

CAI Northern Ohio Chapter *Quarterly Newsletter*

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MESSAGE FROM THE PRESIDENT

Happy New Year! I hope everyone made it through 2020 unscathed and had an enjoyable holiday season.

Many things have changed, both globally and locally in the past year. Our Chapter is hoping to provide some normalcy in 2021 by holding seminars - virtually and in-person if possible.

This year we will host virtual seminars on the topics of Reserve Studies and Landscaping Contracts. There will be more details to come on both seminars.

We are also hoping to host the Fall Trade Show and have an additional outing later in the fall, COVID-19 ordinances permitting.

I hope you will all tune in to the virtual seminars or join us on an outing this year.

Judy Valus, President
Northern Ohio Chapter
Community Associations Institute

An Unfortunate Legacy: A Brief History of Racially Restrictive Covenants

By Dawn Bauman, CAE

Sr. Vice President, Government & Public Affairs
Community Associations Institute

February is Black History Month, a time when we recognize the contributions of African Americans throughout U.S. history and remember the challenges they have overcome and continue to face in the pursuit of equality. When it comes to housing, discriminatory practices such as racially restrictive covenants left a disheartening legacy for Black homeowners and, while legally unenforceable today, many of these covenants are still recorded on the historic deeds of individual homes and in community association governing documents.

Racially restrictive covenants first appeared in deeds of homes in California and Massachusetts at the end of the 19th century and were then widely used throughout the U.S. in the first half of the 20th century to prohibit racial, ethnic, and religious minority groups from buying, leasing, or occupying homes. Some covenants generally barred “non-Caucasian” groups, while others would list specific races, nationalities, and even individuals with disabilities.

These covenants were frequently applied by developers before new houses were sold, often as a condition to receive a low-interest, 20-year mortgage from the Federal Housing Administration (FHA) under the New Deal, which sought to stabilize the housing market after the Great Depression. The FHA required properties to meet appraisal standards that included racial exclusivity, and it sanctioned the use of segregation practices as a way for white neighborhoods to maintain high property values.

J.D. and Ethel Shelley challenged this unjust practice in 1945 when they purchased a home in St. Louis that had a racial restriction. Their case, *Shelley v. Kraemer*, ended up in the U.S. Supreme Court in 1948, where it was decided that racially restrictive covenants violated the Equal Protection Clause of the Fourteenth Amendment and were unenforceable.

Although the Shelleys won the case, discriminatory covenants were still enforced at a social level, and real estate agents often were encouraged to promote housing segregation. It was not until the Fair Housing Act of 1968, which prohibited “discrimination of sale, rental, and financing of dwelling or other housing-related transactions, based on race, color, national origin, religion, sex ...” that racially restrictive covenants were banned privately and judicially.

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Despite being illegal today, racially restrictive covenants unfortunately remain on many historic deeds and association governing documents because the process to remove them is difficult, time-consuming, and expensive. Without a streamlined process authorized by legislation, the amendment process can be costly and lengthy. Removing racially restrictive covenant typically requires the community to undergo an amendment process that includes engaging an attorney, following a process of notification to owners, calling a meeting, and most challenging getting a supermajority (more than 67%) of owners to participate in a vote to amend the covenant to remove the discriminatory covenant.

CAI believes community association boards should have a simplified process for removing these antiquated and unenforceable discriminatory covenants without a vote of the owners. We continue to advocate for state legislation that provides a process to remove restrictions deemed to be discriminatory under the federal Fair Housing Act or state anti-discrimination laws.

While progress has been made to right past wrongs, there is a lot of work ahead of us. CAI encourages all communities to take immediate steps to remove discriminatory covenants and continue to promote racial equity.



Needed: A Broader Perspective

By Betsy Barbieux, CAM, CFCAM, CMCA

Reprinted from *Florida Community Association Journal*, December 2021

An owner may feel it as unfair to be told to remove the used refrigerator sitting in her yard. She calls the manager and accuses her of discrimination, and says she is going to file a complaint with the EEOC (Equal Employment Opportunity Commission).

