



ORANGE COUNTY CLERK-RECORDER RECORDING OPERATIONS POLICY & PROCEDURE

*Effective Date: 3/23/2021
Revision Date 1/1/2022*

Title: Restrictive Covenant Modification

Background: Section 12956.2 (a) (1) was amended to authorize a person who holds or is acquiring an ownership interest of record in property that the person believes is the subject of an unlawfully restrictive covenant in violation of subdivision (I) of Section 12955, may record a document titled Restrictive Covenant Modification. The modification document shall include a complete copy of the original document containing the unlawfully restrictive language with the unlawfully restrictive covenant language redacted.

Purpose: Provide a process and procedure to assist property owners in the removal of unlawfully restrictive covenants from these recorded documents, pursuant to Government Code 12956.2.

Policy: The Clerk-Recorder will assist property owners with the expeditious removal of the unlawfully restrictive covenants, upon County Counsel determination that such language contains an unlawful restriction based upon age, race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, familial status, marital status, disability, veteran or military status, national origin, source of income as defined in subdivision (p) of Section 12955, or ancestry.

The Restrictive Covenant Modification and Restrictive Covenant Modification Procedure shall be provided to the public, upon request and at no charge.

Procedure:

1. The removal process requires the property owner to submit a completed, signed and acknowledged Restrictive Covenant Modification form to our office, along with a copy of the original document with the unlawful restrictive covenant highlighted, and a copy of the original document with the unlawful restrictive covenant redacted.
2. Before recording the Restrictive Covenant Modification, the Examiner must submit the documents referenced in section 1 to his/her Supervisor for review, who will then submit the documents to County Counsel for its determination as to whether the document contains an unlawful restrictive covenant.

3. County Counsel will inform the submitting Supervisor of its determination, within a reasonable period of time not to exceed three months from the date the request for recordation is made, unless extraordinary circumstance apply.
4. The County Recorder shall refuse to record the modification document if County Counsel finds that the original document does not contain an unlawful restrictive covenant. If County Counsel agrees that the original document does contain an unlawful restriction, he/she will sign the Restrictive Covenant Modification (electronic signature by County Counsel is acceptable), and the document will be recorded, along with the copy of the original document with the unlawful restrictive covenant redacted.
5. Recording charges will be waived, pursuant to Section 27361, and is SB2 exempt.
6. The modification document shall be indexed as a Restrictive Covenant Modification and in the same manner as the original document being modified. It shall contain a recording reference to the original document in the form of a book and page or instrument number, and date of the recording. The effective date of the document would be the same as the original document. The index shall be made available to the public and will include "Restrictive Covenant Modification" in the title in the online index.

RECORDING REQUESTED BY:

WHEN RECORDED MAIL TO:
NAME

MAILING ADDRESS

CITY, STATE and ZIP CODE

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) _____ of the document recorded on _____ (date) in book _____ and page _____, or as instrument number _____ of the official records of the County of Orange, 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: _____

Printed Name: _____

_____ 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

_____ 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: County of Orange County Counsel

Signed: _____ Date: _____

By: _____,
Deputy County Counsel