretion you can file a release permanently discharging the Reconveyance Fee Instrument. You will incur no obligation or expense with Freehold.

## **Can future owners also impose a Reconveyance Fee on the same property?**

No. Our Instrument prohibits "stacking" of multiple fees.

## **Can homeowners use this program to make money?**

Freehold does not license single family homeowners. Instead, Freehold works with developers that are creating significant long-term value for large property holdings. By enabling developers to more efficiently structure their deals and pay for infrastructure and other long-term improvements, buyers benefit from more amenities, lower prices and/or a better community.

## **Have title companies closed these types of transactions?**

Absolutely. Fidelity and Chicago Title (just to name a few) have closed numerous transactions with reconveyance fees in place. Tens of thousands of properties have sold (and closed) with reconveyance fees in place.

Nothing herein shall be construed as legal, accounting, tax or financial advice of any kind. Consult with legal and financial counsel of your own choosing regarding your rights and obligations under the law.



property taxes, stock market...  
interest rates, the economy...

# ARE YOU WORRIED?

What do you think the future has in store for your business? Will the economy grow? Will interest rates rise or fall? How will the stock market, and the real estate market, perform over the next few years? What about inflation?

Now imagine creating a valuable asset, gaining a competitive edge, generating liquidity and giving back to your community, all while adding flexibility in administering your real estate portfolio.

**IF YOU'RE WORRIED, YOU'RE NOT ALONE.**

**FREEHOLD CAPITAL PARTNERS IS ONE OF THE FASTEST GROWING COMPANIES IN NORTH AMERICA.**

Through a team of over two hundred fifty representatives across the United States, Freehold has helped create Reconveyance Fee Instruments to billions of dollars worth of real estate.

If you would like to learn more about how Reconveyance Fee Instruments can help you, visit our web site or contact us today.

## WHY CREATE RECONVEYANCE FEE INSTRUMENTS WITH FREEHOLD...

- Create long-term income or much needed capital.
- More fairly apportion expenses over those who will benefit.
- Generate liquidity.
- Make your property more affordable.
- Help build a better community.
- Maximize economic efficiencies and unlock hidden value.
- Take advantage of Freehold's Intellectual Property.
- Fund ESOPs and similar employee benefit programs.
- Strengthen your balance sheet.
- Help close the gap between buyer and seller.
- Maximize your ROI.

The Freehold Business System represents the best a joint venture has to offer.

The System combines your property with the power of Freehold Capital Partners, creating flexibility for sellers and buyers while generating either a long-term income stream or significant capital today.

**It is a true win-win scenario.**

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