



AB 1466

Restrictive Covenant Modification
Government Code 12956.2

ORANGE COUNTY IN HOUSE
PROCESS

REVISED 04/2024

History on AB 1466

1926- U.S. Supreme Court validated the use of restrictive covenants, Restrictions were an enforceable contract that could result in a forfeiture of property should an owner be found non-compliant.

1948- U.S. Supreme Court held that racially restrictive covenants could not be enforced but including them in real property documents remained common.

1968- Congress passed the Fair Housing Act. That outlawed the use and enforceability of discriminatory covenants.

2009- AB 985 was signed into law and provided a means for a person who holds or is acquiring an ownership interest of real property that they believe is the subject of an unlawfully restrictive covenant in violation of subdivision (1) of section 12955 to submit for review and possible recording a document titled Restrictive Covenant Modification (RCM).

2021- AB 1466 McCarty “Real Property: Discriminatory Restrictions” was signed into law. This bill requires each county recorder to establish a restrictive covenant program to facilitate the redaction of unlawfully restrictive covenants. The bill also requires each county to prepare an implementation plan by July 1, 2022. as specified to identify unlawfully restrictive covenant in the records of their office and to redact unlawfully restrictive covenant , as specified.

Note: Original records will remain available to the public and at no time will be altered or redacted.



AB 1466 Deadlines

For the Agency to be in compliance the following items needed to be completed:

- Effect date: January 1, 2022
 - a. Posted Policies & Procedures (web-page)
 - b. Notice (provided to customers or available on the OCREORDER.COM)
- July 1, 2022 (Implementation plan available on the OCREORDER.COM)
- Counties will report yearly progress to Recorder Associations

AB 1466 Team

Leading the team is:

Angelica Camarena/Sylvia Manzo-Document Examining Supervisors

Staff:

Pauline Nguyen

Joann Guiao

Toby Tsai

Janet Barajas

Jacob Sii

Daniel Reyes

Chantha Muth

Nancy Bailon

Support:

Sam Javanmardi

Kevin Phung

Archives:

Susan Berumen



Phase I

- 1) Research was conducted to identify unlawful restrictions by examining and archive staff.
 - a. Creating a list of words to identify restrictive language
 - b. Optical Character Recognition (OCR) software was used to identify 48,000 potential hits from 1906-1981
 - c. Prior to 1921 records contained a combination of cursive, hybrid, and type written documents
 - d. Per Archives Staff, no restrictive language was found prior to 1906.

Records are cataloged as follows:

- a. From 1889 – December 1926 all transfer documents were catalogued as Book Of Deeds starting from book 1 to 694 (completed)
- b. From January 1927 to 1981 all records were catalogued as Official Records containing books 1-14346 (currently processing)

Accomplishment: All handwritten records have been processed by the Archives Staff

Sample of completed RCM (paper)

RECORDING REQUESTED BY:
Kevin Flaherty
2734 Carlaris Rd.
San Marino, CA 91108
WHEN RECORDED MAIL TO:
NAME *Kevin Flaherty*
MAILING ADDRESS *2734 Carlaris Rd.*
CITY, STATE and ZIP CODE
San Marino, CA 91108

Recorded in Official Records, Orange County
Hugh Nguyen, Clerk-Recorder
NO FEE
4 5 R 0 0 1 3 6 4 4 4 0 5 *
2022000128335 9:23 am 04/04/22
380 Sec4A R44 G02 5
0.00 0.00 0.00 0.00 12.00 0.00 0.000.000.00 0.00

SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE

RESTRICTIVE COVENANT MODIFICATION (Racial or Otherwise Unlawfully Restrictive Covenant Modification)

The following referenced document contains a 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 Section 12955 of the Government Code, or ancestry, that violates state and federal fair housing law and is void.

Pursuant to Section 12956.2 of the Government Code, this document is being recorded solely for the purpose of redacting and eliminating that restrictive covenant as shown on page(s) 314 of the document recorded on Jan 24, 1933 (date) in book 597 and page 314, or as instrument number _____ of the official records of the County of Orange, State of California. Attached hereto is a true, correct and complete copy of the document referenced above, with the unlawfully restrictive covenant redacted.

This modification document shall be indexed in the same manner as the original document being modified, pursuant to subdivision (d) of Section 12956 of the Government Code.

