



Covenants Not As Sacred As They Once Were

Dear Dave: We live in a subdivision with covenants that were in place from the beginning of the development. We have seen major violations occur unchecked, even though we meet twice a year as an organized homeowners group. The majority of members do not want to speak up about the violations as they are reluctant to offend anyone. We moved into the subdivision recently and would like to see the covenants enforced. Can you advise us?

Answer: The short answer is that Recorded Covenants are enforceable by Law. You need to contact a Land Use or Real Estate Attorney.

Your problem is not unique. Many subdivisions have covenants and restrictions related to the use of property. When someone buys a home they should always review the covenants and decide whether they can live under such restrictions before closing. In the standard MLS Purchase and Sale Agreement you can pull out of the deal without penalty within 3 (or whatever is stated) days of receiving the Title Report (which will include Covenants if they exist).

The fact is that covenants are largely ignored in most subdivisions, where owners often feel that they are outdated and irrele-

vant. This is true in some instances as the original developer may, for example, have loved cedar fences 30 years ago but you and your neighbors don't really care about such things.

The best way to deal with violations, at least in a small subdivision, is to form a committee elected by homeowners and gently start to work on the issues with the support of a majority. Most covenants provide for the formation of an 'Architectural Control Committee' (though not restricted to architecture) or perhaps an official Homeowners Association is already in place.

The Municipality is not interested in such disputes unless they involve a conflict with Zoning Regulations. Keep in mind, however, that any one homeowner can take legal steps to enforce any individual covenant irrespective of whether they have been overlooked in the past. The person with liability is the property owner, not you.

The trick is to always try the soft route first. Sometimes a polite letter will work, or even a conversation. However, you ultimately have the power, through the Courts, to force property owners to abide by their implicit consent to the covenants which they agreed to before moving into the neighborhood.

A Covenant, by definition, is a legal agreement and once was a sacred pledge between parties but the quality of life shared between people in any society is only as good as the character of the individuals that comprise it.

Dave
Windsor

