

# Memorandum

**To:** Keith Moody, City Administrator for Roeland Park  
**From:** James Hampton  
**Date:** 2/10/2020  
**Re:** Amendment to Non-Discrimination Ordinance Banning Enforcement of Restrictive Covenants

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## **I. Council Member Dickens' Statement:**

I am proudly proposing that we strengthen our Non-Discrimination Ordinance to include, in the strongest terms, that Roeland Park rejects our old restrictive covenants and is a city for all people where we reject the sins of racism. Though we cannot erase the physical words written in our past, we must stand in opposition to all forms of discrimination and this amended ordinance will do that.

Roeland Park has long been a leader for our shared communities in Johnson County and I want to make sure that we remain a beacon for others to look to where our strong values are concerned. I know some will say, "Why do this now after so many decades?" My response is simple: it's never the wrong time to do the right thing and rejecting the language of racism, old as it may be, is the right thing to do.

## **II. Non-Discrimination Ordinance Amendment – Legal Analysis**

The United States Supreme Court held racially restrictive covenants unconstitutional in 1948. Furthermore, the federal Fair Housing Act of 1968 outlawed racially restrictive covenants. But many written instruments relating to real property still restrict or forbid the conveyance, encumbrance, leasing or mortgaging of real property based on race and religion. These restrictive covenants have a substantial impact on the use and value of property because, while restrictive covenants cannot be legally enforced, property owners and homeowners associations may think they have the ability to enforce them.

Removing restrictive covenants from existing deeds is difficult. Lawmakers in Kansas have passed legislation that allows homeowners associations to strike racist language and phrases from property-related documents. Individuals are required to go to the county recorder to make the change.

Other organizations, cities, and individuals have attempted to remove restrictive covenants themselves, but it is expensive and time consuming. If a restriction is on a plat, the property owners who are part of the homeowners association must agree to remove the restrictive covenant. The cost of going to each

homeowner and getting their signature notarized is high. In Roeland Park, it is even more challenging because these homeowners associations are inactive, so they must first be activated.

The strategy behind addressing restrictive covenants in the non-discrimination ordinance is to be more efficient and provide meaningful assistance if anyone is confronted with potential enforcement of such a provision. While restrictive covenants will still be on deeds, it will be a violation of the ordinance if any individual or homeowners association tries to enforce the restrictive covenant. If an individual or homeowners association attempts to enforce a restrictive covenant, an aggrieved individual can file a complaint with the city clerk. The City would then investigate the allegation and move forward based on its findings as set forth in the enforcement section of Chapter V, Article 12, Section 5-1204. This would eliminate the need to go to every person's door and obtain their signature. Plus, the aggrieved individual would not have to go to court to seek a remedy. Rather, the individual would have the City lead the effort in ensuring that property in Roeland Park is without any discrimination.