

Marin County Recorder's Restrictive Covenant Identification and Redaction Plan (AB 1466)

GOAL: Pursuant to AB 1466 (McCarty) signed into law in 2021, the Marin County Recorder is tasked with the responsibility of locating and redacting all illegal discriminatory real property restrictions that are found in Marin County recorded documents.

BACKGROUND: Despite current federal and state laws that prohibit discrimination based on race, gender, marital status, etc., some subdivisions throughout the nation, state, and County of Marin that were developed prior to the passage of fair housing laws have recorded restrictions in place that contain now-illegal restrictions. Even though such restrictions are now unenforceable, the state and the County of Marin are working to redact now-illegal language by recording modifications for documents that include illegal restrictions. Although the original recorded documents remain untouched and intact, the subsequent recorded modification refers to the original document, which is being modified, by its original recording reference number and the date it was recorded. In addition, the Marin County Recorder's office will identify specific properties that were covered by now-illegal restrictions including race, gender, national origin, religion, age, etc. using Assessor's Parcel Numbers. This information will be used to create a map to illustrate areas that were restricted to many individuals.

AB 1466 (McCarty) became law on 1/1/22 and directs all California recorders to develop a plan, implemented in multiple phases, which will address recorded documents including now unlawful language. Per AB1466, the implementation of Marin County's plan is as follows:

PHASES: Beginning 1/1/22, the Recorder must provide blank restrictive covenant modification forms to the public at the recording counter, as well as on the Recorder's public website. Additionally, the cover sheet that Copy Center staff must provide with copies of every deed, governing document, and declaration, contains modified language codified under GC 12956.1. See a sample of the revised cover sheet provided with copies made by Recorder's staff, attached as Exhibit A. Under AB1466, the online and/or in-office Recorder's index that is searchable by document title shall be made publicly available.

Also beginning on 7/1/22, AB1466 charges the Recorder with locating and redacting illegal restrictive covenants that may be found in recorded covenants, deeds, deeds of trust, leases, and other documents related to real property. Redaction is defined in AB 12956.2 to mean "masked," and thus renders the restrictive language unreadable after it is stricken.

The Recorder must search for documents including illegal language that include language that is in violation of Government Code violation of Government Code 12955 (including race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, familial status, disability, veteran or military status, or genetic information).

The Recorder’s plan must include how the process of locating and redacting will be completed. A timeline must be included in the plan. In addition, the Recorder must post the plan in the office and on its website. The recorder must also track and maintain a record of homes with unlawfully restrictive covenants after they have been located.

The recorder will collaborate with the County’s GIS team to reflect areas on a map affected by now-illegal restrictive covenants such as those completed by the Town of San Anselmo and the University of Minnesota’s Mapping Prejudice Project, which are attached as Exhibit C.

Although AB1466 allows Recorders to increase recording fees for many documents by \$2, the Marin County Recorder’s Office has decided not to collect the additional recording fee at this time. Below is the Marin County Recorder’s plan for meeting the mandate provided in A1466.

ACTION PLAN AND PROPOSED TIMELINE:

Start Date	Task	Current Status or Date of Completion
12/1/2021	Locate restrictive covenants geographically, identify subdivisions in Marin by reviewing each page within all Assessor’s Map Books. Subdivisions listed on each Assessor’s map page, will be transcribed onto an Excel spreadsheet, organized by Assessor’s Map Book. See attached Exhibit B for sample spreadsheet that includes the Strawberry area of Mill Valley.	1/31/22 (in process/ongoing)
12/22/21	Update informational packet placed at public counters in the Recorder’s Office to meet mandates set forth in AB 1466.	12/23/21 (completed)
12/22/21	Ensure website is updated to include Restrictive Covenant Modification form. Ensure revised cover page to be provided with copies is located at front counters of Recorder’s office (Exhibit A)	12/23/21 (completed)

