



Cheryl Davila
Councilmember
District 2

CONSENT CALENDAR

December 1, 2020

To: Honorable Mayor and Members of the City Council

From: Councilmembers Cheryl Davila (Author), Councilmember Kesarwani (Co-Sponsor), Councilmember Harrison (Co-Sponsor)

Subject: Striking Racially Restrictive Covenants in Certain Property Deeds

RECOMMENDATION

Adopt a Resolution and send a letter to the Alameda County Board of Supervisors and the Governor of California with the following actions:

1. The City calls upon the County of Alameda to determine which parcels of real property have deeds that have racially restrictive covenants associated with them and to proactively strike from those covenants the racially restrictive language, thereby relieving homeowners of the burden of removing such language.
2. The City urges the California legislature and governor to pass legislation requiring the same actions in every California county.

BACKGROUND:

There are neighborhoods in the City of Berkeley that historically have been designated on various maps relied on by financial institutions, realtors, and governmental agencies to determine various factors affecting the value of homes in these areas, including the alleged financial risk of mortgages, and to whom such homes would be sold. This map designation is also known as “red-lining.”

As a result of federal home loan policies in existence until at least 1948 and afterwards, mortgages or loan guarantees were conditioned on racially restrictive covenants being attached to deeds to homes built in redlined neighborhoods and other neighborhoods considered appropriate for moderate income homebuyers. A typical language in these covenants states: “No lot nor plot nor building in tract shall be occupied nor resided upon by persons not wholly of the white Caucasian Race except servants or domestics employed by a white Caucasian owner or tenant.” Racial prejudice by individual developers may have also resulted in the establishment of these covenants.

Racially restrictive covenants violate state and federal laws and cannot be enforced by any court.

California Government Code section 12956.2 provides a process whereby a homeowner may record with the county recorder a document titled "Restrictive Covenant Modification." This process may require that the homeowner pay a fee. It also requires the county recorder to submit the modification document to the county counsel for approval.

It is critical that the vestiges of housing discrimination be eliminated as much as possible. Because the government has been historically responsible for sanctioning and enforcing racially restrictive covenants, it remains the responsibility of government, rather than of private citizens, to purge the racially restrictive provisions of all deeds within its jurisdiction.

The County of Alameda, County Recorder's Office, has custody of property deeds in the County, and has the authority to strike the language of racially restrictive covenants.

FINANCIAL IMPLICATIONS

None.

ENVIRONMENTAL SUSTAINABILITY

Protecting our communities from racially restrictive covenants during this climate and health crisis is an act of environmental sustainability and justice.

CONTACT PERSONS

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Councilmember District 2
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ATTACHMENTS:

1. Resolution
2. Letter to Alameda County and Governor of California

RESOLUTION NO. #####

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BERKELEY, CALIFORNIA,
STRIKING RACIALLY RESTRICTIVE COVENANTS IN CERTAIN PROPERTY DEEDS

WHEREAS, There are neighborhoods in the City of Berkeley that historically have been designated on various maps relied on by financial institutions, realtors, and governmental agencies to determine various factors affecting the value of homes in these areas, including the alleged financial risk of mortgages, and to whom such homes would be sold. This map designation is also known as “red-lining.”; and

WHEREAS, As a result of federal home loan policies in existence until at least 1948 and afterwards, mortgages or loan guarantees were conditioned on racially restrictive covenants being attached to deeds to homes built in redlined neighborhoods and other neighborhoods considered appropriate for moderate income homebuyers. A typical language in these covenants states: “No lot nor plot nor building in tract shall be occupied nor resided upon by persons not wholly of the white Caucasian Race except servants or domestics employed by a white Caucasian owner or tenant.” Racial prejudice by individual developers may have also resulted in the establishment of these covenants; and

WHEREAS, Racially restrictive covenants violate state and federal laws and cannot be enforced by any court; and

WHEREAS, California Government Code section 12956.2 provides a process whereby a homeowner may record with the county recorder a document titled “Restrictive Covenant Modification.” This process may require that the homeowner pay a fee. It also requires the county recorder to submit the modification document to the county counsel for approval; and

WHEREAS, It is critical that the vestiges of housing discrimination be eliminated as much as possible. Because the government has been historically responsible for sanctioning and enforcing racially restrictive covenants, it remains the responsibility of government, rather than of private citizens, to purge the racially restrictive provisions of all deeds within its jurisdiction; and

WHEREAS, The County of Alameda, County Recorder’s Office, has custody of property deeds in the County, and has the authority to strike the language of racially restrictive covenants.

NOW THEREFORE BE IT RESOLVED that the City Council of Berkeley, hereby support Striking Racially Restrictive Covenants in Certain Property Deeds, and send a letter to the Alameda County Board of Supervisors and the Governor of California with the following

actions:

1. The City calls upon the County of Alameda to determine which parcels of real property have deeds that have racially restrictive covenants associated with them and to proactively strike from those covenants the racially restrictive language, thereby relieving homeowners of the burden of removing such language.
2. The City urges the California legislature and governor to pass legislation requiring the same actions in every California county.

November 9, 2020

Richard Valle, Board President
Alameda County Board of Supervisors
1220 Oak Street, Rm. #536
Oakland CA 94612

RE: Elimination of Racially Restrictive Covenants from Alameda County Property Deeds

Dear President Valle and all Members of the Board of Supervisors:

Pursuant to a resolution passed by its City Council, the City of Berkeley urges the Alameda County Board of Supervisors to take appropriate legislative or administrative action to determine which residential properties in its jurisdiction have deeds that have covenants containing racially restrictive clauses, and direct the County Recorder's office to proactively remove such language from those covenants.

Racially restrictive covenants associated with real property have been made illegal in this country and in California by U.S. Supreme Court decisions and federal and state legislation. California Government Code sec. 12956.2 establishes a procedure whereby a homeowner may request the county recorder to modify a racially restrictive covenant. Yet this process potentially requires the homeowner to pay fees, and is subject to approval by the County Counsel.

The City of Berkeley passed the attached resolution because it believes that the responsibility for eliminating this illegal language lies with governmental institutions, not on the individual homeowner.

Sincerely,

The Berkeley City Council

Cc: Melissa Wilk, Alameda County Recorder

November 9, 2020

Honorable Gavin Newsom,
Governor, State of California
1303 –10th St., Suite 1173
Sacramento, CA 95814

RE: Curing Racially Restrictive Covenants

Dear Governor Newsom:

Since 1948 and through the years, racially restrictive covenants associated with real property have been made illegal in this country and in California by U.S. Supreme Court decisions and federal and state legislation. Yet the language of these covenants, prohibiting homeowners in certain neighborhoods to sell or rent to anyone not “of the Caucasian race” persist in covenants attached to real property deeds throughout California, including the City of Berkeley.

California Government Code sec. 12956.2 establishes a procedure whereby a homeowner may request the county recorder to modify a racially restrictive covenant. Yet this process potentially requires the homeowner to pay fees, and is subject to approval by the county counsel.

Pursuant to the attached resolution, the City of Berkeley urges the State of California to take appropriate legislative action directing all counties in the State to determine which residential properties in their jurisdictions have deeds with covenants that contain racially restrictive clauses, and require counties to proactively remove such language from those covenants.

The City of Berkeley passed the attached resolution because it believes that the responsibility for eliminating this illegal language lies with governmental institutions, not on the individual homeowner.

Sincerely,

The Berkeley City Council

Cc: State Senator Nancy Skinner
State Assemblymember Buffy Wicks