

# Restrictive Covenants 101

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# What is a Restrictive Covenant?

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- Document that is on title in Elbow Park, and many old and new neighbourhoods in cities all over NA:
  - including Britannia, University Heights, Roxborough, Kelvin Grove, Rutland Park, Scarborough, Mayfair...
- Put on title to preserve the character of the development/planning tool.
- **Legal Contracts** between the neighbours of the development who have the same RC on title.
- Stay on title as the property is bought and sold and are **legally binding on the property owner.**
- Contain **restrictions on the type of development** that is permitted:
  - Limiting the number of residences on a property – limits subdivision
  - Minimum setbacks from the street
  - Limiting the number of garages on a property

# What is the effect of the RC?

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**Any (new) development on the property must COMPLY with the terms of the RC.**

E.g. RC 1 house per lot or 1 house per 50 feet, that lot cannot be subdivided.

**City is Not a Party to RCs.**

- City does not abide by them or enforce them

- City routinely issues development permits which do not comply with RCs on title.

# RC Enforcement & Compliance

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## **If the City does not require compliance w/RCs, what happens?**

Neighbours with the same RC can enforce against any other property with the same restrictive covenant.

-You do not need to be an immediate neighbour or even live on the same street to enforce a restrictive covenant/must have same, similar RC to enforce.

### **How to enforce:**

- communicate intention to enforce & taking legal action.
- active enforcement case in Elbow Park

### **Compliance and enforcement is important:**

- if RCs are not enforced/complied with, become less valid over time.

# Blanket Upzoning & RCs

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**Existing RCs are being enforced in Elbow Park:** active court case in Elbow Park on subdivision & other Calgary communities on secondary suites etc.

**If blanket upzoning is passed:**

*-Not all homes in Elbow Park have 1 house 1 lot RCs.*

*-Enforceability may be affected by how old they are and/or compliance*

**New Elbow Park RC** designed to preserve character of Elbow Park & prevent subdividing parcels **(in line with current City bylaws):**

**-1 house/1 lot**

**-setback restriction (side 4 feet, front 20 feet)**

**-height restriction (10m)**

# Next Steps

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## **1-Put a New RC on Title:**

- Curtis Marble from Carbert Waite LLP
- \$500/household: new RC & enforcement fund

## **2-Volunteer:**

- Block captains needed**
- Ensure you are on distribution list:** Sign-up for block captain & instructions on payment to come via email

## **3-Write to Mayor & Councillors & Speak at the April 22 hearing**

**Questions?**