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**YUBA COUNTY CLERK RECORDER**

**RESTRICTIVE COVENANT MODIFICATION PROGRAM**

**IMPLEMENTAION PLAN**

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## **BACKGROUND**

Restrictive Covenants became common after 1926 when validated by the U.S Supreme Court. The court indicated they were an enforceable contract and owners in violation risked forfeiting the property.

In 1948, the Supreme Court declared racial restrictions could no longer be enforced, but it remained legal for realtors and property owners to discriminate on the basis of race.

In 1968, Congress passed the Housing Rights Act, outlawing discrimination based on race or ethnicity in the sale or rental of housing. This made it illegal to act on race restrictions contained in deeds.

The California Fair Employment and housing Act prohibits discrimination in housing based on race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, familial status, source of income, disability, veteran or military status, or genetic information. Government Code section 12956.2(a) permits a person who holds ownership interest in property and believes the property is subject to an unlawfully restrictive covenant, to submit a Restrictive Covenant Modification document for recording. If the unlawful restrictive language is confirmed by County Counsel, the modification document with redaction is recorded.

Assembly Bill 1466, passed in 2021, and Government Code 12956.3 authorizes any person to record Restrictive Covenant Modifications to address unlawful restrictive covenants. This legislation also requires County Recorders to establish a restrictive covenant program to assist in the redaction of unlawfully restrictive covenants that are in violation of GC 12955(l).

Yuba County Clerk-Recorder has developed the following RCM Plan pursuant to the 2021 legislation set forth in AB 1466 and California Government Code 12956.3.

## **PLAN**

This plan establishes an Implementation Timeline (Exhibit A) and the methodology by which Yuba County Clerk-Recorder will execute the legislative requirements outlined in AB1466.

### Yuba County Document Statistics & Information

- Yuba County has approximately 4 million document images.
- Records 1990-Current are in our Tyler System.
- Records 1909-1989 are typed and viewable on Digital Reel.
- Historical records covering 1850-1989 are filmed and viewable on Digital Reel.
- Records 1850-1908 are handwritten and viewable on Digital Reel.

Because images are available through different applications, different media, and are of varied quality this plan will be accomplished through several phases.

## PROCESS

1. Locate Documents containing unlawful language.
2. Examination and verification: A copy will be produced of each document found to have discriminatory language during the initial review. This copy will be submitted to a second staff member for review. If it is determined that the document does contain unlawful discriminatory language, a RCM (Restrictive Covenant Modification) will be prepared and the document will be transmitted to County Counsel for review.
3. County Counsel will have 90 days to review the documents presented. If it is determined that the document does in fact contain unlawful language, County Counsel will sign off on the document and return it to the Recorder.
4. The Recorder will then Record the RCM document with the original redacted image attached.
5. The RCM document shall be indexed in the same manner as the original document being modified and shall contain a recording reference to the original document in the form of a Book & Page or Instrument Number.
6. The recorder will maintain a database to track submissions.
7. The RCM documents will be available for review in our Official Records index. It will be identified as RCM.
8. All documents received from the public will be evaluated and processed using the Restrictive Covenant Modification procedures.

*All original records will remain intact and available to the public. They will not be altered or redacted.*

## ONGOING EVALUATION

This plan will re-evaluated as it proceeds and modified as necessary to accommodate process and technology requirements.

An evaluation will be conducted of older records to determine the feasibility of identifying restrictive covenants using an automated technology.

## EXHIBIT A: IMPLEMENTATION TIMELINE & IMPACTS

PHASE	YEARS	REQUIRED TASKS	TARGET DATE	IMPACTS / CONSIDERATIONS
PHASE 1	1990- Current	<ul style="list-style-type: none"> <li>Extract documents to searchable PDF</li> <li>Conduct OCR search of records</li> <li>Examination / verification of findings</li> <li>Submit findings for County Counsel Review</li> <li>Record RCM where necessary</li> </ul>	2022- 2025	<b>Vendor OCR Support</b>
PHASE 2	1909- 1989	<ul style="list-style-type: none"> <li>Conduct OCR search of records</li> <li>Examination / verification of findings</li> <li>Submit findings for County Counsel Review</li> <li>Record RCM where necessary</li> </ul>	2023- 2025	<b>Image Quality</b>
PHASE 3	1850- 1908	<ul style="list-style-type: none"> <li>Review handwritten historical records.</li> <li>Examination / verification of findings</li> <li>Submit findings for County Counsel Review</li> <li>Record RCM where necessary</li> </ul>	2025- 2027	<b>Image Quality</b> <b>Handwritten Documents</b>

### Vendor OCR Support

The extent to which the current system vendor is able to support OCR efforts is not fully known. Upon determination of system abilities it may be necessary to procure outside vendor support.

Tyler Technologies: The current recording system vendor is developing a workflow to assist in this process but the full capabilities and completion date is not currently known.

BMI: The current document filming vendor has developed a system to perform the analysis necessary on records for the years 1909-1989. A preliminary evaluation indicates an outside procurement for imaging may not be necessary as the images they will be working with are currently available.

### Image Quality

We are reviewing existing inventory and attempting to quantify the volume of images they may require re-imaging.

Depending on the number of impacted images it may necessitate a larger re-scanning effort which may also require a full procurement.

### Handwritten Documents

Current technology is not able to conduct OCR analysis on handwritten images.

Although images are available for all documents, the quality may not be adequate for re-recording. This will also be a factor in determining whether a larger re-scanning effort will be necessary.

If an OCR solution cannot be found for handwritten documents, it will require manual evaluation. This can be accomplished through an outside vendor or existing staff. Due to workloads the use of existing staff would delay project completion by several years.