



Covenants and Restrictions

What are they?

Covenants and restrictions, terms which are often used interchangeably, are basically promises to do or not do something.

These promises are usually common sense provisions that prevent you from doing things that could damage your property or depreciate its value. For example, saying you won't alter the drainage pattern on your lot, won't plant certain kinds of fast-growing trees with pervasive root systems, or won't damage anything in the subdivision that belongs to the municipality, are some of the more common covenants and restrictions.

If you are buying a dwelling that is attached to another (a row house for example), the property will likely be subject to covenants and restrictions limiting your ability to change the exterior appearance without the consent of the owners of any attached dwellings.

In some cases, covenants and restrictions may prevent you from doing things with your property that might severely limit your enjoyment of it. For instance, if your home backs onto a ravine, there may be restrictions preventing you from installing a swimming pool.

In other cases, a covenant may create a positive obligation, such as requiring every homeowner in a subdivision to install and maintain a lawn light.

New Homes

The Agreement of Purchase and Sale for the purchase of your new home is almost certain to contain covenants or restrictions that affect your property. To fully appreciate your rights and obligations, you should have a basic understanding of what these mean.

Covenants and restrictions are usually contained in a schedule to the Agreement. This schedule generally repeats provisions from subdivision agreements registered on the title to your new home. At the time of closing, these covenants will be repeated in your deed or will otherwise be registered on your title in such a way that they will apply to it either in perpetuity or for a limited period of time.

Re-sale Homes

Covenants and restrictions that affect re-sale homes are not usually found in the Agreement of Purchase and Sale. These are registered on the title to the property and will be reviewed by us as part of our search of title.

During the closing interview, we will review with you the covenants and restrictions that affect your property, allowing you to fully understand your rights and obligations after your move.

Regardless of whether you are purchasing a new home or re-sale property, you should make sure that after you move in you abide by all covenants and restrictions that affect your property. Not doing so could lead the municipality to force you to remedy it. It could also lead to your neighbours bringing an action against you. As well, if you have breached covenants when you are trying to sell your home, you could be forced to rectify the situation prior to your closing date. In a worst-case scenario, breach of a covenant might give a prospective buyer the right to refuse to complete the transaction.

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