KINGS COUNTY CLERK/RECORDER'S OFFICE

RESTRICTIVE COVENANT MODIFICATION PROGRAM

IMPLEMENTATION PLAN

Background

The California Fair Employment and Housing Act prohibits discrimination in housing based on race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, familial status, source of income, disability, veteran or military status, or genetic information. Government Code section 12956.2(a) provides that any deed or other recorded instrument that contains unlawfully discriminatory language forbidding or restricting the right of any person to sell, buy, lease, rent, use or occupy the property on account of any of the characteristics specified above, may be revised to remove such unlawful language. A person who holds an ownership interest in property that believes the property is the subject of an unlawfully restrictive covenant may submit for recordation a Restrictive Covenant Modification document. If the existence of unlawfully restrictive language is confirmed by County Counsel, the modification document is recorded with the unlawful restrictive covenant redacted.

Pursuant to the 2021 legislation set forth in Assembly Bill (AB) 1466 and California Government Code Section 12956.3 (GC §12956.3), the Kings County Clerk/Recorder's Office (CRO) has developed the following Restrictive Covenant Modification Program Implementation Plan (Plan). It has been developed on the principle of identifying any unlawful language contained within CRO records, most notably the restrictive covenants, and once located, will recorded with redactions consistent with AB1466.

Plan

A multi-faceted approach to this program is the most effective means to accomplishing compliance with the guidelines of AB1466. The initial facet is the location or identification of any documents with potential unlawful language contained in our CRO records. The objective of locating the unlawful language in a document is not a quick nor simple task.

Milestones and Timeline

The goal is to complete the review of existing records by December 2029.

Approaches - Manual and Automated

While most of the records are in typed format, there are a significant number of the records that are handwritten and in books. They will require more labor-intensive review and process. CRO staff plan to review these records using technology capable of Optical Character Recognition (OCR); however, in order to utilize OCR, we all records must first be digitized. CRO plans to begin this process within ninety days after contract approval by Board of Supervisors for outside company to perform digitization. While the use of technology will significantly assist CRO efforts, CRO will not wait for the images to be digitized before proactively initiating a manual review of the records. Initially, CRO has a manual process in place to locate and review the documents with the unlawful language. This process will be later refined

through the use of technology. At a later stage, the enhanced use of both the manual and automated processes will be utilized to achieve the optimum level of implementing this program.

Process

Office staff will be responsible for:
      1. Locating the documents with potential unlawful language.
      2. Initiating the process for redaction.
      3. Review of the actual document to identify the unlawful language.
      4. Preparing the document for redaction.
      5. Presenting to County Counsel for review and approval of redaction.
      6. The recordation of the redacted restrictive covenant modification document.

CRO approach to the process is as follows:

Step 1: Locating the document with unlawful language – this step may be initiated through the efforts of the office staff, the public, and/or technology.

Step 2: Preparation of Redacted Restrictive Covenant Modification Document including coversheet – this step may be performed by office staff or a member of the public that may include the newly redacted language as well as a copy of the original document containing the unlawful language.

Step 3: Submission to County Counsel for review/approval – the Redacted Restrictive Covenant Modification Document and materials will be provided to County Counsel for review. The review period is up to 90 days.

Step 4: Upon County Counsel's approval, CRO staff will record and index the Redacted Restrictive Covenant Modification.

Requests and Submissions from the Public

While the utilization of technology and office staff will make significant strides towards accomplishing the goals of AB 1466 (2021), CRO is also prepared to receive submissions of redacted restrictive covenants modifications from the public. In cases where a member of the public notifies CRO of a potential restrictive covenant containing unlawful language, they will be provided the template coversheet to be attached to the front of the redacted restrictive covenant document. This template coversheet is available on our website (hyperlinked below).

Once the proposed Redacted Restrictive Covenant Modification has been prepared/packaged by CRO staff, it will be submitted to County Counsel for review and/or approval for redaction. The review process may take up to 90 days. Upon the CRO receiving County Counsel's approval for the Redacted Restrictive Covenant Modification document, office staff will record and index the approved document.

Tracking and Public Access

The newly recorded Redacted Restrictive Covenant Modification document will be tracked and available for review in the CRO Official Records Index. It is identified in the index as Restricted Covenant Modification.

Any proposed Redacted Restrictive Covenant Modification documents that were not approved by County Counsel will be tracked and logged.

Webpage Posting

This Implementation Plan is posted at the County Clerk/Recorder's webpage and can be found in the following link:

Kings County AB 1466 Implementation Plan

Resources:

Assembly Bill No. 1466

California Government Code Section 12956.3

California Government Code Section 27388.2

Coversheet – Racially Restrictive Covenant Modification