

Covenants, conditions & restrictions (CC&R) basics

By Daphne O'Neal

When you buy into a new home community, you're buying more than just a nice house with common areas and facilities. You're buying into a concept, according to Richard S. Monson, MBA, President and CEO of the California Association of Homeowner's Associations. The concept has been established by the developer and codified, to some extent, by the covenants, conditions and regulations, also known as CC&Rs.

The CC&Rs are the rules that govern many of the choices you make as an owner in a new home community. The regulations are recorded with the appropriate county and are legally binding. In fact, when you close on a new home in a planned community, you have to sign a document indicating that you have read and agreed to the sometimes-lengthy regulations. There's a reason for this. If you haven't read them, you will be wandering into an ownership situation about which you do not have all the facts.

The primary purpose of the CC&Rs is to preserve property values. Another

purpose, according to Jackie Care of Pacific Union and Christie's International Real Estate, is "to acknowledge the fact that this is a joint ownership with other people, and so there are going to be guidelines as to what can and can't be done."

That might all sound fine. You might imagine the rules incorporate standards of common decency — relative to noise level and tidiness, for example — that you would naturally respect without a document to make them official. But CC&Rs typically go much further, governing such factors as exterior paint colors, front yard landscaping, deck and patio usage, window coverings and even pets.

"Pets [are] a big one," reports Care. A

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lot of HOAs won't let you have certain types of dogs if they're not considered safe." Rental regulations can also be strict.

It's not wise to assume you'll be able to get around the regulations. In fact, it's generally very difficult to make changes to, or petition for exceptions to, the CC&Rs.

Not being familiar with what's in the

CC&Rs can cost you.

Penalties can be assessed by the HOA for any violation.

"There can be penalties if you don't clean up after your pet, [for example]," notes Care.

Forced compliance is also an action available to the HOA. What's worse, you can even be sued by the association for failing to live up to the rules.

Consequently, it's a good idea to have a lawyer review the CC&Rs on your behalf before you decide on a community.

"I definitely recommend that clients do that," offers Care. "I think it's worth it to have an attorney look over them, just for your peace of mind."

Peace of mind is what the regulations are meant to provide. As a homeowner, you'll be assured that the look and feel of the neighborhood will always be up to a certain standard. You'll also know that when issues arise, you'll be able to address them without coming into direct conflict with a neighbor. When the time comes to sell, a decline in the value of your property should not be a major concern. CC&Rs, despite their occasional inconvenience, are essential to maintaining expectations in your new home community.



