



Frequently Asked Questions pertaining to Restricted Covenants
Based on information reviewed at the January 21, 2025 information session

This document is provided for informational purposes only and should not be considered legal advice.

The information session was intended to offer a general understanding of restricted covenants but did not address specific legal situations.

1. What is a restricted covenant?

A **Restricted Covenant** is a legally binding agreement or condition that's typically placed on a property. These conditions restrict how the property can be used or developed in the future, and transfer with the property should it be sold. For example, it could prevent the property owner from building certain structures, from splitting the lot, running a business, or making changes that would impact the aesthetic of the neighborhood (impose height and setback restrictions). The restrictions usually "run with the land," meaning they bind future owners as well. (Source: ChatGPT)

The restricted covenant is permanent and very difficult to remove unless it contains an expiry date, i.e. 20 years.

2. Are there any existing restricted covenants currently in Lakeview?

Not that the lawyer could find.

3. Do you have to be a direct neighbor to the property with the restricted covenant?

You do not have to be a direct neighbor to the property with a restricted covenant. A restricted covenant is a binding contract with the landowner. If your neighbor has a restricted covenant and you do not, you are not restricted by that covenant and only city land use bylaws apply. Covenants on adjacent properties prevent an investor from buying up a group of lots and building a larger complex.

4. What has been the uptake of restricted covenants city wide since the blanket rezoning bylaw came into effect?

It is keeping the law firm very busy. Since last year they have probably worked on high hundreds, low thousands of RCs.

5. What is the cost of putting a restricted covenant on your property?

This really depends on how many people sign on under the same restricted covenant as the legal costs per household tend to drop since the lawyer's fees can be shared. Most communities are asking for \$500 per household. This helps pay for a lawyer to draft the restricted covenant and any left over money is used to set up a defense fund if the restricted covenant needs to be enforced in the future.

6. Is it true the City of Calgary does not enforce restricted covenants?

Yes, the City of Calgary does not enforce restricted covenants and will grant development permits on properties with restricted covenants. It is up to the landowner to enforce the restricted covenant and have it enforced through the court system. Restricted covenants operate outside of the municipal zoning bylaws.



7. How expensive is it to enforce a restricted covenant?

It depends on how quickly the developer backs off, but enforcement can cost between \$20-30k. When a demand letter is sent to a developer, they will often back off and find another site or alter their plans to avoid further legal conflict. In some situations, if the developer insists on pursuing the development despite the restricted covenant, a legal battle can ensue. The lawyers shared an instance at the information session where the legal fees amounted to \$100,000.

It is common for those properties under the same restricted covenant to set up a defense fund when pursuing restricted covenants to help with the cost of enforcement. Typically, the landowners under a specific restricted covenant need to enforce one, as that is usually the "test case" to see if the community is on top of it. This occurred in the community of University Heights.

8. What happens if you don't enforce the restricted covenant?

If you don't enforce a restricted covenant, then the judge may see that it is no longer relevant in a neighborhood and allow development to occur. However, they remain difficult to remove.

9. What is the difference between a restricted covenant and a caveat? (Scarboro has the George Anderson caveat)

Restricted Covenants (RCs): Imposes conditions on property use that "run with the land" (i.e., they apply to all future owners).

Caveats: Are notices of a claim or interest on the property's title and act as a warning to anyone considering dealing with the property.

10. How binding is a restricted covenant?

A restricted covenant is binding to any future buyer of the property as it "runs with the land." Having said that, it is possible to draft a restricted covenant with an expiration date (i.e., after 5 years, after 15 years). The modern covenants being drafted recently are typically 75 years in length as the thought is that the land would pass from one generation to the next.

11. Is it difficult to remove a Restricted Covenant?

Yes. To remove a restricted covenant you must get all landowners pertaining to the same restricted covenant to agree. A future buyer could see the difficulty of removing the restriction as a negative.

12. Can I call the lawyer from Carbert Waite if I have any follow-up questions?

Yes, but his legal advice will be at your own cost as the Lakeview Community Association is not keeping an open tab for the firm to field questions.

13. What is the LCA's involvement in restricted covenants?

None, this is a private matter for residents within the community related to their property. Everyone must do what is best for them and their property.