

TEXAS NEIGHBORHOODS TOGETHER

SUPPORT

Deed Restriction Amendments

Recommendation

Amend the Property Code to allow neighborhoods throughout Texas to extend, reinstate, add to, amend, or modify their restrictive covenants by following inexpensive, streamlined procedures calling for approval by a simple majority of property owners.

Background

Restrictive covenants (“covenants, conditions and restrictions,” “CCRs,” or “deed restrictions”) govern the uses of property as well as the behaviors of individuals living under them and often establish fees for a variety of services and amenities in many neighborhoods throughout Texas. In the vast majority of cases, the neighborhood’s original developer created the documents before any individual lots were sold, precluding any prospective owner’s input in their composition. Moreover, because the developer originated them, the restrictions were written to protect the developer’s short-term interests, often without deep concern for the long-term interests of future property owners. For example, it is not uncommon for restrictive covenants to have caps on assessments that may have served the developer during the marketing of the neighborhood but now are woefully inadequate to provide the services his own covenants mandate. Or, the document may cause architectural controls to expire within ten years of their filing despite the fact that the neighborhood may be seeing new construction, renovation and revitalization well after the ten-year period. Deed restrictions with these shortcomings often require more than a majority of owners to approve changes, with ranges from 75% to even 100% of property owners not being uncommon. Unrealistically high amendment requirements are virtually impossible to achieve, leaving hundreds of neighborhoods throughout Texas unable to accommodate changing circumstances of contemporary residential communities. This seriously compromises their capacity to maintain quality of life and property values, and contributes to unnecessary neighborhood decline.

Currently, Chapters 201, 204, and 206 of the Property Code offer differing methods and approval percentages for property owners to amend, extend, or reinstate their covenants. In some cases, these chapters apply only to limited areas of the state. Chapter 201 also imposes considerable costs by requiring neighborhoods to notify property owners of potential amendments by way of certified mail, an expensive undertaking for those neighborhoods not empowered to collect assessments to finance the change process. The problem of out-of-date, virtually unchangeable covenants is not restricted to only a few counties — it is widely spread across Texas. Therefore, it requires a statewide solution.

Impact

Neighborhoods with out-of-date, defective restrictive covenants will be able to amend them efficiently and successfully, thereby protecting property values, enhancing quality of life and contributing to Texas’ economic vitality.