The effective date of the terms and conditions of this modification document shall be the same as the effective date of the original document.

Signature of Submitting Party: *Kevin Flaherty* Date: 3/14/22
Printed Name: Kevin Flaherty

County Counsel, pursuant to paragraph (1) of subdivision (b) of Section 12956.2 of the Government Code, hereby states that it has determined that the original document referenced above contains an unlawful restriction and this modification may be recorded.

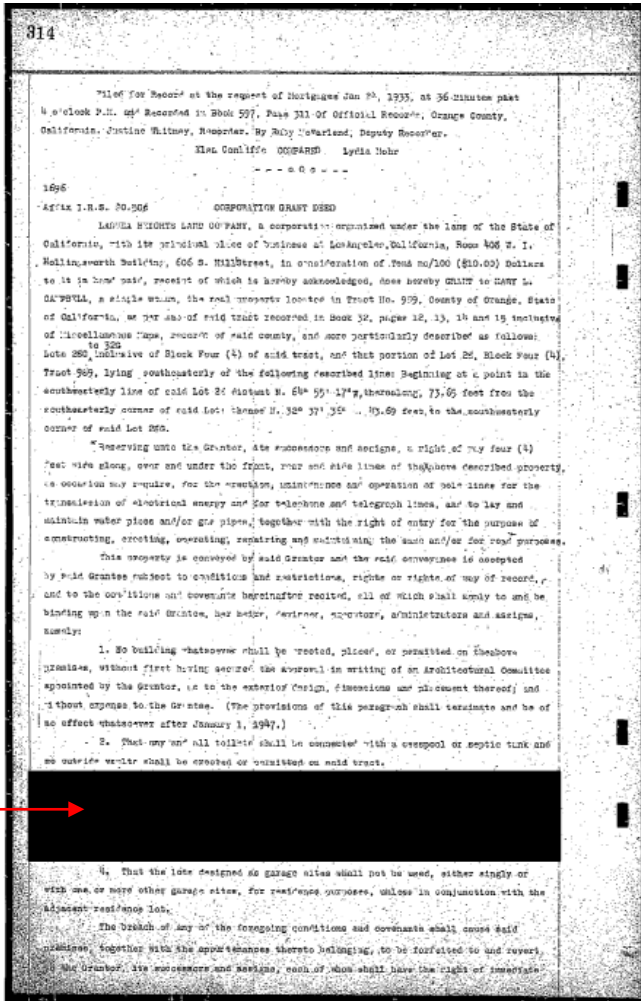
County Counsel, pursuant to paragraph (1) of subdivision (b) of Section 12956.2 of the Government Code, finds that the original document does not contain an unlawful restriction, or the modification document contains modifications not authorized, and this modification may not be recorded.

Approved: County of Orange County Counsel
Signed: *Jacqueline Guzman* Date: April 1, 2022
By: Jacqueline Guzman
Deputy County Counsel

See attached Notarial Certificate

Effective 01/22

ST
SP
NF



County Counsel Signature

Approved language redacted

Phase II

1. The production and execution of RCMs will be moving forward with electronic submission via docuSign.

a. 6500 digital records are ready to be reviewed and submitted to County Counsel

2. Once document is approved by county counsel, the document will be signed digitally and submitted electronically through SECURE.

Currently there are 8000 paper RCM'S pending and ready for county counsel to approve.

Go live date is scheduled for the last week of April.

NOTE: Examiner staff will still accept paper RCM from customers (over the counter/mail) and documents will be submitted to county counsel.

Electronic RCM

RECORDING REQUESTED BY:
ORANGE COUNTY CLERK-RECORDER

WHEN RECORDED MAIL TO:
NAME
ORANGE COUNTY CLERK-RECORDER
MAILING ADDRESS
601 N. ROSS STREET
CITY, STATE and ZIP CODE
SANTA ANA, CA 92701

SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE

RESTRICTIVE COVENANT MODIFICATION (Racial or Otherwise Unlawfully Restrictive Covenant Modification)

The following referenced document contains a 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 Section 12955 of the Government Code, or ancestry, that violates state and federal fair housing law and is void.

