

# AB 1466

## RESTRICTIVE COVENANT MODIFICATION



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Joe Paul Gonzalez  
County Clerk,  
Auditor & Recorder



# BACKGROUND

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In the early 20th century, it was common for restrictive covenants on property to include racially restrictive language. This would prevent people of color from purchasing, renting or using a property. Most common between the 1930's & 1940's. It was finally forbidden by the Supreme Court in 1948.

Real property: discriminatory restrictions are **illegal & void** under existing law. However, they still exist.

Current law authorizes a process for a property owner to remove the illegally restrictive covenant provisions. However, most people are not even aware that the covenants exist, & very few property owners have taken the necessary steps to redact the record.

# THE OBJECTIVE

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January 1st & July 1st 2022

Recorder's are required to provide & make available for the public modification forms in their office & their websites.

By Board of Supervisors approval, authorizes a \$2 fee increase for the first page of every recording until December 31st 2027. This fee is not authorized on documents exempted by SB2 fee.

County Counsel or designee approval is needed prior to the recording of each document. They have up to 3 months to review.

By July 1st 2022,

Each county is required to establish & implement a restrictive covenant program to assist in identifying & redacting unlawfully restrictive covenants that are in violation of GC12955(1)

# Example

## DECLARATION OF RESTRICTIONS

WHEREAS, M. F. Daniels and Mary F. Daniels, his wife, are the owners of that certain tract of land, situate, lying and being in the County of Sonoma, State of California, particularly described as follows, to-wit:

"Edgewood Farms, being a portion of McDonald Ranch Subdivision all in Rancho Cabeza de Santa Rosa" filed September 18, 1946 in Book 59 of Maps, pages 9, 10, 11 and 12, Sonoma County Records".

AND, WHEREAS, it is the intention of said parties to create a general plan for the improvement of all of said property for the benefit of themselves and for their future grantees;

NOW, THEREFORE, M. F. Daniels and Mary F. Daniels, do hereby declare that the property hereinabove described shall be subject to the following covenants, restrictions and conditions which may be enforced by the parties hereto, their successors and/or grantees;

Book 717 39

1. All lots in the tract shall be known and described as residential lots, except Lots 1, 2, 3, 11 and 12 in Block 1 and Lot 1 in Block 2 of the above described property, which may be used for commercial purposes.

2. No structures shall be erected, altered, placed or permitted to remain on any residential building plot other than one detached single-family dwelling or one dwelling not to exceed two and one-half stories in height and a private garage for not more than 3 cars and other outbuildings incidental to residential use of the lot.

3. No building shall be erected, placed, or altered on any building plot in this subdivision until the building plans, specifications, and the plot plan showing the location of such building have been approved in writing by a committee composed of C. J. Wright and T. M. Daniels, or their authorized representative, for conformity and harmony of external design with existing structures in the subdivision; and as to location of the building with respect to property and building setback lines. In the case of the death of any member or members of said committee, the surviving members or member shall have authority to approve or disapprove such design or location. If the aforesaid committee or their authorized representative fails to approve or disapprove such design and location within 30 days after plans have been submitted to it, or if no suit to enjoin the erection of such building, or the making of such alterations has been commenced prior to the completion thereof, such approval will not be required. Said committee or their authorized representative shall act without compensation. Said committee shall act and serve 7 years, at which time the then record owners of a majority of the lots which are subject to the covenants herein set forth may designate in writing duly recorded among the land records their authorized representative who thereafter shall have all of the powers, subject to the same limitations, as were previously delegated herein to the aforesaid committee.

4. No building shall be located on any residential building plot nearer than 25 feet to the front lot line, nor nearer than 20 feet to any side street line;

No building, except a garage or other outbuilding located 65 feet or more from the front lot line, shall be located nearer than 5 feet to any side lot line. No residence or attached appurtenance shall be erected on any lot farther than 25 feet from the front lot line.

Page -2- Declaration of Restrictions "Edgewood Farms".

5. No residential structure shall be erected or placed on any plot, which plot has an area of less than 6000 square feet nor a width of less than 50 feet at the front building setback line.

6. No noxious or offensive trade or activity shall be carried on upon any lot nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood.

7. No persons of any race other than the Caucasian race shall use or occupy any building or any lot, except that this covenant shall not prevent occupancy by domestic servants of a different race domiciled with an owner or tenant.

8. No trailer, basement, tent, shack, garage, barn or other out-building erected in the tract shall at any time be used as a residence temporarily or permanently, nor shall any structure of a temporary character be used as a residence.

9. No dwelling costing less than \$5,000.00 shall be permitted on any lot in the tract. The ground floor area of the main structure, exclusive of one-story open porches and garages, shall be not less than 1000 square feet in the case of a one-story structure nor less than 1000 square feet in the case of a one and one-half, two, or two and one-half story structure.

10. These covenants are to run with the land and shall be binding on all the parties and all persons claim-

# THE FORMS

PLEASE COMPLETE THIS INFORMATION  
RECORDING REQUESTED BY:

WHEN RECORDED MAIL TO:

THIS SPACE FOR RECORDER'S USE ONLY

Street Address:

APN:

## RESTRICTIVE COVENANT MODIFICATION

(RACIAL OR OTHERWISE UNLAWFULLY RESTRICTIVE COVENANT MODIFICATION)

I (We) \_\_\_\_\_ have an ownership interest of record in the property located at \_\_\_\_\_ that is covered by the document described below.

