Deed Restrictions Workshop

Tuesday, May 11, 2021
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Introductions

Session 2: Tuesday, May 11, 2021

Speakers & Moderators

Amy Dinn
Caroline Crow
Ashea Jones
Kimberly Lee
PJ Jones
Samantha Salas
Shannon Jenkins
AMY DINN
Lone Star Legal Aid
Environmental Justice Team
Managing Attorney
CAROLINE CROW
Lone Star Legal Aid
Environmental Justice Team
Staff Attorney
ASHEA JONES

Lone Star Legal Aid
Community Advocacy Team
Staff Attorney
KIMBERLY LEE

East Houston Civic Club
Board Member
PJ JONES
Glenwood Forest
Community Civic Club
President
SAMANTHA SALAS
Lone Star Legal Aid
Environmental Justice Team
Paralegal
Workshop Goals

1. To educate communities about deed restrictions.

2. To empower communities with knowledge about deed restrictions.
   “Knowledge is power”

3. To inspire and motivate communities to protect their neighborhoods with deed restrictions, as an alternative solution to Houston’s lack of zoning.

4. To promote community collaboration to accomplish group-determined goals.
   “Teamwork makes the dream work”
Workshop Rules

1) Please keep yourself muted if you are not speaking.

2) Please do not interrupt the presenters. At the end of each presentation, there will be time for questions. Feel free to put your question in the chat!

3) If you’re calling-in, press STAR 6 [* 6] to mute or un-mute yourself.

4) If you are calling-in and are unable to access the chat feature on Zoom, please feel free to text questions to (512)-545-5054.
SESSION 1
6:15 - 6:25 PM

The Deed Restriction "Campaign"

PJ Jones, President of Glenwood Forest Community Civic Club
The Deed Restrictions "Campaign"

PJ Jones
President, Glenwood Forest Community Civic Club
What is a Campaign?

- A campaign is an organized course of action to achieve a goal.

Goal in this case is to successfully implement Deed Restrictions
Why a “Campaign”?

The structure of a campaign provides an easy-to-understand framework that communities can follow in order to be successful in their deed restrictions initiative.

1. Preliminary Research and Goal Setting → 2. Strategize

3. Plan → 4. Set a Positive Tone in your Community

5. Promote → 6. Monitoring and Reporting
I. PRELIMINARY RESEARCH AND GOAL SETTING

- **Preliminary Research includes but is not limited to:** Researching if your community has existing deed restrictions, identifying your coverage area, creating a list of property owners in your coverage area, & taking the temperature of your community.

- **Goal setting:** Some goals that you need to set are weekly or monthly goals for progress and determining how many property owners’ signatures you need to reach your goal.
Ways to strategize:

- Take the temperature of your community. Identify areas that need the most or least work.
- Focus on bringing your green residents together.
  - There is strength in numbers.
- Decide how you want to tackle the deed restrictions project.
  - multiple signature events in the community, door to door approach, combination of both signature events and door to door approach, etc.
3. PLAN

Now that you’ve strategized, you can begin the planning stage.

**Step 1**
- Schedule a kick off/planning meeting with your community leaders and green residents to decide on a date and location for your signature events or door to door approach.
- **LOCATION IS KEY for the signature events!**

**Step 2**
- Assess supplies needed for events (clipboards, tables, pens, notaries, etc.) -- Keep in mind the weather for these signature events (fans and pop-up tents for the summertime, heaters for the wintertime)

**Step 3**
- Divide up responsibilities so that all the burden isn’t on one person.
- Use the strengths of your community members.
4. SET A POSITIVE TONE IN YOUR COMMUNITY

• Stay positive throughout the entire process!

• Maintaining positivity can do wonders for your initiative.