2/1/2022	<p>Locate and review CC&Rs for 1,000 +/- subdivisions in Marin County that have been pre-identified. The list of CC&Rs organized by subdivision was originally compiled in 1954 and has been sporadically updated. The review of all CC & Rs for restrictive language will be our first step in locating restrictive language.</p> <p>In addition, this list provides CC & Rs identified by subdivision name and will be connected to the Assessor's map book and page, using the list developed in the above-mentioned step. These two steps assist with identifying each subdivision's location. This step will also assist Recorder's staff with locating the parcels that were covered by restrictive covenants in the past.</p>	In progress/ongoing
7/1/22	<p>Recorder's staff will begin preparing modifications to restrictive covenants for County Counsel review, which will then be recorded. Pursuant to AB1466, County Counsel has a 90-day timeframe to review documents and return to the Recorder's Office for recording.</p>	In progress/ongoing
Ongoing	<p>PHASE II: Recorder's staff continues review of historic documents in DigitalReel by searching keywords that were uncovered during our initial review and words identified and compiled a list of words frequently found in unlawful restrictions. Words will be searched using the OCR function of Digital Reel. Although the OCR function will not work with handwritten documents, the County of Marin's records have been typewritten and thus searchable since 1903. Earlier handwritten documents will be addressed at a later time.</p>	In progress/ongoing
New Law Conference 2022 (Dec 2022)	<p>Meeting of CA County Recorders will convene to share and discuss implementation plan for redacting illegal restrictive covenants</p>	Annually, ongoing through 12/31/27
Before 1/1/23	<p>CRAC (California Recorders' Association of California) must submit report to the legislature that includes the number of identified documents identified for redaction and the implementation timelines for each county</p>	Before 1/1/23 and before 1/1/25

Exhibit A



OFFICE OF SHELLY SCOTT
ASSESSOR - RECORDER - COUNTY CLERK

NOTICE

This notice is provided pursuant to Government Code 12956.1.

If this document contains any restriction based on age, race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, familial status, marital status, disability, veteran or military status, genetic information, national origin, source of income as defined in subdivision (p) of Section 12955, or ancestry, that restriction violates state and federal fair housing laws and is void, and may be removed pursuant to Section 12956.2 of the Government Code by submitting a "Restrictive Covenant Modification" form, together with a copy of the attached document with the unlawful provision redacted to the county recorder's office. The "Restrictive Covenant Modification" form can be obtained from the county recorder's office and may be available on its internet website. The form may also be available from the party that provided you with this document. Lawful restrictions under state and federal law on the age of occupants in senior housing or housing for older persons shall not be construed as restrictions based on familial status.

