



Trustee Information

What are subdivision trust indentures?

- Trust indentures, sometimes also referred to as covenants, are restrictions or limitations that represent an agreement of property owners in a subdivision. Indentures can provide detailed rules and procedures under which the subdivision will operate. These regulations and restrictions typically appear in deed records and are private contracts between a property buyer and a property seller. Indentures are legally binding documents, recognized by the State of Missouri.
- Indentures are not enforced by municipalities like Chesterfield, they are private contractual agreements between a subdivision association and individual property owners.

What information should I expect to find in my subdivision's trust indenture?

Subdivision indentures will typically include the following components:

- A preface giving the legal description of the subdivision property, the parties involved, and the purpose and details of all restrictions.
- A description of the use restrictions placed on the properties within the subdivision. These restrictions can include limits on the use, type, and size of buildings, fences, swimming pools, or other structures, the quality of construction materials, building setback lines and provisions for architectural control committees, maintenance funds, boards of trustees, meeting regulations, descriptions of common land, easements, and election information.
- Definitions of key terms, specifications for the duration of the indenture and restrictions, their renewal and maintenance, enforcement, and application.

Who must abide by subdivision trust indentures?

In unincorporated St. Louis County and most municipalities, indentures are usually binding upon every property owner in a defined private subdivision operating under an indenture. Additionally, all subsequent or future owners of property in a deed-restricted subdivision are required to abide by the indenture as well. This guidance is intended to be general and should not be considered as legal advice. If you have specific issues, you should consult with legal counsel.

How are indentures put into place?

Usually, indentures are created and activated when a development is created and a subdivision is created by a developer. As a tract of land is divided into sellable lots, the indentures are recorded with the plat, so that they apply to all of the individual lots created. Initially, the developer(s) still owns all of the lots and serve as both the trustees and lot owners. As lots are sold to new homeowners, the composition of the trustees typically changes, allowing home owners to elect or designate resident trustees, gradually replacing trustee positions originally held by the developer(s).

Who is responsible for informing new home buyers of the subdivision's trust indentures?

Trust indentures are usually binding restrictions or obligations that run with the land and are referenced on the title insurance policy. In most cases, home buyers will become aware of the indentures at closing. It is also common for trustees or a welcome committee of the subdivision association to educate new home owners about the indentures after they move in.

Why are restrictions important for my neighborhood?

Restrictions are intended to preserve a subdivision's aesthetic appearance by setting standards for property maintenance, rules for construction on new or existing structures, and regulations for allowing or prohibiting certain uses or activities within a property in a subdivision. Before beginning any home improvement project, it is wise to contact the subdivision trustees and review the subdivision indentures to ensure compliance.

What information should I expect to find in my subdivision's trust indenture?

Each indenture is unique and is created for a specific subdivision. Indentures will typically include the following components:

- A preface giving the legal description of the subdivision property, the parties involved, and a description of the general purpose and details of all restrictions.
- A description of the restrictions on the properties within the subdivision. These restrictions can include limits on the use, type, and size of buildings, fences, swimming pools, or other structures, the quality of construction materials, building setback lines and provisions for architectural control committees, maintenance funds, boards of trustees, meeting regulations, descriptions of common land, easements, and election information.
- Definitions of key terms, specifications for the duration of the indenture and restrictions, their renewal and maintenance, enforcement, and application.

How long do trust indentures remain in effect?

Indentures are usually drafted to be perpetual and may have clear provisions for renewal. However, the length of time indentures remain in effect can be determined by a variety of factors. If an indenture has not been enforced or maintained for an extended duration of time, a judge may deem the indenture invalid due to lack of enforcement.

What can I do to help maintain compliance with the indenture in my subdivision?

- An effective way of maintaining or enforcing indentures is through Broad, active participation in the subdivision association is one way to help ensure widespread awareness and compliance with subdivision indentures. An active group of neighbors provides an effective voice for proper use and upkeep.
- Regularly attending meetings also helps to keep trustees and residents well informed about current events, policy updates, and legislation that can affect your subdivision. Solid communication between neighbors will also create better relationships, allowing problems to be resolved more effectively.

How can our association enforce our indentures and deal with violations?

- Carefully review the indentures to be sure that the issue at hand is actually a violation. Then, speak with the owner of the property in question. This may solve the problem. Often, the property owner may not know that they were in violation of the indentures.
- If a problem persists, approaching the subdivision trustees is a good next step. The trustees can take the necessary steps to attempt to remedy the situation. They may also decide if, and when an attorney may be necessary.
- Municipal governments, like the City of Chesterfield, do not enforce subdivision indentures. Indentures are private, contractual agreements between a subdivision association and individual property owners.

Our subdivision's indenture is old and outdated. Is it possible to amend our indenture to make it more effective?

- Yes. It is quite common for indentures to be updated or rewritten when they are old or are lacking substance. The ease or difficulty of amending a subdivision's trust indenture depends on the procedures established in the documents themselves. Some indentures allow amendment by a majority of property owners in the restricted subdivision. In other indentures, it may be necessary to obtain the approval of all property owners within the subdivision.
- Most indentures will include a clearly defined amendment provision. It is recommended that subdivision associations enlist the assistance of an attorney in creating or updating their indenture. Since indentures are legal documents, attorneys have the necessary expertise to ensure a subdivision association drafts a properly structured and legally sound document.