

Deborah Ross is a partner in the law firm and her law firm represents over 400 property owner and condominium associations. She was recently asked the implications of living in a deed restricted community. The following is her response:

**What does it mean to live in a "deed restricted community"?**

A deed restricted community is created when a person or entity who owns a large parcel of land records restrictive covenants that bind all of the property. The property is then subdivided into lots and sold to individual owners subject to those restrictions.

**What is the legal implication of buying one of those lots?**

Since the restrictions are recorded in the county in which the property sits, anyone who buys property within the community is deemed to have "constructive knowledge" of those restrictions. What this means, is that even if owners do not have actual knowledge of the restrictions or the specific terms thereof, they are presumed to have knowledge of and to have agreed to abide by same. In essence, the buyer is legally bound to abide by the restrictions whether they claim knowledge of them or not!

**Why do people choose to live in a deed restricted community?**

People choose to live in a deed restricted community because they want the amenities offered by such a community. Oftentimes such communities offer common facilities such as clubhouses, swimming pools, tennis courts, etc. In most cases buyers simply want to live in a community that is well kept, properly maintained and aesthetically pleasing. In reality they are simply looking for some assurance that their property values are preserved. It's for all of these advantages, that the property owners agree to give up some freedom with regard to how he or she use their property.

**What is the role of a community association which operates a deed restricted community?**

The role of a community association, like the Arbors, which operates a deed restricted community is a double edged sword. On one hand, the residents expect the association to take appropriate action to ensure that all of the individual lots and the common areas are well maintained and aesthetically pleasing, and to ensure that other residents abide by the restrictions. On the other hand, it is oftentimes the same homeowners who are adverse to taking direction from the association.

**How does the Association operate?**

The Association operates under the guidance of an elected Board of Directors, empowered by the covenants and restrictions to establish rules on behalf of the membership. Members are bound to follow those rules as well as the restrictions. Your Design Criteria are a good example of community rules.

**Is the role of a board of directors particularly complex or difficult?**

Yes, the role of the members of a board of directors which operates a community association can sometimes be difficult, because the board members must balance their duty to enforce the deed restrictions and their desire to live amicably with their neighbors. And...after all...that may, at times, require them to bring legal

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action or levy fines against non-compliant owners who may be their neighbors.

**So what can the residents do to help in the process?**

It is the duty of all residents of a deed restricted community to assist the board of directors not only by bringing their concerns to the attention of the association, but to follow its directives as well. They need to be aware of the rules and abide by them....or...take an active role in seeking to amend them.

**In a nutshell then, what does it mean to live in a deed restricted community?**

When someone lives in a deed restricted community, they must understand that they give up the unfettered right to use their property in any way they see fit in exchange for the benefits of an aesthetically pleasing, well kept, properly preserved and appropriately managed community.