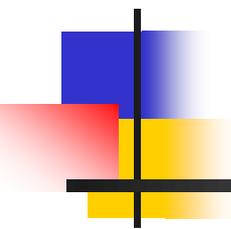


MODIFYING/EXTENDING/ REESTABLISHING DEED RESTRICTIONS: CH. 201



Zeca Mazcuri
Wilson, Cribbs & Goren, P.C.

Texas Property Code Chapter 201
Sponsored by
City of Houston



Why Have Restrictions?

- Establish & preserve neighborhood character/values
- Prevent conflicts between inconsistent land uses
- Maintain appropriate building scale
- Preserve light and air
- Establish for review function for new development & redevelopment
- Create single source for enforcement & representation of neighborhood



I. Where do you live?

- Neighborhood with DRs that have lapsed?
 - Ch. 201 applies
- Neighborhood with current restrictions that do not provide for amendment process?
 - Ch. 201 applies
- Neighborhood with mandatory POA membership and fees?
 - Ch. 201 does NOT apply
- Neighborhood that never had DRs?
 - Ch. 201 does NOT apply



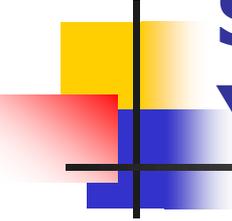
Do You Have Restrictions?

- Harris County Real Property Records
- Title Policy
- Get recorded copy



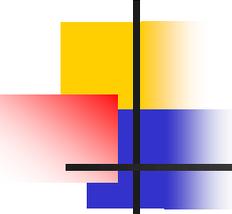
Why Modify Restrictions?

- Resolve Ambiguities or Deficiencies
- Add/Change provisions due to:
 - Neighborhood changes
 - New land uses
 - Redevelopment
- Establish Property Owners Association (POA)
 - Ch. 204



STATUTE AFFECTING YOUR RESTRICTIONS

TPC Ch. 201 – Reinstatement or modification
of Restrictions where no contractual right
exists, with or without a POA



BASIC PROCEDURE

1. Petition Committee

- 3 or more owners
- File notice with county clerk

2. Petition Contents

- Extension, modification, proposed restrictions (and much more)

3. Petition Approval

- Extend/Create = 50%+1 of lots/tracts/area sign
- Modify = 75% of lots/tracts/area sign
- Signatures must be “acknowledged”

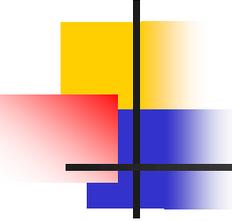
4. Notice

- File petition with county clerk
- Copy of petition to all owners



PROCEDURAL HURDLES

- Must file notice of petition committee
 - A lot of detailed information required
- Time limits
 - One year for committee to get petition filed
 - Notices, etc.
- 50% + 1 or 75% approval based on:
 - lots
 - Tracts
 - area
- Signatures notarized
- All owners must sign for each property
- Notice of completion by cert. mail
- Notice by publication
- Right to Opt Out – 1 yr.



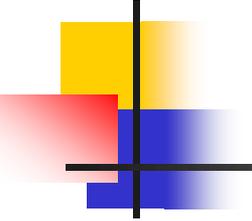
OPT OUT

Owner may “opt out” by:

Petition – checking the “opt out” blank in the petition; or

Lawsuit – challenge the process w/in 6 months after the filing of the petition; or

Opt-out Statement – Filing in the RE records w/in 1 year after actual notice. **Evidence of receipt by all owners of the certified mail notice to each owner is critical.**



PARTIES BOUND

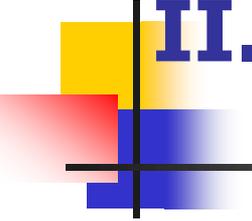
ALL but:

- **Opt-outs**
- **No Notice** – owners w/o actual notice
- **Public Property**
- **Minors/Incompetents**
- **Lienholders**



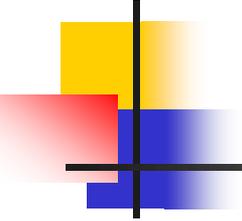
Things to Remember

- Get a copy of your restrictions
 - Read to see what they say and/or find out if they have expired.
- Chapter 201 is a great tool, but the process is very complicated.
 - Have a lawyer assist you with drafting and procedural requirements
- Some people can opt out, but that's okay.



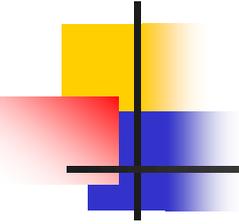
II. ISSUES FOR UPDATING RESIDENTIAL RESTRICTIONS

- **Lot size**
- **Building Setback**
- **Vehicles**
 - Garage/Carport
 - Driveways/Parking Areas
 - Non-Functioning Vehicles
 - Parking on Street

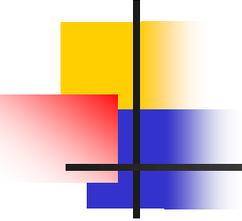


- **Aesthetics**

- Landscaping
- Building maintenance
- Signage – limited
- Antennas – limited
- Fences

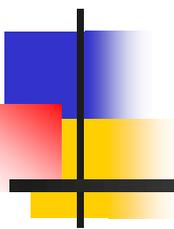


- **Modification, Extension and Termination**
- **Use**
 - Residential Use
 - Home Occupation
 - Garage Apartments
- **Development Controls**
 - Performance Standards
 - Architectural Control Committee



RESOURCES

- Paper – www.wcglaw.net (choose Attorneys, Reid C. Wilson, view publications) with Ch. 201, 204 & 209 Flowcharts
- Neighborhood Attorneys
- Free Lawyer*
 - HBA Pro Bono DR project



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