• Your community will feed off of your positivity and it will make the process a lot more enjoyable.
5. PROMOTE

- Develop promotional materials for your signature events or door to door approach.
- Be creative when developing these materials.
- Make sure the community has the right information.
- Know your community -- use a luring item or giveaway to attract the people.
  - FREE Items such as water, masks, snow cones, things for kids etc.
    - Glenwood Forest example: gave away free snow cones and waters.
    - Houston Gardens example: gave away free KN95 masks since the event was at beginning of COVID pandemic.
6. MONITORING AND REPORTING

• It is KEY to keep track of your progress as you move forward with your initiative. (charts, lists, maps, etc.)

• Keeping track allows you to see how much closer to your goal you are. The closer you get, the more momentum builds allowing you to stay positive and push through!

• Monitoring and Reporting also provides a good way of evaluating past activity allowing you to see when your plan has proven to be a success.
QUESTIONS?

PJ Jones
President, Glenwood Forest
Community Civic Club
SESSION 2
6:25 - 6:35 PM
How to Promote Deed Restrictions
PJ Jones, President of Glenwood Forest Community Civic Club
How to Promote

PJ Jones
President, Glenwood Forest Community Civic Club
Why is promotion important?

- Promotion can help you achieve your goal more quickly.
- Promotion is key to get the right information to the greatest number of people.
- Promotion can boost attendance at your signature events.
- Promotion keeps things transparent in the community.
Benefits of promoting properly

- Reaching your goals quicker.
- Community engagement and respect.
- Saves time and resources.
Ways to promote your Deed Restrictions campaign

- Flyers
- Door Tags
- Yard Signs
- Banners
- Social Media: Facebook, Instagram, Twitter, newspapers, podcasts
- Door-to-Door
- Word of Mouth: Use your green Residents to start a dialogue with the community.
Flyers are key throughout the entire deed restrictions process. You can use flyers at events, during your door-to-door approach, post them at local hot spots in the community, drop in mailboxes, etc.

- Keep your flyers informative and provide all relevant information that you feel the resident needs to know.
- Make sure your flyers are well put together, appearance speaks volumes.
Door Tags

Door tags are a great tool for your door to door efforts. Be clear and concise in the content you choose for these.
• Yard signs are excellent tools for promotion along main streets or streets with heavy traffic in your community.

• These signs catch the attention of the drivers and can serve as a reminder for them to attend the signature events that are happening.
Banners

• Banners let your community know what’s going on.

• Keep your banners initiative focused. Have a short and to-the-point message.

• Use attention grabbing colors for your banner and make sure your font isn’t too small.

Glenwood resident, Mr. Furlon, outside his home standing next to one of our deed restrictions banners.

Mock up of Houston Gardens deed restrictions banners that were placed throughout the neighborhood.
Share already drafted materials to your social media accounts (flyers, banners, door tags, yard signs, etc.)

Utilize the uniqueness of social media
- Use Hashtags
- Use the Video feature
- Use the Geo-location tagging
- Use Link sharing (post the link to your civic club or group’s website)
Door-to-Door

- This is probably the MOST EFFECTIVE way to promote and get results for your initiative.

- When going door-to-door have a short pitch ready for when the resident answers the door.

- Be ready to answer questions or provide information to the resident upon request.

- Be friendly and positive!
Tips for your Door-to-Door Approach

- Dress appropriately: Wear your civic club shirt, organization’s shirt, or another community shirt.

- Have information on hand: Carry important flyers and/or information with you in case the resident asks for it.

- It’s okay to take No for an answer: If the resident doesn’t want to sign-on to the initiative right away, that’s ok. Be nice about it and follow up at a later time.
We all know how powerful word of mouth can be so utilize this form of communication the best you can.

- Rally your local leaders and green residents to start communication in the community!
- There is strength in numbers.

Make sure the people you have spreading information are spreading the RIGHT information, keep your local leaders and green residents consistently informed.
Questions?

PJ Jones
President, Glenwood Forest Community Civic Club
SESSION 3
6:35 – 6:45 PM

Dealing with Rumors: *HOAs, home foreclosure, etc.*

PJ Jones, President of Glenwood Forest Community Civic Club
Dealing with Rumors: HOAs, home foreclosures, etc.

