

WHOA -

What does HOA have to do with my home design



Conformance with deed restrictions can lead to a picture perfect neighborhood!

BY CAROLIN SANTANGELO

WHOA – What does an HOA have to do with my home design? Whether designing to build, or redesigning to add on, you must be aware of restrictions applying to your subdivision; the bylaws and rules of the Home Owners’ Association (HOA).

You may have purchased in a neighborhood that has deed restrictions, which can also be known as by-laws, or covenants. Covenant is an old word with the sacred connotation of a pledge or commitment. At purchase, owners make a commitment to abide by the rules.

If you are considering purchasing a home or vacant land within a developed subdivision, there is a high probability it is governed by deed restrictions. Confirm this with the seller or listing agent, and request a copy for review prior to closing. Most real estate purchase contracts require the seller provide the buyer with a copy for review prior to closing. Or, you can purchase a copy directly from the homeowners’ association for a nominal fee. Should you have any concerns about your intended plans for the home or property, request clarification from the HOA.

Lack of knowledge of the restrictions is not an acceptable defense should you attempt to construct something out of character with these rules. It behooves you to have a good understanding before you sign on the dotted line. If you have purchased in a subdivision that has rules, you must assimilate! You have a responsibility, which you signed upon, to adhere to these. Seek approval of the HOA prior to any construction or improvement; even painting and color selection may require review!

There is always one guy on the block who bought because he found the neighborhood attractive, and then says: “Nobody is going to tell me what I can do!” Management companies have attorneys at their disposal, which will first warn with a letter, and if needed, can pursue legal encumbrances on the property. An HOA has first right of lien – and if what is done with a property, in violation of the deed restrictions, is worthy of it, the HOA can pursue legal action to get the issue corrected.

Your lot may be 50 feet wide, and you are thinking of constructing a home or addition that will take advantage of its width, yet the build-able footprint may be as little as 34 feet. Subdivision

restrictions vary, and may require as much as 8 to 10 feet wide side yard setback. Where subdivisions do not define a building setback, city ordinances take precedent. For example, Galveston mandates a minimum 3 feet wide side yard setback for lots less than 50 feet wide at the street. While a neighborhood might like to enforce more; for instance, 5 feet, unless it is part of the covenants, only a 3 feet minimum setback can be enforced. Every neighborhood is different, some have deed restrictions on rear setback lines of as much as 15 to 20 feet, and others, usually along canal waterfront, may have no definition.

Occasionally a prospective client has an idea of a house design found in a plan book or on-line, and after a quick evaluation it is apparent that it won’t fit on their lot! What seemed to be an adequate width is constricted by building setbacks in a way that won’t permit a house plan of the size or configuration the homeowner had in mind!

Similarly, when planning an addition, there can be limits to what can be constructed. Just because a pre-existing patio or deck has been there for ages, a room addition in that location may not be acceptable. Aerial, or overhead, restrictions and easements may not permit a more permanent structure. Height restrictions also exist in some deed restrictions: limiting by either of height in feet, or height by number of floors.

There are developments which require specific features; i.e. exposed rafter tails for a cottagey look, metal roof, specific lighting, or an aesthetic that only their architectural control committee may be able to define; including types of siding, specific color palettes, or articulations that will define each house as unique. All these items can impact the design of the home. Make yourself familiar with the restrictions that apply to your property before planning a remodel, addition, or new construction. Comply with the terms; do not assume that a waiver will be awarded in your case. You can still have a great house on the island, and maintain a great relationship with your HOA and the neighbors!

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