

## **Buyer and Realtor Home Sale Acknowledgement of CCRs**

It is not unusual for a home buyer to move into an HOA and shortly thereafter they violate a CCR (control, covenant, restriction). The homeowner finds the violation an infringement on their property rights, the CCRs illegal and/or a reason to begin litigation to fight the restriction. Let's call this post-purchase blues: "if I'd only known I wouldn't have moved into this HOA". The HOA on the other hand argues the home buyer was provided with the CCRs prior to moving in and if they didn't read or understand them they should blame themselves.

The current process of shuffling documents between a buyer, realtor and HOA prior to closing (and sometimes too close to the home closing to be very useful) is more a rote or mechanical process than a task to educate the buyer and influence their buying decision. The process simply fails the intended purpose of educating and developing an informed consumer. Furthermore, knowing that CCRs can be a turnoff to the buyer, some realtors would rather slide them aside and not make them issue.

Ignorance of CCRs by prospective home buyers and even current homeowners is a problem for both homeowner and HOA and is a costly problem at times. Homeowners suing the HOA over CCRs and HOAs fining and suing homeowners for violations. Both cost the parties in legal fees and the solution or at least a means to mitigate litigation seems easy to implement and rests with two processes: 1) prior to and during the process of providing the home buyer with the HOA documentation required to close on the sale, both the home buyer and Realtor should be required to sign that the home owner was provided the CCRs, read and understands them. 2) most CCR violations do not and should not require a court case, lawyers and legal costs to resolve:

they are simple, non-litigious and clear-cut cases. If the State would implement an out of court binding dispute process that is accessible and affordable within the State HOA Office as suggested in HB 20-1200 these violations would be resolved quickly and at very, very low cost to both parties.

The sign-off to acknowledge reading the CCRs is a no cost solution and appears easy to implement without legislation by authority vested to DORA (Department of Regulatory Agencies, Real Estate Division). The dispute resolution process requires legislation and to date has been killed by lawyers (they love court cases and legal fees) and those from the property management industry.