



MICHIGAN LAW

CIVIL RIGHTS LITIGATION INITIATIVE

UNIVERSITY OF MICHIGAN

Testimony in Support of HB 4416 and HB 4417, presented by Laura Durand, student attorney for the Civil Rights Litigation Initiative at the University of Michigan Law School
December 8, 2021

Good afternoon, Chairwoman Calley and members of the Local Government committee. My name is Laura Durand, and I am a second-year law student at the University of Michigan. I am here in my capacity as a student attorney for the Civil Rights Litigation Initiative to testify in support of HB 4416 and HB 4417.

The Civil Rights Litigation Initiative is a clinic at the law school, and we represent an organization called Justice InDeed, an organization dedicated to raising awareness about and eliminating racially restrictive covenants in Washtenaw County. Justice InDeed has mapped the thousands of racially restrictive in Washtenaw County, which is available on our website, JusticeInDeedMI.org. Justice InDeed is currently working with two neighborhoods to repeal the racially restrictive covenants in the communal restrictions that govern their subdivisions. It is also exploring the possibility of litigation under the Fair Housing Act as a means of eliminating these covenants.

Racially restrictive covenants were common tools used to enforce segregation, and they were responsible, in part, for depriving Black residents and other residents of color of wealth and opportunity. Their continued existence is a harmful reminder of this racist history, and they continue to send a message of exclusion and animosity towards non-white individuals who see them. Racially restrictive covenants are akin to a “Whites Only” sign at the entrance to a subdivision; they signal hostility and cause emotional distress, even though they are legally unenforceable. Our clients and countless other Michiganders do not wish to live in a home with a racially restrictive covenant in the deed.

Currently, there is no “one size fits all” solution for addressing these covenants, but it is essential that we do the work to condemn and eliminate them. Without legislation like HB 4416 and HB 4417, it will continue to be confusing, costly, and difficult for many communities to meaningfully address racially restrictive covenants.

We support the Prohibited Restrictive Covenants Act because it will not only facilitate our efforts in Washtenaw County, but it will also raise awareness and provide a more accessible and straightforward mechanism for removing this illegal, racist language from deeds across the state.

The Prohibited Restrictive Covenants Act would aid in the effort to address this issue in a few significant ways:

1. By prohibiting a person from recording a document that contains one of these covenants, the proposed legislation will minimize individuals’ exposure to their racist and exclusionary language. Instead, members of the public will see that the covenant has been removed and repudiated.

2. The Act would address the harm that these covenants continue to cause. If a person refuses to remove a covenant prior to recording a document, that person will be liable for any damage this causes to another person.
3. Property owners will have the ability to amend documents and remove prohibited restrictions at any time, even if a document has already been recorded.
4. The Act provides a uniform process for homeowners' and property owners' associations to remove a prohibited restriction by a simple majority vote of its board. Additionally, a single association member will have the power to kickstart this process.
5. Finally, an occupant or tenant would also have the power to act under the legislation by seeking a court order to remove a prohibited restriction.

Racially restrictive covenants are a harmful reminder of the many discriminatory housing practices that were used to enforce segregation. Today, most Michigan residents celebrate and embrace diversity, and the existence of these covenants harms all of us. Enacting the proposed legislation will demonstrate that they no longer reflect our values and will aid in eliminating these shameful and illegal tools of discrimination for good.

I urge you to vote in favor of HB 4416 and HB 4417.

Thank you for the opportunity to testify, and I welcome any questions from the Committee.