One board member thinks the president is not giving him the same information he is giving the other board members. He tells his neighbors the president is hiding information from everyone. Now those other neighbors are stirring up other neighbors who have other criticisms of the board president.

The manager is accused by a group of owners of stealing money from the association. They think this is true because the manager has bought a new car. This group is now making dozens of record requests looking for the “missing” money.

The owners in the far back of the community feel they are being left out, and their needs are not being met by the board members who live in the front. They start a petition to recall the whole board of directors.

The condominium owner who is an attorney thinks she is being ignored and mistreated because there is a delay in her roof repair. She send a letter threatening to sue the board for negligence; she makes threatening telephone calls to the roofing company. She does not accept any explanation of the delay that roofers are out sick, and that the summer rains have compounded the scheduling.

While each of these instances could be true, they could equally not be true. How does one determine what is true? What is needed to make that determination? It would seem a broader perspective is needed.



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A sensible person will add logic and facts to enhance their perspective. With only thoughts and feelings, we might set ourselves up for unrealistic expectations such as “everything has to be the way I want it to be.”

Logic says, “All my expectations will not be met, so I should listen, learn, communicate without drama, and find a solution. I need the facts so I can process my decision and determine my next course of action.”

When and how then do you get the facts to add to logic? By listening, and there is a skill to listening which more people apparently need to develop! Here are some tips for listening to increase your logic and facts.

LISTEN SLOWLY

This one is hard. If the owners or board members in the scenarios above had taken the time to make a telephone call and ask for clarification, they might have learned some things about living in a community association. They may have been reminded that there are restrictions on the use of their properties or that owners do have to pay assessments to support the operations of the association.

And listening works both ways. The person receiving the telephone call needs to listen empathetically, without interrupting. Both parties need to listen without accusing. Listening slowly includes not interrupting the other person while they are speaking. Ask for clarification. Try to take time to listen. Many mistakes and misunderstandings could be avoided if the other person had been fully heard.

If the conversation becomes nasty, abusive, or threatening, slowly tell the other person that you will end the telephone call if he or she continues with the menacing tone. If he doesn't stop, tell him again, and then end the call.

LISTEN WITH OPENNESS

Be sure to listen with openness. In other words, do not hinder your listening by prejudging the other person's motives. The following are some attitudes that hinder listening:

- Have already decided or made up your mind
- Have acted before completely listening to the information
- Have not heard what was actually said



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LISTEN FOR THE NEXT QUESTION

If you can learn this skill, this will make you the type of person whom people want to talk to. To listen for the next question, you really have to pay attention. The next question is usually a series of who, what, when, where, why and how questions. Ask one more question; don't assume all has been said.

The next question comes from some word that was used or a reference that was made in the conversation. Or, it could be a follow-up question from something you remember from a previous conversation.

In the first scenario, the woman with the refrigerator violation believes you are discriminating against her. You listen, and when there is a pause, you ask her, how is it discrimination? She says it is because of her race. You remind her that you have never met face to face. She says that all the neighbors know her race and don't like her. You remind her you are the new manager and know very little of the community gossip since you are not on site. Your job is to drive thorough the community, take pictures of the violations, and send a courtesy reminder to the owner with a clip of the appropriate rule. You go on to say that on your drive through, you noticed there were children playing in the driveway. They were having so much fun, and you ask, "Are they your children or grandchildren?" Yes, they are her grandchildren. They were having a hard time adjusting to life in a community that did not allow junk and trash in their yards. You comment that it must be difficult living in such a different culture. She agreed. You offer to help her by answering any other "cultural" questions she might have as she and the children get adjusted. She says thanks, apologizes for the threat to notify the EEOC, and then admits she doesn't really know what the EEOC is. She adds that she will remove the refrigerator. Now you are both in a better place than at the beginning.

Decisions are going to be flowed without a broader perspective. A sensible person has learned to balance what he thinks and feels by seeking facts. Doing so will result in more logical decisions, fewer misunderstandings, and less drama.