

## **Releasing Discriminatory Restrictive Covenant in Land Records and Governing Documents**

### **What is a discriminatory restrictive covenant?**

Discriminatory restrictive covenants were, historically, placed in land records to restrict who could own property based on factors such as race, religion, and national origin. Discriminatory restrictive covenants are illegal and unenforceable by both state and federal law, including K.S.A 44-1016 and 44-1017 which prevent the discrimination in the sale or rental of real property as well as the restrictions of homeowner associations.

### **What impact does House Bill 2562 have on discriminatory restrictive covenants?**

Signed into law by Governor Laura Kelly on April 19, 2024, and effective July 1, 2024, House Bill 2562 authorizes the release of discriminatory restrictive covenants. Existing state law (K.S.A. 44-1016 and 44-1017) already identified these discriminatory restrictive covenants as unlawful and unenforceable, but the new bill provides property owners, homeowner associations, cities, and counties the opportunity to release property from them. It also requires homeowner associations to remove discriminatory restrictive covenants by recording amendments to their governing document(s).

### **How do I know if my property was restricted by a discriminatory restrictive covenant?**

You can review recorded documents related to your property by visiting the Register of Deeds office (111 S. Cherry Street, Olathe, Suite 1200) and using the computer in our office lobby to search the digital library of land records.

### **What can I do if my property was restricted by a discriminatory covenant?**

Current property owners can identify the original document with discriminatory language and formally release the property from discriminatory restrictive covenants by recording a Certificate of Release of Prohibited Covenants in the Register of Deeds Office.

The release does not alter or redact the original document but restates the legally unenforceability of the discriminatory covenants.

### **Do I have to do anything if my property was restricted by a prohibited covenant?**

No, property owners do not have to take any action if their property was once restricted by a discriminatory covenant. That covenant is not enforceable or lawful. The choice to record a Certificate of Release of Prohibited Covenant is based on the preference of the current property owner.

### **Who can record a Certificate of Release of Prohibited Covenant on my property?**

Only current property owners or their designee can record a Certificate of Release of Prohibited Covenant on an individual property.

**What is the fee to record a Certificate of Release of Prohibited Covenant?**

The fee to record a Certificate of Release of Prohibited Covenant or an Amendment to an Association's governing document is \$21 plus \$17 per additional page. Cities or counties who file a release on behalf of an inactive association are not subject to the recording fees.

**What happens if my property was restricted by a Homeowners Association Declaration of Restrictions?**

Homeowner's associations have 60 days from July 1, 2024, to amend their declarations or other governing documents to remove the unlawful restrictions. Amendments must be recorded in the Register of Deeds office within 10 days from the date of the homeowner's association's removal amendment. Cities, counties, or any person adversely affected can take action against homeowner associations who do not amend their governing documents to remove discriminatory restrictive covenants.

**What if a Homeowners Association with restrictive covenant(s) in their governing documents is now inactive?**

If an association is no longer active, the city or county where the association operated can adopt a resolution to remove the discriminatory restrictive covenant(s) by recording a certificate of release of prohibited covenant(s).