

Decoding the Real Estate Market
CC&Rs, HOAs, PUDs, Road Associations
and other private restrictions & fees on property
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Before making an offer on property, buyers should find out what restrictions and costs are associated with the property. The alphabet soup of CC&Rs, HOAs, PUDs, Road Associations and other private restrictions & fees on a property may affect the value, use and cost of owning of the property and, therefore, must be understood by potential buyers. Reading the Preliminary Title Report (PTR) on the property will reveal any such restrictions or fee obligations. These documents are also recorded with the County. The seller and/or the seller's real estate agent should also be able to provide this information to buyers.

Covenants, Conditions and Restrictions (CC&Rs)

Covenants, Conditions and Restrictions are private restrictions on the use of real property. The restrictions aim at a general plan of development and require all lot owners to comply with certain building standards and conform to certain restrictions. Once recorded, these restrictions in the declaration run with the land, binding all future lot owners. An owner can enforce the restrictions against any other owner who violates any of the restrictions. A declaration of restrictions can be terminated by lapse of a specified time or by agreement of all benefited parties. Since CC&Rs affect what property owners can do with their land, it is imperative that prospective buyers obtain a copy of the CC&Rs and thoroughly read them prior to making an offer on a property.

Planned Unit Developments (PUDs) and Condominiums

Though similar in some respects, a PUD differs markedly from a condominium. In a PUD, the unit is a lot; thus the PUD owners own the land beneath their houses. Also in a PUD, there is no direct interest in the common areas; the community association is in corporate form; and the PUD is created by covenants in the deed or master lease. Townhouses are considered PUDs. In a condominium, the unit is a space of air, and there is a percentage of ownership interest in the common areas, so owners do not directly own the land beneath their units. The association of owners is usually unincorporated, and the condominium is created by recording a declaration pursuant to state condominium laws.

Homeowners' Associations (HOAs)

A nonprofit association of homeowners organized pursuant to a declaration of restrictions or protective covenants for a subdivision, PUD or condominium. Like other nonprofit associations, a homeowners' association has members, not shareholders. In a typical subdivision development, a developer will record a declaration of restrictions, covenants and easements to ensure the orderly and harmonious development of the subdivision and to protect against future depreciation of values resulting from deterioration of the neighborhood. After sale of the lots has commenced, the developer will normally transfer his or her right to enforce the restrictions, liens and covenants to the HOA. In connection with condominiums, the association is also responsible for maintaining the common elements, such as the swimming pool and elevators, and for hiring a managing agent to implement its policies. Buyers should be aware of the existence of any HOA associated with the property they are offer on and the costs.

Road Association

Properties on private roads will usually be part of a Road Association. Road Associations are nonprofit associations of homeowners who live or have easements to their properties on the private roads and are operated like other HOAs. Road Associations collect fees from homeowners for the purpose of maintaining roads in the development.

Community Water and Sewer

Neighborhoods, developments and communities that are not on City water and sewer systems nor have individual wells and septic tanks will be part of a Community Water and/or Septic System. There are costs and fees associated with these utilities, as well as associations to run them. Buyers should be aware of these conditions and the associated costs and method by which they are operated before making an offer on a property.

Other Special Districts or Community Fees

Other fees that may affect ownership are irrigation district annual or stand-by fees and water usage costs; improvement bonds; fire protection district bonds or fees; and school bonds etc.

Sellers and Real Estate Agents have a duty to disclose the encumbrance of these restrictions and fees that go with the property they are selling. Buyers have the duty to protect themselves and ask if these conditions exist and thoroughly read the Preliminary Title Report prior to making an offer on property.