PJ JONES
PRESIDENT, GLENWOOD FOREST COMMUNITY CIVIC CLUB
Quick Truths about the Deed Restrictions Process

- You will be met with some opposition in the community.
- There will be residents who don’t support you.
- You will not be able to please everyone.
- Misinformation will likely be spread around the community.
Common misconceptions re: deed restrictions

- All deed restrictions create a Homeowners Association (HOA).
- All deed restrictions can lead to me losing my home due to foreclosure.
- All deed restrictions cost money. – “This is just a way for the community/city/state to charge me monthly fees.”
- Deed restrictions will require me to change existing features to my home.
All deed restrictions create a Homeowners Association (HOA).

FALSE:

- Implementing deed restrictions does not create an HOA with authority, unless specifically stated in the restrictions to create one.
- If your neighborhood currently does not have an HOA, then passing the deed restrictions will not change that.
All deed restrictions can lead to me losing my home due to foreclosure.

**FALSE:**

- Deed restrictions **CAN NOT** lead to foreclosure on your home.
- Violations of deed restrictions can result in monetary tickets/fines but if these tickets/fines are not paid they can not be held against the property--meaning they carry no influence in regards to your property ownership.
- The only thing that can lead to foreclosure on your home is not paying the mortgage.
All deed restrictions cost money.

**FALSE:**
- There are no costs for residents once the deed restrictions are adopted and/or implemented into the community.
  - Residents will not be required to pay dues or any monthly fees.
Deed restrictions will require me to change existing features of my home.

FALSE:

• Any property not in compliance with the restrictions at the time they are adopted are grandfathered in and NOT considered violations.
• Deed restrictions are forward-looking and can only protect against new unwanted uses. They cannot address preexisting unwanted uses.
Rumors – How they can spread.

Social Media

Counter Campaigns
Although we emphasize the importance and positive results of social media use, it can also work against you.

Everything you do on social media to promote your deed restrictions initiative can be used against you.

- We’ve seen residents go on Facebook Live (video feature of Facebook) and talk badly about deed restrictions, spreading lots of misinformation.
- We’ve seen residents share community leaders’ posts with “Warning” signs and “Do NOT be fooled” captions – creating a negative attitude around the initiative.
- We’ve seen residents launch counter campaigns on social media telling community members to not participate or to submit forms to them instead of the correct person.
Counter Campaigns

- **What is a counter campaign?**
  - a *campaign* waged in opposition to another *campaign*

- **Ways residents can counter campaign:**
  - Unsupportive residents may collect signatures in opposition.
  - Unsupportive residents may host their own meetings or events for the community.
  - Unsupportive residents may share flyers and materials via social media trying to invalidate your initiative.
Other issues that may arise

- **Verbal attacks**
  - Name calling
  - Foul language usage

- **Intimidation Tactics**
  - Verbal threats
  - Threat of legal action
  - Threat to ruin organization
  - Physical threats
How to combat Rumors and deal with difficult residents

1. **Stay calm.**
   - Losing your temper and flaring out at the other person typically isn't the best way to get him/her to collaborate with you.

2. **Try to understand.**
   - We'd like to believe that no one is difficult for the sake of being difficult. Even when it may seem that the person is just out to get you, there is usually some underlying reason that is motivating them to act this way.

3. **Build a rapport/Follow up.**
   - Engage with the resident on more than one occasion. Keep them informed of events and or progress being made. Try and find common ground.

4. **Treat the person with respect.**
   - No one likes to be treated as if he/she is stupid/incapable/incompetent. If you are going to treat the person with disrespect, it's not going to be surprising if he/she treats you the same way as well. As the golden rule says, “Do unto others as you would have them do unto you.”

5. **Ignore.**
   - If you have already tried everything and the person is still not being receptive, the best way might be to just ignore.
Questions?

