

Recording Requested By:

Name: _____

PIN: _____

After Recording Return To:

Name: _____

Address: _____

State: _____ Zip Code: _____

Space Above This Line for Recorder's Use

RESTRICTIVE COVENANT MODIFICATION PETITION

I (We) _____ have an interest of record in the property located at _____ with property index number (PIN) _____ as follows:

- hold an ownership interest in the property that is subject to an unlawful restrictive covenant; or
- authorized by a board exercising its authority to execute and file an unlawful restrictive covenant on behalf of a common interest community association, a condominium association, a unit owners' association, a residential housing cooperative, or a master association of a parcel of property that is covered by the document described below. Attached is a certification that a majority of the governing body of the entity has agreed to the restrictive covenant modification under 55 ILCS 5/3-5048(d)).

The following referenced document contains a restriction based on race, color, religion, or national origin that is void under Section 3-105 of the Illinois Human Rights Act (775 ILCS 5/3-105).

Pursuant to Section 5/3-5048 of the Counties Code (55 ILCS 5/3-5048), this document is being recorded for the purpose of striking a covenant as shown on page(s) _____ of the document recorded by the DuPage County Recorder's office on _____, as document number _____. Attached is a complete copy of the original instrument with the language of the unlawful restrictive covenant stricken, for recording upon written approval from the State's Attorney's office. Additionally, a complete copy of the original instrument without modification, and a copy of the document evidencing the Petitioner or Petitioners' ownership interest in the property is provided.

This modification document shall be indexed in the same manner as the original document pursuant to 55 ILCS 5/3-5048(h).

Payment of a \$10 filing fee is due upon filing this Petition. 55 ILCS 5/3-5048(l).

The effective date of the terms and conditions contained in this modification document shall be the same as the effective date of the original instrument. 55 ILCS 5/3-5048(j).

Date: _____ Date: _____

(Signature) (Signature)

Print Name: _____ Print Name: _____

Print Title: _____

Name of Entity: _____

If Signing on behalf of a Board, insert name of entity and title of authorized signer and attach certification as indicated above.

Space Below is to be completed by the State’s Attorney’s office only.

Date received by SAO: _____

A review of the attached restrictive covenant modification and a copy of the original instrument have determined that:

The original instrument contains an unlawful covenant and the modification correctly strikes through only the language of the unlawful restrictive covenant in accordance with 55 ILCS 5/3-5048(f). The Recorder’s office shall record the restrictive covenant modification with the language stricken as provided in 55 ILCS 5/3-5048(g).

The original instrument does not contain an unlawful covenant and the modification is not appropriate under 55 ILCS 5/3-5048. The Recorder’s office may not record the restrictive covenant modification under 55 ILCS 5/3-5048(g).

The instrument does contain an unlawful covenant but the modification does not correctly strike through only the language of the unlawful restrictive covenant. The Recorder’s office may not record the restrictive covenant modification under 55 ILCS 5/3-5048(g).

Approved By: ROBERT B. BERLIN
DuPage County State’s Attorney

By: _____

Assistant State’s Attorney

Date: _____

(55 ILCS 5/3-5048)

Sec. 3-5048. Unlawful restrictive covenant modifications.

(a) As used in this Section:

"Declaration" has the meaning given to that term in Section 1-5 of the Common Interest Community Association Act or Section 2 of the Condominium Property Act, as applicable.

"Unlawful restrictive covenant" means any recorded covenant or restriction that is void under Section 3-105 of the Illinois Human Rights Act which purports to forbid or restrict the conveyance, encumbrance, occupancy, or lease thereof on the basis of race, color, religion, or national origin.

"Recorder" means the recorder of the county where the property subject to the unlawful restrictive covenant is located.

