



DEVELOPMENT SERVICES

TO: Development Services Department Customers

SUBJECT: **INFORMATION BULLETIN 234**
City of San Antonio's Enforcement of Covenants and Deed Restrictions

DATE: September 26, 2018

Purpose:

The City of San Antonio Development Services is charged with coordinating land and building development throughout the city and enforcing city, state and federal ordinances and regulations related to development, building codes and the property maintenance code. This IB seeks to inform customers of Development Services ability to enforce covenants and deed restrictions.

Scope:

Covenants and Deed Restrictions: A covenant in land related use, are typically restrictions or conditions tied to the ownership or use of land. A covenantor makes a promise to a covenantee which must be in writing and if validly reached is enforceable in court. A covenant may be a covenant that runs with the land or may be covenants for title. They are set up as part of real estate transactions and creation of homeowner associations with the purpose of controlling land outside of zoning; with one consequence to protect land values.

In practice, a covenant is typically restrictions set on contracts like deeds of sale. They may be set into the deeds of all the lots built in a community by the developer and follow the land from one owner to the next. Covenants may be governed by the homeowner association (HOA) or condominium association but are different than HOA rules that are only tied to voting HOA membership and not legal documents. Covenants may dictate use of land but also dictate building materials, varieties of trees, restrict the number of dwellings, regulate building height and any number of other specific restrictions to land.

Covenants and deed restrictions are not required by the City of San Antonio, and the City is not involved in the creation and specific language of the many existing and various covenants and deed restrictions that exist throughout the City.

Although covenants and deed restrictions may be enforceable in a court of law (if not conflicting with state or federal law), they are not enforceable by the City of San Antonio who was not involved with their creation. The City of San Antonio is only authorized to enforce City and State zoning and development ordinances and statutes.

Historically covenants and deed restrictions were used to define how land can be developed, as does zoning ordinances. The difference is that the City of San Antonio is authorized by state law to create and enforce zoning, and the creation of zoning ordinances are required to be actions open to public hearing and public input. Covenants and deed restrictions are by nature not open to the public hearing process. Changing of deeds and covenants which are legal documents can only be accomplished through the courts and with all the heirs of a property or all the property owners in a subdivision and not through public input and public processes.

Summary:

This Information Bulletin has been prepared as a courtesy to assist customers who wish to have Development Services enforce or not enforce their covenants or deed restrictions, or to help them change their covenants or deed restrictions. Notwithstanding the guidance provided in this document, the regulations of the City of San Antonio shall apply in all cases. If you have any questions regarding this Information Bulletin, please call (210) 207-1111.

This Information Bulletin is for informational purposes only.

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