Pursuant to Section 12956.2 of the Government Code, this document is being recorded solely for the purpose of redacting and eliminating that restrictive covenant as shown on page(s) 17 of the document recorded on 09-04-1928 (date) in book 201 and page 16, or as instrument number 28366 of the official records of the County of Orange, State of California. Attached hereto is a true, correct, and complete copy of the document referenced above, with the unlawfully restrictive covenant redacted.

This modification document shall be indexed in the same manner as the original document being modified, pursuant to subdivision (d) of Section 12956 of the Government Code.

The effective date of the terms and conditions of this modification document shall be the same as the effective date of the original document.

Signature of Submitting Party: R. Rivera Date: 10/6/2023
Printed Name: The Office of the Orange County Clerk-Recorder

The Office of the Orange County Counsel, pursuant to paragraph (1) of subdivision (b) of Section 12956.2 of the Government Code, hereby states that it has determined that the original document referenced above contains an unlawful restriction and this modification may be recorded.

Or The Office of the Orange County Counsel, pursuant to paragraph (1) of subdivision (b) of Section 12956.2 of the Government Code, finds that the original document does not contain an unlawful restriction, or the modification document contains modifications not authorized, and this modification may not be recorded.

Approved: County of Orange County Counsel or Designee

Signed: _____ Date: _____
By: Deputy County Counsel/Designee

Effective 01/22

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5. That no part of any of said lots shall ever, at any time, be sold, conveyed, leased or rented to any person other than one of the White or Caucasian race.

6. That no part of any of said lots shall ever, at any time, be used or occupied, or be permitted to be used or occupied, by any person other than one of the White or Caucasian race, except such as are in the employ of the owners or tenants of said lots residing thereon.

Provided, that each and all of the foregoing conditions contained in paragraphs numbered 1, 2, 3, and 4 shall in all respects terminate and end and be of no further effect, either legal or equitable, on and after January 1, A.D. 1942, and that the conditions contained in paragraphs number 5 and 6 shall be perpetual and binding forever upon the parties hereto, their heirs, devisees, executors, administrators or assigns.

PROVIDED, FURTHER, that a breach of the foregoing conditions shall cause said premises to revert to the Grantor, its successors or assigns, each of whom respectively shall have the right of immediate re-entry upon said premises, in the event of any such breach; and as to the owner of any other lot in said Tract, the foregoing conditions shall operate as covenants running with the land, and the breach of any of such covenants or the continuance of any such breach may be enjoined, abated or remedied by appropriate proceedings by such Grantor, its successors or assigns, or by any such owners, their heirs, devisees, executors, administrators, successors or assigns, but by no other person.

PROVIDED, ALSO, that a breach of any of the foregoing conditions, or any re-entry by reason of such breach, shall not defeat or render invalid the lien of any mortgage or deed of trust made in good faith and for value, as to said premises or any part thereof; but said conditions shall be binding upon and effective against any owner of said premises whose title thereto is acquired by foreclosure, trustee's sale or otherwise.

PROVIDED, FURTHER, that by the mutual written agreement of the Grantor herein, or its successor in interest, as the owner of the reversionary rights herein provided for, with the owners (including the mortgagee under any recorded mortgage and the Trustee under any recorded deed of trust) of all the lots facing on the same street, any or all of the conditions contained in paragraphs 1 to 4, inclusive, may be terminated, modified or amended as to any or all of such lots, which agreement shall not affect any existing structures upon any of such lots then in compliance with the conditions then in force, nor become effective until recorded in the office of the County Recorder of Orange County.

It is an express condition of this conveyance that the Grantor herein shall not be responsible or liable for any promise, representation, agreement, condition or stipulation not set forth herein.

IN WITNESS WHEREOF, the said BANK OF ITALY NATIONAL TRUST AND SAVINGS ASSOCIATION, a National Banking Association, has this 22nd day of August 1928, hereunto caused its corporate name to be affixed by its Vice President and Assistant Trust Officer, therunto duly authorized.

BANK OF ITALY NATIONAL TRUST AND SAVINGS ASSOCIATION.

By C. L. Gotant Vice President.

And R. D. Fuller Assistant Trust Officer

State of California }

Current Statistics

- ❖ **48,000** identified RCMS from 1889-1981.
- ❖ **19,000** RCMs have been processed to date.
- ❖ **4500** RCM's have been recorded.
- ❖ **14,500** currently pending for review by COCO
(8000 are paper format and 6500 are electronic)