Exhibit B

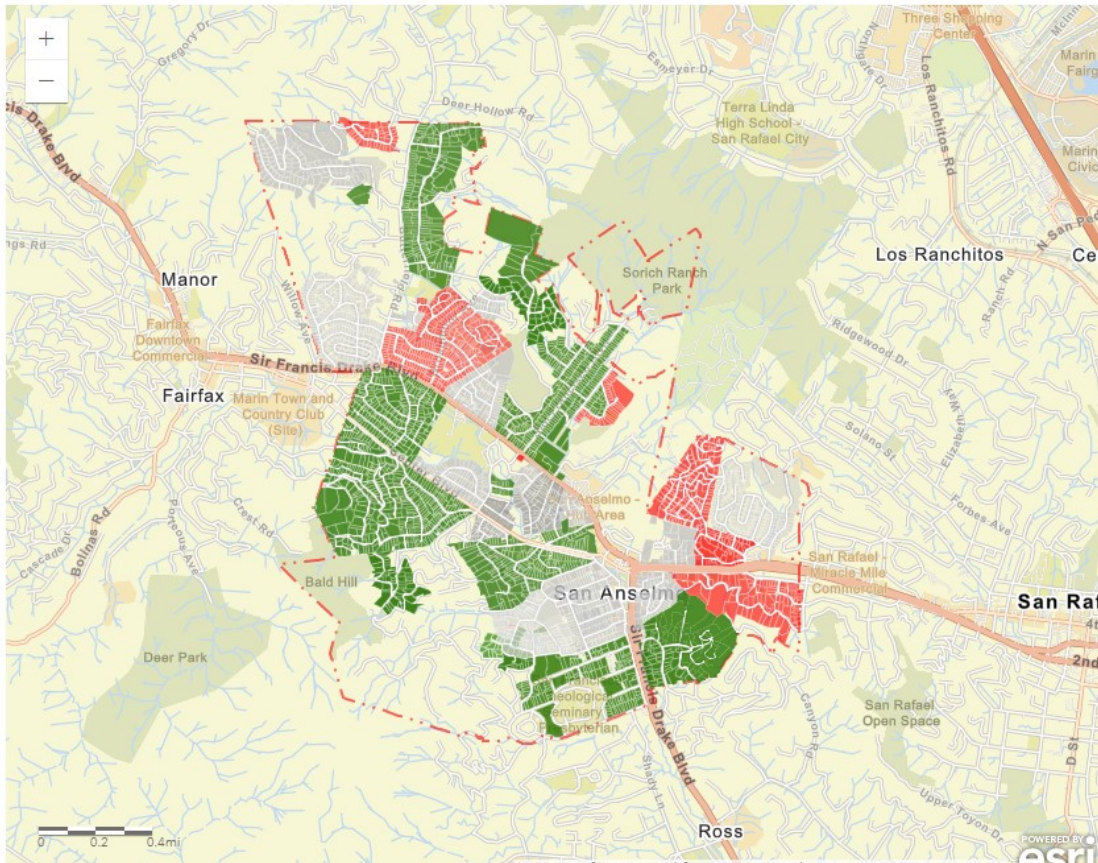
Page	Subdivision Name	Recorded
1	Knoll Court	1986-0019344
2	Bay View Terrace, Sub 1	436/375
3	Knoll Gables	
4	Bay View Terrace, Sub 1	436/375
4	Martinbrae	647/372
4	Strawberry Heights, Sub 1	539/12
5	Bay View Terrace, Sub 1	436/375
6	none	
	Strawberry Heights Sub 1, Sec	
7	1	539/12
	Strawberry Heights Sub 1, Sec	
7	2	592/429, 546/460
7	Strawberry Heights Sub 3	599/201,592/429
8	Strawberry Heights Sub 2	592/429,685/152, 644/61
8	Strawberry Manor Sub 2	633/444
8	Strawberry Manor Sub 3	685/152,682/414
	Strawberry Heights Sub 1, Sec	
9	2	592/429, 546/460
9	Strawberry Heights Sub 3	599/201,592/429
9	Strawberry Heights Sub 3	599/201,592/429
10	Harbor Point Unit 2A	
10	Harbor Point Unit 2B	
	Strawberry Heights Sub 1, Sec	
11	2	592/429, 546/460
11	Strawberry Heights Sub 3	599/201,592/429
12	Harbor Point Unit 2B	
	Strawberry Heights Sub 1, Sec	
13	2	592/429, 546/460
13	Strawberry Heights Sub 3	599/201,592/429
13	Strawberry Manor	633/444,633/442, 689/349, 599/201
14	Salt Marsh & Tide Lands	
14	Strawberry Manor Sub 3	685/152,682/414
14	Strawberry Manor Sub 7	831/441, 647/372
15	none	
16	Strawberry Heights Sub 2	592/429,685/152, 644/61
16	Strawberry Manor Sub 3	685/152,682/414
16	Strawberry Manor Sub 5	693/076,633/442
17	Strawberry Heights Sub 2	592/429,685/152, 644/61
17	Strawberry Manor Sub 3	685/152,682/414
17	Strawberry Manor Sub 6	714/592, 633/442
17	Strawberry Manor Sub 7	831/441, 647/372
18	none	
19	Strawberry Heights Sub 2	592/429,685/152, 644/61

Exhibit C

From San Anselmo's website ([Racial Covenant Modification | San Anselmo, CA - Official Website \(townofsananselmo.org\)](http://www.townofsananselmo.org))

Map In Progress: Subdivisions in San Anselmo Where Racially Restrictive Covenants Have Been Located (to date)

- Red = Racially restrictive covenant found for site or for at least one lot in the subdivision. Click on an area to read an example restriction.
- Green = No racially restrictive covenants found on one or more title reports for the site or subdivision, *but there may still be a possibility of a racially restrictive covenant on a deed or title report that was not examined.*
- Bright Green = Racially Restrictive Covenant modified



Mapping Prejudice Product (Minnesota):
[county_covenants_map_v4\(umn.edu\)](http://county_covenants_map_v4(umn.edu))

