

## **Deed Restrictions Are Good Medicine**

By Austin Barsalou (reprinted with permission)

Have you ever wondered why you have a homeowners association? You may not realize it, but your association may be the only thing that protects the value of your home or the quality of your neighborhood.

Community associations do a number of different things. They set and collect the maintenance fees needed to run neighborhood operations. They may maintain landscaping or recreation centers. They may provide for events or meeting places for neighborhood functions. However, the most important function of an association is to enforce deed restrictions.

Deed restrictions are legally binding rules, filed with the real property records, which provide for building, maintaining and using the homes in your neighborhood. They control how homes look and what can be done in the subdivision.

Think for a moment about why you bought your home in the first place. You may have liked the curb appeal of your house or its floor plan, but you probably also considered the neighborhood – how the houses looked next door and down the street. You bought the neighborhood at the same time you bought your house. You bought a lifestyle and surroundings which were much larger than your own property, encompassing everything from the subdivision entries and the recreation center to all the other homes in the neighborhood, assuming it would stay that way.

Unfortunately, many subdivisions don't stay as nice as when they were new. Just like a home, a neighborhood can be well maintained or it can be allowed to fall apart. The big difference between an attractive and an unattractive neighborhood is not really the deed restrictions. Most neighborhoods have reasonably good deed restrictions. The crucial factor is the willingness of the men and women who make up the association's board of directors to enforce the rules that you do have.

What could happen if you don't enforce your restrictions? Plenty! People can amaze you with what they will think is acceptable in a neighborhood. Your subdivision could become a real zoo. Consider the man who kept a full grown lion in his garage, or the couple who kept four or five monkeys in the backyard. Of course there's always the usual demand for goats, chickens and pigs. These are all real cases where one person's idea of what is acceptable probably differs from what you want in your own neighborhood.

Another consequence of inaction is that your neighborhood could become an architectural showcase for the weird and unusual. Take, for example, the man who painted his brick home black and orange, alternating each brick with one painted orange and the next one painted black. Or just imagine a vivid assortment of day glow blue, purple or pink houses down your street. People have differing views of what is attractive and, without deed restrictions, you have a good chance of your neighborhood looking dramatically different from the way it did when you bought your home.

What about commercial use of the properties? Again, you may be surprised. How would you feel about a portable toilet company keeping its toilets and cleaning them on the driveway next door? Or what about a big semi tractor-trailer truck parked across the street? Or people in every business under the sun operating out of their homes? It all happens, and the only way you can preserve the lifestyle you thought you were buying is to enforce your deed restrictions. Without restrictions, some people would leave garbage in their yards permanently, never maintain their homes, park their cars and boats on the grass in their front yards, park motor homes in the street for years, leave construction unfinished, and make every kind of bizarre, structurally unsound remodeling project you can imagine.

These are real examples of problems faced by many local subdivisions in the last ten years. If the deed restriction violations are not corrected, there can be very negative results. Dr. Barton Smith, of the University of Houston Center for Public Policy, estimates that property values in a subdivision with an in active association can fall as much as forty percent due to failure to enforce restrictions.

To illustrate, multiply an average home price of \$50,000 times the number of lots in an average subdivision of 250 homes. This yields a total property value of \$12,500,000. This is the value of the assets that the association is trying to protect. If that property value is reduced by forty percent, the homeowners in the neighborhood lose \$5,000,000. Obviously, this is a disaster. Even worse, think about living in a subdivision that deteriorated that badly!

Even if home prices only lose ten percent in value due to a moderate failure to enforce deed restrictions, homeowners lose \$1,250,000. That kind of loss is simply unacceptable and completely unnecessary. The association, acting through its board of directors, can control the appearance of the neighborhood by taking deed restrictions seriously and vigorously enforcing any infraction of those restrictions.

Failure to enforce your community rules is like allowing a bacterial infection to go unchecked. At first it may appear to be a small problem, but it soon spreads and becomes very serious. Like getting a shot or taking medicine, enforcing deed restrictions can be unpleasant, but it is necessary for the health and vitality of your neighborhood.