



COMMUNITY DEVELOPMENT AGENCY
HOUSING AND FEDERAL GRANTS DIVISION

May 25, 2021

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SUBJECT: Restrictive Covenants Program

Dear Board Members:

RECOMMENDATION: Accept the report.

SUMMARY:

The Restrictive Covenants Program will inform and educate Marin County residents of historic and discriminatory housing policies that, while illegal today, continue to remain in property deeds throughout Marin. Through the collaboration of the Community Development Department, the County's Office of Equity and the Assessor-Recorder's Office, residents of Marin will be able to certify and affirm that illegal and racially restrictive covenants are unconstitutional and violate current laws and County values.

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The Marin County Restrictive Covenants Program allows homeowners to identify any illegal or unlawful restrictive covenant and to have the illegal or unlawful language acknowledged in their property deeds. Illegal and unlawful language may be submitted to the County's Community Development Agency for review to certify such covenants cannot be enforced, are illegal, and are inconsistent with Marin County laws and values. This certified document can be placed on top of the homeowner's title report for future and potential buyers. The program will launch in June and will roll out in a variety of media and formats.

DISCUSSION:

A covenant is a legally enforceable contract imposed in a deed upon the buyer of property. Racially restrictive covenants refer to legal agreements that prohibit the purchase, lease, or occupation of a piece of property by a particular group of people and that prohibit the homeowner from selling or renting to anybody of a specific race or ethnic background.

Restrictive covenants were an effective way to segregate neighborhoods and stabilize the property values of white families, and beginning in 1934, the Federal Housing Authority recommended the inclusion of restrictive covenants in the deeds of homes it insured. These racially restrictive covenants made it illegal for African Americans to purchase, lease or rent homes in white communities.

In a landmark 1948 ruling, the Supreme Court deemed all racial restrictive covenants unenforceable. While Titles VIII and IX of the 1968 Civil Rights Act, also known as the Fair Housing Act, prohibited discrimination in the sale, rental, and financing in housing-related transactions based on race, color, national origin, religion, sex,

disability, marital status, and familial status, many restrictive covenants continue to remain in property deeds throughout Marin.

The Marin County Restrictive Covenants Program allows homeowners to identify any illegal or unlawful restrictive covenants in their property deeds, to affirmatively further fair housing laws, and to assert that such covenants are illegal and inconsistent with the County’s commitment to racial equity for potential homebuyers.

Residents who wish to participate in the Restrictive Covenant Program may do so by submitting their documents that contain the racially restrictive covenants to the Community Development Agency. In addition, State law authorizes a person who holds an ownership interest of record in property that is the subject of a racially or otherwise unlawfully restrictive covenant to record a Restrictive Covenant Modification document to have the illegal language stricken. Homeowners who are interested in recording a Restrictive Covenant Modification should visit the Marin County Assessor-Recorder’s Office.

EQUITY IMPACT: The County’s Office of Equity Department has engaged residents of Marin County and employees of the County to develop and advance racial equity both internally and with our communities. Acknowledging and highlighting historic and discriminatory policies that were created by Federal and local governments allows for a more honest and open dialogue with communities who continue to be impacted by such actions, and provides a context for all residents of Marin to understand the history of our County.

The Restrictive Covenants Program creates an opportunity to educate, engage and assert that such racially motivated housing policies are part of our past and that the County has created an affirmative response for residents who have illegal and unlawful language in the property deeds to recognize and acknowledge the history of the homes in which they live. It was government’s actions that created segregated and disenfranchised communities, and it is government’s responsibility to address how those actions created the disparities that continue to exist in our communities today.

FISCAL IMPACT: There is no fiscal impact on the general fund.

REVIEWED BY:

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| <input checked="" type="checkbox"/> County Administrator | <input type="checkbox"/> N/A |
| <input type="checkbox"/> Department of Finance | <input checked="" type="checkbox"/> N/A |
| <input checked="" type="checkbox"/> County Counsel | <input type="checkbox"/> N/A |
| <input type="checkbox"/> Human Resources | <input checked="" type="checkbox"/> N/A |

Respectfully submitted,

Liz Darby
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Social Equity Program and Policy Coordinator

Leelee Thomas
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Planning Manager