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 **Kankakee County Recorder**

**UNLAWFUL RESTRICTIVE COVENANTS**

**Here is a little background to help understand what this is about:**

* It appears that between the late 1930’s through the 1960’s property owners found a way to enforce segregation and stop the flow of black residents to certain neighborhoods using racially restrictive deeds and covenants. These documents with the racially restrictive words were attached to parcels of land or subdivisions, and they were intended to prevent the sale, transfer, or rental of property to anyone black, also often including other racial, ethnic, or religious groups.

**Here is some history:**

* In 1948, the U.S. Supreme Court ruled that courts could not enforce these racially restrictive covenants, and they became illegal when the Fair Housing Act of 1968 banned race-based discrimination in housing.

While older historical deeds may still include such language, the language is not enforceable. And as property transfers occur, these types of restrictive covenants are no longer included in deeds. However, more than 50 years later we are still bearing witness to this appalling race-based language that is baked into the housing documents that sit in official government archives here in Kankakee County and in jurisdictions across the country.

This language remains as offensive today as when it was originally drafted, and it is a painful reminder of the deep and divisive history of discrimination and racial divide in this country. This is but one example of the many discriminatory housing practices of which both the government and other we complicit.

**ILLINOIS HAS PASSED A NEW LAW TO ADDRESS THIS ISSUE, WHAT ARE THE DETAILS?**

The Illinois Legislature acted last year to enact a law that gives a tool to property owners to conduct their own research to discover any unlawful restrictive covenant language and begin the process to have it redacted from the official records. This law took effect January 1, 2022. This law 55ILCS 5/3-5048 allows the property owner to search for a document that contains the unlawful restrictive covenant and submit a petition with the offending document to the Kankakee County Recorder’s Office requesting the redaction of unlawful restrictive covenant language. Upon review by the State’s Attorney’s Office and if it is determined an unlawful restrictive covenant exists, the Kankakee County Recorder’s Office will be notified and will then accept the new revised document that has the language removed and record the new deed into the property’s chain of title.

**So how is it determined that a property has unlawful restrictive covenant language in its chain of title:**

The responsibility if on the property owner to research and identify whether there is unlawful restrictive covenant language in their chain of title. This can be a challenging process as it requires research of the Kankakee County’s Recorder’s historical property records that date back to the beginning of county time 1853. It is recommended that customers who may be unfamiliar with the search process consider consulting with an industry professional.

**Where do you begin if you think your property may contain any unlawful restrictive covenants?**

The process begins by identifying the language in a property’s chain of title. To do this, a search of records must be conducted at the County Recorder’s Office located at 189 E Court Street – second floor in Kankakee. Utilizing the Recorders public computers, tracts books and Grantor/Grantee books an individual can begin the search process and retrieve any documents associated with their property and look for any unlawful restrictive covenant language that may exist. The staff at the Kankakee County Recorder’s Office is happy to lend a any customer to get them started in the searching process.

**If you come across racial or discriminating restrictive covenants, what’s next?**

There is a process of preparing correcting the language, preparing a petition and having the Kankakee County States Attorney to review. The Kankakee County Recorder has been working to develop policies and procedures to handle restrictive covenant requests and will begin rolling out procedural information to the public in the coming weeks and months.

**Are there costs or fees involved?**

According to the new law that has been passed, a recording fee of $10.00 was established to complete the process. The Kankakee County Recorder and State’s Attorney will be suggesting to the County Board at a future meeting that this specific fee be waived.

More information about the process and fee’s will be updated on the Recorder’s Website.

[www.k3countyrecorder.com](http://www.k3countyrecorder.com/)