(b) A person or entity may execute and file a restrictive covenant modification to an unlawful restrictive covenant in accordance with this Section if the person or entity:

(1) holds an ownership interest in property that is subject to the unlawful restrictive covenant; or

(2) is a common interest community association, a condominium association, a unit owners' association, a residential housing cooperative, or a master association of a parcel of property subject to an unlawful restrictive covenant under the following conditions:

(A) When a parcel of property subject to an unlawful restrictive covenant is in a common interest community association, condominium association, unit owners' association, residential housing cooperative, or master association, only the board, acting through a majority vote, may execute and file a restrictive covenant modification under this Section. Removal of an unlawful restrictive covenant will not require approval of the owners or members of such association or cooperative, notwithstanding any provision of the governing documents to the contrary. As used in subparagraphs (A) through (D), "board" means the board of managers or directors or the managing trustees of any such association or cooperative.

(B) If the board receives a written request by an owner or member of the association or cooperative that the board exercise its authority to execute and file a restrictive covenant modification under this Section, the board shall, within 90 days, investigate any claim of an unlawful restrictive covenant and, if determined to be an unlawful restrictive covenant, shall execute and file a restrictive covenant modification as provided under this Section.

(C) If a board fails or refuses to execute and file a restrictive covenant modification after it receives a written request by an owner or member as provided in subparagraph (B), the owner or member who made the written request may bring an action to compel the board to file a restrictive covenant modification. Any owner or member who prevails in such an action to compel shall be entitled to recover reasonable attorneys' fees and costs from the association or cooperative.

(D) The board shall give written notice to all owners or members of the association of the restrictive covenant modification along with a copy of such restrictive covenant modification within 21 days after receiving a recorded copy of the documents.

(c) A restrictive covenant modification shall include:

(1) a complete copy of the original instrument containing the unlawful restrictive covenant with the language of the unlawful restrictive covenant stricken; and

(2) a petition to modify an unlawful restrictive covenant, as provided in subsection (d).

(d) A petition to modify an unlawful restrictive covenant shall:

(1) be signed by the record owner of the property or, in the case of an entity under paragraph (2) of subsection (b), be accompanied by a certification that a majority of the governing body of the entity has agreed to the restrictive covenant modification;

(2) reference the property index number or unique parcel identification code of the property for which the original instrument containing the unlawful restrictive covenant is recorded; and

(3) include any other information that the recorder or State's Attorney considers necessary in carrying out the requirements of this Section.

(e) On receipt of a restrictive covenant modification, the recorder shall submit the restrictive covenant modification together with a copy of the original instrument referenced in the restrictive covenant modification to the State's Attorney.

(f) Within 30 days of receipt from the recorder, the State's Attorney shall:

(1) review the restrictive covenant modification and the copy of the original instrument to determine: (i) whether the original instrument contains an unlawful restrictive covenant; and (ii) whether the restrictive covenant modification correctly strikes through only the language of the unlawful restrictive covenant; and

(2) return the restrictive covenant modification and copy of the original instrument to the recorder together with the State's Attorney's written determination.

(g) The recorder may not record a restrictive covenant modification filed under subsection (b) unless the State's Attorney determines that the modification is appropriate in accordance with subsection (f). If the State's Attorney's written determination finds that the instrument contains an unlawful restrictive covenant, the recorder shall record the restrictive covenant modification with the language stricken as directed by the State's Attorney.

(h) A recorded restrictive covenant modification shall be indexed in the same manner as the original instrument.

(i) Subject to all lawful covenants, conditions, and restrictions that were recorded after the recording of the original instrument, the restrictions contained in a duly recorded restrictive covenant modification are the only restrictions based on the original instrument that apply to the property.

(j) The effective date of the terms and conditions contained in a duly recorded restrictive covenant modification shall be the same as the effective date of the original instrument.

(k) If a person or entity causes to be filed or recorded a restrictive covenant modification that contains modifications not authorized under this Section:

(1) the recorder may not incur any liability for recording the restrictive covenant modification;

(2) the county may not incur any liability as a result of a determination rendered by the State's Attorney under subsection (f); and

(3) any costs, fees, or liability that results from the unauthorized filing or recording shall be the sole responsibility of the person or entity that executed the restrictive covenant modification.

(l) The recorder may impose a fee for filing a restrictive covenant modification to an unlawful restrictive covenant pursuant to this Section in an amount not to exceed \$10.

(Source: P.A. 102-110, eff. 1-1-22.)