

## **UNDERSTANDING COMMUNITY ASSOCIATION USE RESTRICTIONS**

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By purchasing your home you agreed to certain rules and use restrictions. Rules apply to the common areas; such as the pool, clubhouse or playground, whereas use restrictions apply outside of the common areas. Architectural controls are one of the most common types of use restrictions.

Architectural controls apply to such things as; constructing additions, exterior painting, and changing the landscaping around your home. In short, these types of modifications usually require written pre-approval from the Association. (In next quarter's article I will discuss architectural controls in more detail.) Other typical use restrictions include leasing guidelines, pet rules, sign limitations, and parking regulations.

The Board has implied authority to create rules for the common areas, but use restrictions must appear in the covenants. As long as a use restriction appears in the covenants, the Board can pass regulations further defining the restriction.

For example, if the covenants include a provision stating that pets "...cannot be allowed to become a noise nuisance..." then the Board can then pass regulations defining what constitutes a noise nuisance, i.e. continuous barking beyond five minutes, etc... This can be done without a vote of the owners.

Although the Board can define or clarify a use restriction, an actual change to the covenants can only be done by a vote of the homeowners. This often requires two-thirds or more of the owners to vote in favor of the amendment.

Use restrictions are enforced by the Association as allowed in the covenants. The penalties range anywhere from an initial warning letter to fines and/or suspension of membership rights. Most covenants provide an appeal process for disputing the violation. This process typically consists of a ten day period in which to send an appeal in writing or request an appeal hearing in front of the Board.

Use restrictions are necessary to maintain the quality of life that make the subdivision a better place to live and also help preserve property values.