The following referenced document contains a restriction 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 as defined in subdivision (p) of Section 12955, or ancestry that violates state and federal fair housing laws and that restriction is void. Pursuant to Section 12956.2 of the Government Code, this document is being recorded solely for the purpose of eliminating that restrictive covenant as shown on page(s) \_\_\_\_\_ of the document recorded on \_\_\_\_\_ (date) in Book \_\_\_\_\_ of the official records of the County of \_\_\_\_\_.

This modification document shall be indexed in the same manner as the original document pursuant to Government Code Section 12956.2(c):  
The effective date of the terms and conditions of this modification document shall be the same as the effective date of the original document referenced above.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of \_\_\_\_\_

On \_\_\_\_\_ before me, \_\_\_\_\_  
(insert name and title of the officer)

personally appeared \_\_\_\_\_ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/ she/they executed the same in his/her/their authorized capacity(ies), and that by his/ her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.  
WITNESS my hand and official seal.

Signature \_\_\_\_\_ (Seal)

The office of the San Benito County Counsel, pursuant to Government Code Section 12956.2, hereby states that it has been determined that the original document Does  Does Not  contain an unlawful restriction.

San Benito County Counsel

BY:

\_\_\_\_\_  
Assistant County Counsel

Date: \_\_\_\_\_

JANUARY 1st 2022

RECORDING REQUESTED BY:

[Redacted]

WHEN RECORDED MAIL TO:

NAME

[Redacted]

MAILING ADDRESS

[Redacted]

CITY, STATE and ZIP CODE

[Redacted]

SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE

**RESTRICTIVE COVENANT MODIFICATION**  
(Racial or Otherwise Unlawfully Restrictive Covenant Modification)

The following referenced document contains a restriction based on age, race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, familial status, marital status, disability, veteran or military status, genetic information, national origin, source of income as defined in Section 12955 of the Government Code, or ancestry, that violates state and federal fair housing law and is void.

Pursuant to Section 12956.2 of the Government Code, this document is being recorded solely for the purpose of redacting and eliminating that restrictive covenant as shown on page(s) [Redacted] of the document recorded on [Redacted] (date) in book [Redacted] and page [Redacted], or as instrument number [Redacted] of the official records of the County of San Benito, State of California. Attached hereto is a true, correct and complete copy of the document referenced above, with the unlawfully restrictive covenant redacted.

This modification document shall be indexed in the same manner as the original document being modified, pursuant to subdivision (d) of Section 12956 of the Government Code.

The effective date of the terms and conditions of this modification document shall be the same as the effective date of the original document.

Signature of Submitting Party: \_\_\_\_\_ Date: [Redacted]

Printed Name: [Redacted]

[Redacted] County Counsel, pursuant to paragraph (1) of subdivision (b) of Section 12956.2 of the Government Code, hereby states that it has determined that the original document referenced above contains an unlawful restriction and this modification may be recorded.

Or

[Redacted] County Counsel, pursuant to paragraph (1) of subdivision (b) of Section 12956.2 of the Government Code, finds that the original document does not contain an unlawful restriction, or the modification document contains modifications not authorized, and this modification may not be recorded.

Approved: San Benito County Counsel

Signed: \_\_\_\_\_ Date: [Redacted]

By: [Redacted], Deputy County Counsel

**JULY 1st 2022**



# COVER PAGE

FOR DOCUMENT COPIES

## COUNTY OF SAN BENITO

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### ASSEMBLY BILL NO. 1466

Real property: discriminatory restrictions

#### RESTRICTIVE COVENANT MODIFICATION NOTICE:

“If this document contains any restriction based on age, race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, familial status, marital status, disability, veteran or military status, genetic information, national origin, source of income as defined in subdivision (p) of Section 12955, or ancestry, that restriction violates state and federal fair housing laws and is void, and may be removed pursuant to Section 12956.2 of the Government Code by submitting a “Restrictive Covenant Modification” form, together with a copy of the attached document with the unlawful provision redacted to the county recorder’s office. The “Restrictive Covenant Modification” form can be obtained from the county recorder’s office and may be available on its internet website. The form may also be available from the party that provided you with this document. Lawful restrictions under state and federal law on the age of occupants in senior housing or housing for older persons shall not be construed as restrictions based on familial status.”

Any person including those who do not have an ownership interest in the property including Recorders, can record Restrictive Covenant Modifications to address unlawful restrictive covenants.

Clerk: (831) 636-4029  
Recorder: (831) 636-4046

Elections: (831) 636-4016  
C-R-E Fax: (831) 636-2939

# PROGRAM REPORTING

- Before December 31, 2022 AB 1466 requires CRAC to convene a best practices meeting to share concepts on RCM implementation.
- Records will meet annually until December 31, 2027 to discuss the RCM program.
- Before January 1, 2023 CRAC shall submit status reports on the RCM program to the legislature.
- Reports may include the number of documents that have been redacted and the timelines to complete needed steps.