

2010

Arabella Chambers
Limited

Alexia Malo

[EASEMENT, RIGHT OF WAY AND RESTRICTIVE COVENANTS.]

When you are in the market to buy a home, you are going to come across a lot of terms and real estate lingo that you have probably never heard of before. Buying property is like stepping into a whole new world with so much to learn, processes to endure and rules and regulations that must be followed to a T.

Easement, Right of Way, and Restrictive Covenants: What are they and why do you need to know?

When you are in the market to buy a home, you are going to come across a lot of terms and real estate lingo that you have probably never heard of before. Buying property is like stepping into a whole new world with so much to learn, processes to endure and rules and regulations that must be followed to a T. Most home buyers are amazed on how much they learn so fast. Take for instance the importance and benefits of an easement, right of way and restrictive covenants. What are they and why do you need to know? Well, let's take a look.

Easement. An easement is the right to use someone else's property for a specific purpose. Normally these easements are granted to telephone companies or to public utility services to run lines under joint properties or perform other work on or under your property to neighboring houses. A housing developer may also possess an easement to allow him to build or maintain a water storage facility on your property.

Long ago easements were limited to the right over flowing waters and other rights that would only be attached to adjacent properties to benefit all parties involved and not just one specific person. Easements can be beneficial to a property as well as significantly affecting the value of the property. All easements should be included and described in your deed and remain there until your land is sold.

Usually a land owner who grants an easement cannot install fences or build other structures within the easement area that would impede access. Before purchasing any property, you should be fully informed of where all the easements are placed and any restrictions associated with them.

Right of Way. A right of way is a different form of an easement that has been granted by a property owner to give permission to others to have reasonable use of your property as long as it doesn't interfere with your personal time. Ownership rights to the property may be lessened by an easement, but there can be a great amount of benefits due to the additional freedom.

Restrictive Covenants. They may not sound like it, but restrictive covenants are actually a good thing. Restrictive covenants are basically deed restrictions that apply to groups of homes as in a subdivision. The restrictions are normally placed there by the developer and can be different, depending on what area you live in. These restrictive covenants help give a development a more common appearance and market value and will also help control some of the activities taken place within those boundaries. When enforced, these covenant restrictions can help prevent homeowners from letting the appearance of their property fall into disarray and actually protect the property values.

Although these restrictions are normally a plus, all home buyers should always do their homework and study the restrictive covenants before making an offer on any home. It's important for home buyers to understand restrictive covenants and other deed restrictions

because these restrictions dictate how you can use the property. Home buyers need to be certain that they will be able to live with the rules and regulations before deciding to buy.

Other issues you may see in a restrictive covenant may be:

1. Easements for pathways and other land use that must be described.
2. Maintenance or other amenity fees.
3. Rules regarding pets and other animals, e.g., prohibitions on breeding domestic animals, livestock or having unchained pets.
4. Rules regarding home businesses or renting homes.
5. Clauses that dictate what types of fences, if any, can be used.
6. Clauses that prohibit home owners from storing clutter, inoperable vehicles or other recreational vehicles within view on the property.

This is only an example of what can be expected in a restrictive covenant. This is why it is so important to thoroughly investigate what restrictions apply before placing an offer. Your real estate agent or the seller of the property should supply you with a list of restrictions before you make an offer. These restrictions may or may not benefit you; it all depends on the buyer and what you are looking for. It's important for you, as the buyer, to be well informed to protect your own interests.