



Guide for Discharging Prohibited Restrictive Covenants

In 2022, the Legislature passed the Discharge of Prohibited Restrictive Covenants Act (“DPRC”) which allows for the discharge of discriminatory language in the form of prohibited restrictions from recorded deeds and other instruments.

Essentially, the Act establishes a process for homeowners, property owners associations and condominium associations, to discharge discriminatory language from recorded deeds and other recorded instruments, such as subdivision and /or condominium restrictions or covenants.

What are prohibited restrictions? The DPRC defines “Prohibited Restrictions” in deeds and other instruments as any restriction, covenant, or condition, including a right of entry or possibility of reverter, that purports to restrict occupancy or ownership of property on the basis of race, color, religion, sex, familial status, national origin, or other class protected by the Federal Fair Housing Act and the Civil Rights Act of 1968.

How are Prohibited Restrictions discharged? Prohibited Restrictions are discharged by recording a “discharge form” with the Register of Deeds in the county where the property is located. A discharge form that is recorded under this section must substantially conform to what is outlined in the Act. An example form is available in the Bloomfield Township Clerk’s office.

Who can record a discharge form? A discharge form may be recorded by court order, by an individual property owner who owns the property in question, or by a homeowners/property owners’/ condominium association either by majority vote or petition.

What if I come across a Prohibited Restriction in a deed? The Act does not require the Register of Deeds or the title insurance company to inspect existing deeds for violating the Act. Further, the Act does not create a duty on the part of a homeowner to file a discharge form upon the discovery of a prohibited restriction.