

## **South Gate Deed Restrictions**

South Gate is largely a deed-restricted community.<sup>1</sup> What are deed restrictions? Why do we have them? How do they work and how are they enforced? This brief paper will address these and other questions pertaining to deed restrictions.

### **What are deed restrictions?**

Deed restrictions are covenants. A covenant is a contract authorized by law that is appended to the land. They are land use conditions initially imposed by the original developer in order to create and maintain a certain “look” within the development. Deed restrictions are said to “run with the land” so as to continue in force from one owner to the next. Under the law, deed restrictions typically expire after 30 years, but they can be extended – or revived, if previously expired – by the agreement of a majority of the lot owners within a Unit.

### **Why have deed restrictions?**

Deed restrictions have multiple purposes. By creating and maintaining certain minimum standards within a community, deed restrictions serve to protect and enhance property values. Poorly maintained or unkempt properties, collections of trash on properties, cars, RVs, and boats parked in front yards of properties, and construction setback encroachments all contribute to depressed property values – not only for the offending property, but for all of its neighbors as well. Deed restrictions also promote public health and safety in a community by requiring minimum standards of sanitation. Finally, deed restrictions serve to create an aesthetically attractive and desirable place to live.

### **What is the history of deed restrictions in South Gate?**

Virtually all of the Units in South Gate had deed restrictions at the time the Units were developed. Most of these deed restrictions were to last for 40 years. The Marketable Record Title Act (MRTA) was interpreted to effectively limit the scope of deed restrictions to 30 years. In response to the application of MRTA, the South Gate Community Association undertook a major effort in the mid-1990s to extend or revive its deed restrictions. The Association’s attorney has concluded that this effort was successful in all but the Units identified in footnote 1. Some of the Units have deed restrictions that are scheduled to sunset in the mid-2020s, while other Units have automatic 10-year extension clauses.

Over the course of the past 20-25 years, enforcement of deed restrictions in South Gate has waxed and waned. It is difficult to precisely analyze why this has happened, but factors may include rising and falling economic fortunes, the development of newer gated communities in the outskirts of Sarasota and the concurrent decline of urban neighborhoods, larger percentages of rental properties in South Gate, and so on. Notably, however, South Gate is in the midst of a comeback. Its location in relation to the beaches, downtown, St. Armand’s,

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<sup>1</sup> / Unit 1 (Westfield Siesta Key) is mostly commercial with no deed restrictions; Units 21, 22, and 23 in the north central section of South Gate have expired deed restrictions; Units 35, 36 (commercial), 37, 39, and SGM-2 in the eastern part of the South Gate have expired deed restrictions; and Unit 40 along the eastern side of Lockwood Ridge between Bee Ridge and Rose is expired. A map of the South Gate Units is posted on the website [www.southgatefl.com](http://www.southgatefl.com).

and other Sarasota attractions is quite favorable, and young people are beginning to move in and rehabilitate many properties.

In recognition of South Gate's rising fortunes, the Association's Board of Directors took steps in 2019 to reinvigorate the enforcement of the community's deed restrictions. Working with its attorney, the Board undertook the legal steps necessary to put lot owners on notice of the renewed effort to enforce deed restrictions. These legal steps afforded the Association a so-called "clean slate" to pursue deed restriction enforcement. Volunteers were recruited – more are needed, by the way -- to monitor the community for deed restriction violations. Since then, literally hundreds of violation letters have been sent out to lot owners.

While most lot owners have appreciated the enforcement effort because it is showing results, there has been some pushback by a small minority of owners. Several matters have ended up in court to achieve compliance. So far, those court cases have been successful.

### **What is the deed restriction enforcement process?**

When a deed restriction violation is identified and documented, the lot owner is sent a first letter that identifies the violation, cites the deed restriction involved, tells the lot owner how to contact the deed restriction committee, summarizes the remedies available to the Association, and provides a two-week period to come into compliance. If compliance is not achieved within that two-week period, a second letter is sent asking the lot owner to come into immediate compliance. In the event that the violation continues after the second letter, the case is then either referred to our attorney for a final letter or the Association sends a third letter informing the lot owner that any further violation will result in a lawsuit.

### **What can I do to assist in ensuring compliance with deed restrictions?**

The Association hopes that you have noticed a positive change in the South Gate Community as a result of its deed restriction enforcement efforts, and that you approve of this effort. The Association does not relish its role as deed restriction enforcer, but it does want South Gate to be the best it can be. If you support this effort, there are a couple of simple things you can do:

1. Familiarize yourself with the deed restrictions for your Unit and apply them to your property.
2. When you observe a violation in your Unit, report it by going to the Residents pull-down menu at [www.southgatefl.com](http://www.southgatefl.com) where you will find a heading for Deed Restrictions. When you open the Deed Restrictions heading, click on the box entitled "Report a Concern." Please provide a street address of the property in violation and the general nature of the violation. Your identity is absolutely confidential. If you can take a photo of the violation, this is also very helpful. You can upload that on the online form as well.
3. Volunteer as a community monitor. This requires nothing more than a periodic (once a month) drive-by in an assigned area of the neighborhood to see if any deed restriction violations are in evidence.