PJ JONES
PRESIDENT, GLENWOOD FOREST COMMUNITY CIVIC CLUB
5 MINUTE BREAK
SESSION 4
7:00 – 7:15 PM

How do you create deed restrictions?
Caroline Crow, Staff Attorney, Lone Star Legal Aid, EJ Team
CREATING NEW DEED RESTRICTIONS WITHOUT A HOMEOWNERS’ ASSOCIATION

• Chapter 201 of the Texas Property Code:
https://statutes.capitol.texas.gov/Docs/PR/htm/PR.201.htm
1. Form a Petition Committee
2. File/record notice of petition committee formation with the county clerk’s office.
3. Collect signatures.
4. File/record petition & signatures with county clerk’s office.
5. Required notice to property owners in subdivision.
6. File/record certificate of compliance with county clerk’s office.

Steps to Create Deed Restrictions
1. FORM A PETITION COMMITTEE

- Identify 3 property owners in your subdivision who want to participate on the Petition Committee.
- These 3 property owners will sign your initiating legal document called the “Notice of Petition Committee Formation.”
2. FILE/RECORD NOTICE OF FORMATION OF PETITION COMMITTEE WITH THE COUNTY CLERK’S OFFICE.

- Notice of Formation of Petition Committee is recorded.
- Copy of complete deed restrictions must be attached to the Notice of Petition Committee Formation.
- One-year timeline to collect signatures from 51% of the property owners in the community begins running from the date that the Notice of Petition Committee Formation is recorded.
3. COLLECT SIGNATURES.

- One-year to collect signatures.
- Must get 51% of (property owners, parcels or square footage) in your subdivision to sign the Petition.
- Every signature counts—meaning signatures choosing to include or exclude a particular property count towards the 51%.
- If you are unsuccessful in your signature collection, you must wait 5 years to start the deed restriction process again.
4. FILE/RECORD PETITION & SIGNATURES WITH COUNTY CLERK’S OFFICE.

- Record Petition with all Signed “Attachment A” Forms with Original Notarized Signatures consenting to Deed Restrictions with the County Clerk in the Real Property Records.
- Once Petition & Signatures are recorded, your deed restrictions are in effect.
5. REQUIRED NOTICE TO PROPERTY OWNERS IN SUBDIVISION.

- By **Certified Mail, with Return Receipt Requested**, send a copy of the restrictions that are in effect to all property owners in the Subdivision.
- Publish once a week for 2 consecutive weeks, Notice of the effective deed restrictions in a newspaper that is generally circulated in the Subdivision.
6. FILE/RECORD CERTIFICATE OF COMPLIANCE WITH COUNTY CLERK’S OFFICE.

- Certificate signed by the 3 Petition Committee members with proof of (1) certified mailing; and (2) newspaper publication attached.
Amending deed restrictions / Changing existing restrictions

Ashea Jones, Staff Attorney, Lone Star Legal Aid, CA Team
MODIFYING, AMENDING, AND EXTENDING DEED RESTRICTIONS

BY: ASHEA JONES BROWN, LONE STAR LEGAL AID MAY 11, 2021
MODIFYING, AMENDING, AND EXTENDING DEED RESTRICTIONS WITHOUT A HOMEOWNERS’ ASSOCIATION

• Chapter 201 of the Texas Property Code:

https://statutes.capitol.texas.gov/Docs/PR/htm/PR.201.htm
If the existing deed restrictions outline a procedure for successive extensions, that procedure may be used indefinitely as long as the existing deed restrictions do not expressly prohibit it.

The petition process does not apply to modifications where deed restrictions may be modified by less than 75% of owners.

