

Deed Restriction Amendments

The HOA portion of this month's newsletter is being dedicated to a single topic that is so important that it warrants your undivided attention. The articles for security and deed restrictions will appear next month.

In August, we mailed to homeowner's in Sections 1 through 8 and 12, 14 and 15 proposed deed restriction changes for approval. Mind you, we are speaking of Sections not Area. Section refers to part of the recorded legal description for your property ie; Lot, Block, Subdivision and Section. The Area designation is a classification the HOA devised to ensure that homeowner's have fair and equitable representation on the HOA Board since some sections are very large and some very small. This has caused considerable confusion among many residents.

The first deed restrictions were written and recorded in the early 1970's. As the developer completed building homes in different geographic areas, a new set of deed restrictions would be recorded for that newly developed area. This process continued as new sections were completed until our subdivision was fully developed. Hence, we often had deed restrictions for various sections of the subdivision that differed from those recorded in the previous sections.

The older sections (identified above) did not take into consideration the ability to increase maintenance fees as the cost to provide services rose over the years. These older deed restrictions expire at the end of this year and will automatically renew for another ten years unless we amend them.

As the costs for essential services (security, mosquito spraying, landscape maintenance, forced mowing of vacant properties, etc.) rose, we were able to pass the increased cost to homeowner's through a "Community Service Fee" authorized by the State Legislature.

A recent Texas Supreme Court ruling has altered the Association's ability to assess the "Community Service" fee necessitating the need to amend our antiquated deed restrictions in these older Sections.

The Association's track record in increasing assessments has been excellent. Over the past thirty years, the fees have gone from \$84.00 to \$196.00. The HOA last raised maintenance fees over 7 years ago. If the Association has no ability to increase the fees from time to time, they will eventually be forced to reduce services to the community. These services help keep our neighborhood attractive and competitive with other subdivisions and protect the health and safety of our homeowners. It is worth noting that our HOA dues are among the lowest in the area.

The primary focus of the amendments is the wording affecting maintenance assessment's which allows the Board to increase the fees by 10% over the prior year amount if circumstances call for additional funds.

The 10% limit was included in the new proposal as a "trigger" that would require a homeowner election to raise fees any higher. Under the Community Service Fee scenario, there was no such protection for homeowners and as few as 30 homeowners present at a meeting could raise your assessment without any dollar limit.

The proposed amendments mailed to the affected area's had an accumulation clause that allowed the HOA to retroactively apply the 10% increase for those years in which there were no increases. Many homeowner's objected to this provision. Your HOA Board again revisited the proposed changes and agreed with the homeowner's and has removed this objectionable provision.

There are some other provisions in the original deed restrictions that need to be altered to clarify the legal language in the existing deed restrictions to reflect today's environment. Namely, taking out the reference to the "Memorial Northwest Maintenance Fund" and incorporate the terminology "Memorial Northwest Homeowner's Association" which is the correct legal entity governing the subdivision.

The process for the amendment of these restrictions requires the "affirmative" vote of the majority of the homeowners. You signing the proposed amendments mailed to you accomplish this. If you are opposed to the amendments, you simply do not return the signature page. If you do not have your legal description, we can complete this information on your behalf.

I cannot stress the importance of updating these outdated deed restrictions. Remember, as it allows us to continue to provide the essential services.

We should also note that amending the deed restrictions is necessary regardless of any pending negotiations regarding the Memorial Northwest Swim & Racquet Club.

It's unfortunate that the timing of these proposed changes to the deed restrictions is occurring at the same time that the HOA is evaluating the opportunity to have the Swim & Racquet Club donated to the subdivision. This has caused considerable confusion.

The "Club" issue is a completely separate issue and should not be confused with the need to update our deed restrictions.

Before the “Club” acquisition could occur, homeowner’s would have to approve it in a special election requiring a majority vote of the entire membership.

As the year is rapidly coming to an end, I cannot stress enough the importance of the homeowner’s in the affected sections signing and returning the proposed changes recently mailed to you.

Your HOA Board has unanimously endorsed the proposed deed restriction amendments and urges you to sign and return them as quickly as possible.