



RACIALLY RESTRICTIVE COVENANTS

Although we often associate forced Jim Crow-era racial segregation with the Southern parts of the United States, residential segregation was in fact enforced throughout the United States, including California and Fresno County where it was achieved by government policies and enforced private agreements.

As your elected recorder, I searched the archives and identified thousands of “racially restrictive covenants” (RRC) that acted as the mechanism that enabled the people in authority to maintain residential segregation that effectively deprived people of color from achieving home ownership—a critical source of wealth accumulation. For example, between 1920 to 1948, many Fresno County RRCs prohibited homeowners from selling or renting the property to members of a specific race, color, ethnic, or religious background. Even though the United States Supreme Court in *Shelley v. Kramer* held that state court enforcement of RRCs violated the Fourteenth Amendment. RRCs have been filed in Fresno County as late as the 1950’s.

For example, one deed restriction recorded on a home built in 1952 in Reedley, reads as follows:

“This property is sold on condition it is not resold to or occupied by the following races: Armenian, Mexican, Japanese, Korean, Syrian, Negros, Filipinos or Chinese”

Another example is that of a subdivision in Figarden Estates No 2 on March 27, 1953, reads as follows:

“1-These covenants are to run with the land and shall be binding on all parties and all persons claiming under them until March 27, 1978, at which time said covenants shall be automatically extended for successive periods of 10 years unless by a vote of the majority of the then owners of the lots it is agreed to change the said covenants in whole or in part. 7-That during said period neither said premises nor any part thereof, shall be used in any manner whatsoever or occupied by any Negro, Chinese, Japanese, Hindu, Malayan, or descendants of above-named persons, provided however that such a person may be employed by a resident upon said property as a servant for such resident”

“Strengthening the financial foundation of Fresno County”

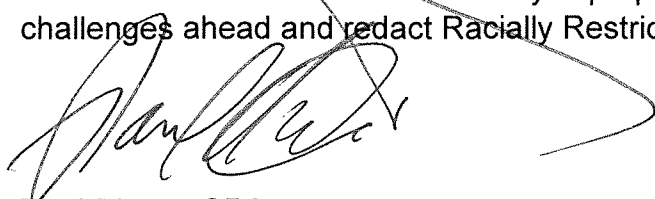
Under said deed restrictions, in the event of a breach, all the right title and interest of the grantee in the property immediately ceases and is deemed forfeited and reverts to the grantor.

While the Supreme Court ruling made such covenants unenforceable, subsequent state legislation, in California and elsewhere, made racial discrimination in housing unlawful. However, despite their unlawfulness and unenforceability, these offensive exclusionary restrictions-especially those based upon race- can still appear in existing CC&Rs as they are transferred from property sellers to buyers, unless restrictions have been previously stricken, modified, or recorded over.

Assembly Bill 1466 takes existing California laws a step further and requires each county recorder's office to establish a program to proactively identify, catalog, and redact any unlawfully discriminatory restrictive covenants in the county's property records and authorizes the imposition, if approved by the respective county board of supervisors, of a fee to fund the program. It further requires a title insurance company that transfers any deeds or other documents to a buyer to identify unlawful discriminatory covenants and record Restrictive Covenant Modifications (RCM) with the county recorder, prior to the transfer of any documents to the buyer.

Beginning July 1, 2022, if a title company, escrow company, real estate broker, or agent has actual knowledge that there is a racially restrictive covenant, they shall notify the person who holds or is acquiring the ownership interest in the property, of the existence of that covenant and their ability to have it removed through the RCM process.

My staff and I continue to identify and catalog numerous unlawfully discriminatory restrictive covenants in the county's property records and are ready to meet the challenges ahead and redact Racially Restrictive Covenants.

A handwritten signature in black ink, appearing to read 'Paul Dictos', with a large, sweeping flourish extending to the right.

Paul Dictos, CPA
Fresno County Assessor-Recorder
September 16, 2021
559-600-6879

September 17, 2021