The existing restrictions include:

- Automatic extensions for an indefinite number of successive periods for 10 years, subject to a right of waiver or termination in whole or in part by less than 50% + 1 of the owners;

- An indefinite number of successive extensions for at least 10 years terms of the restrictions by written and filed agreement of less than 50% + 1 of the owners as authorized by the instrument creating the restrictions.
THINGS TO CONSIDER

- Why do you want to amend or modify your restrictions?
  - Owner Activity
  - Animals
  - Buildings and Development
  - Restrict commercial activity
  - Restrictions expired

- Development & Gentrification
  - Encourage new development and progress
  - Discourage unwanted development and displacement

- Code Enforcement & Deed Restriction Enforcement
  - Call 311 or Police Department (Noise complaints) for Code Enforcement
  - Contact City of Houston Legal Department
  - Retain private attorney to file injunction suit to enforce deed restriction violation
Determine what community issues are not included in current restrictions.

Consider who will enforce new restriction or modification.
- City of Houston
- Resident
- Community Organization
- Consider costs associated with enforcement of new restriction or modification

Consider Community Desire for addition or modifications
- Amendment: More substantive changes to entire deed restrictions
- Modification:

Is desired addition or modification legal or permitted under Texas laws
## KNOW YOUR COMMUNITY & DEED RESTRICTIONS

- **Review Current Deed Restrictions**
  - Determine number of subdivision sections
  - Determine whether one instrument was created for your subdivision
  - Determine if a Chapter 201 Exceptions apply to your deed restriction

- **Review Subdivision Maps**
  - Review subdivision maps and plats
  - Determine which restrictions, if multiple, apply to each section and lot owner
  - Determine if any lots have been subdivided or combined

- **Collect Owner Info & Know Your Neighbors**
  - Owners vs. Renters
  - Owners vs. Heirs
  - Tax & Foreclosure Concerns
TYPES OF RESTRICTIONS ADDITIONS & MODIFICATIONS

- Limit Commercial Activity
  - Auto shops
  - Car Repair
  - Child Care Center
  - Commercial Activity that increases traffic in subdivision
- Environmental Hazards
- Lot Size
- Structure Height and Size
- Car port/garages
- Foundation Type, Home & Building materials
- Setback Lines
- Aesthetics (i.e. Fences, Antennas, Signage, or Building Maintenance)
1. FORM A PETITION COMMITTEE.

2. FILE/RECORD NOTICE OF PETITION COMMITTEE FORMATION WITH THE COUNTY CLERK’S OFFICE.

3. COLLECT SIGNATURES.

4. FILE/RECORD PETITION & SIGNATURES WITH COUNTY CLERK’S OFFICE.

5. REQUIRED NOTICE TO PROPERTY OWNERS IN SUBDIVISION.

6. FILE/RECORD CERTIFICATE OF COMPLIANCE WITH COUNTY CLERK’S OFFICE.
AMENDMENT/MODIFICATION PETITION PROCESS

- **If Chapter 201, does not apply, follow current restrictions amendment/modification procedure**
- **Petition Process is similar to Creation Petition Process, but may be less costly.**
- Petition Contents
  - Include amendment, modification, proposed restrictions.
- Petition Approval
  - Required percentage may be obtained by county any one of these criteria: lots, parcels, or square footage of lots
  - Extend/Create = 50%+1 of lots/tracts/area sign
  - Modify = 75% of lots/tracts/area
  - Signatures must be notarized
Notice to Owners
- File Petition with county clerk
- Copy of petition sent to all owners by certified mail within 60 days after filed.
  - Keep all return receipts indefinitely
- Newspaper Publication once a week for 2 consecutive weeks

Time limits and Starting Over
- One year for committee to get petition filed
- Notices to correct owners during time limit (i.e. heir issues, bank owned lots)
- Petition is void if not signed and acknowledged by required percentage of owners within one year of recording the petition committee’s formation
EFFECT OF PETITION & OWNERS MAY OPT-OUT

- If signed by required % of owners, petition binds the entire subdivision or section except: Opted-Out owners, No Notice Owners, Public Property, Minors, Lienholders who did not sign.

Opt-Out Options

- **Petition** – Signing the petition and affirmatively electing to exclude their property. Petition is required to include an opt-out section; or

- **Lawsuit** – Owner files suit challenging petition process within 6 months after filing petition; or

- **Opt Out Statement** – Owner files a statement affirmatively electing tot be excluded from the Restrictions in the real property records within 1 year after actual notice. Evidence by all owners of the certified mail notice to each owner is important.
QUESTIONS?
SESSION 6
7:30 - 7:45 PM
Expired Restrictions/ Racial Covenants
Amy Dinn, Managing Attorney, Lone Star Legal Aid, EJ Team
EXPIRED DEED
RESTRICTIONS
AND RACIAL
COVENANTS

Amy Dinn, Managing Attorney, EJ Team
Lone Star Legal Aid
May 11, 2021
Zoning in the South
Means to Enforce Racial Segregation

1920s-1930s
Municipal ordinances required non-whites to live in certain areas.

1930s-1940s
Restrictive covenants often contained racial prohibitions, creating “whites only” subdivisions.
Redlining
• Displacement of poor and minority people (and industry) from gentrifying industrial zones.
• Intrusion of additional noxious land uses into predominately poor and minority areas.
• Reduction of environmental quality in those neighborhoods
1948

*Shelley v. Kraemer*, 334 U.S. 1 (1948), is a landmark United States Supreme Court case that struck down racially restrictive housing covenants.
Communities who had racial covenants in their deed restrictions abandoned them.

- Lapsed
- Expired
- Not renewed

Subdivisions that were majority minority populations now under threat from environmental hazards due to lack of zoning.
1987

Commission for Racial Justice of the United Church of Christ Study

Race is “the single most important factor in determining where toxic waste facilities were sited in the United States.”
A documented and persistent pattern of disproportionate distribution of hazards and unwanted land uses in communities of color and low-income communities remains.
REMOVING RACIAL COVENANTS

Legislative solutions to remove racial covenants
1985

Chapter 201 of Texas Property Code enacted.

Allows communities to amend restrictions that contained racial covenants.

The existence of covenants in legacy documents “is offensive, repugnant, and harmful to members of racial or ethnic minority groups.”

“[P]ublic policy requires that these covenants be deleted."
Amends the Property Code to establish procedures for the amendment of deed restrictions that contain discriminatory provisions that are void under applicable state law.

Can remove discriminatory provision that prohibits the occupancy by or the sale, lease, conveyance, or transfer of real property or an interest in real property to a person because of race, color, religion, or national origin.
Property Subject to a Property Owners' Association

Based on the majority vote of the governing body or on the motion of association member, a Property Owners Association can start process to amend restrictions if:

• Restrictions must contain provision to amend restrictions;

• Circulate the petition to amend petition to remove racial covenant;

• Without regard to any threshold for approval of a petition established by the dedicatory instrument, the petition is approved by the owners of at least 10% of the lots.
Property Not Subject to a Property Owners' Association

• Three or more owners form an Amendment Committee.

• Committee must file written notice of its formation with the county clerk.

• Only one committee may operate at one time; first to file has authority to act.

• Must provide notice of formation to the owners of property subject to the dedicatory instrument not later than the 30th day after the date the notice is filed with the county clerk.
Property Not Subject to a Property Owners' Association

• Objection to proposed amendment must be filed by owners of at least 25% of the lots.

• If an effective objection is not filed, the proposed amendment contained in the notice of the committee's formation becomes effective on the date the notice is filed.

• Committee must file amendment within 120 days of formation or committee is dissolved.

• An amendment filed by a dissolved committee is void.
Senate received bill from the House on May 3, 2021.

Applies to all deed restrictions regardless of date.

This bill will prevail over any other provisions of the Property Code.

A change to any provision other than discriminatory provision is void.
QUESTIONS?
QUESTIONS & ANSWERS
7:45-7:55
Closing Survey

https://forms.gle/RnGAjh1b93asBjLd6
CLOSING REMARKS