

MINUTES OF THE HOUSE GOVERNMENTAL ORGANIZATION AND ELECTIONS COMMITTEE

The meeting was called to order by Chairman Jene Vickrey at 3:30 P.M. on January 19, 2006 in Room 519-S of the Capitol.

All members were present.

Committee staff present:

Mike Heim, Legislative Research Department
Martha Dorsey, Legislative Research Department
Theresa Kiernan, Revisor of Statutes Office
Maureen Stinson, Committee Secretary

Conferees appearing before the committee:

Representative Bill Feuerborn
Richard Jackson, Ottawa Black Awareness Committee
Brandon Myers, Kansas Human Rights Commission
Representative Terrie Huntington
John Sheets, Homes Associations of the Country Club District

Others attending:

See attached list.

Bill Introductions

At the request of Carol Williams, Executive Director, Rep. Vickrey asked for a committee bill on behalf of the Governmental Ethics Commission. The proposed legislation amends K.S.A. 46-237a as it relates to meals.

Without objection, the request will be accepted as a committee bill.

Rep. Stephanie Sharp requested a committee bill allowing businesses to file with the Elections Commission if they are unpaid for their services by candidates.

Without objection, the request will be accepted as a committee bill.

Chairman Vickrey opened the hearing on:

HB 2544 Housing discrimination, removal of restrictive covenants in homeowners association documents

Rep. Bill Feuerborn briefly explained that **HB 2544** would amend the Kansas Act against Discrimination to prohibit discrimination in homeowners associations' restrictive covenants based on the protected classes of race, religion, color, sex, disability, familial status, national origin, and ancestry. Rep. Feuerborn expressed his support for the bill.

Richard Jackson, Ottawa Black Awareness Committee, testified in support of the bill (Attachment 1). He said that in 2005, the State of Missouri enacted legislation requiring homeowner associations to remove restrictive covenants.

Brandon Myers, Kansas Human Rights Commission, submitted written testimony in support of the bill (Attachment 2). He was present at the hearing and available for questions.

Chairman Vickrey closed the hearing on **HB 2544**.

HB 2582 Homeowner associations - prohibition of discriminatory restrictive covenants

Rep. Terrie Huntington testified in support of **HB 2582** (Attachment 3). She said the bill allows for removal of only the restrictive covenants pertaining to discrimination against race and religion, thus

CONTINUATION SHEET

MINUTES OF THE House Governmental Organization and Elections Committee at 3:30 P.M. on January 19, 2006 in Room 519-S of the Capitol.

bringing homes association covenants into compliance with Federal Law.

John Sheets, Homes Associations of the Country Club District, testified in support of the bill (Attachment 4). He encouraged passage of the proposed legislation which allows for the removal of racial deed restrictions.

Chairman Vickrey closed the hearing on HB 2582.

HB 2544 **Housing discrimination, removal of restrictive covenants in homeowners association documents**

HB 2582 **Homeowner associations - prohibition of discriminatory restrictive covenants**

After lengthy discussion regarding HB 2544 and HB 2582, the Committee decided to move forward with HB 2582.

Rep. Goico made a motion for the favorable passage of HB 2582. Rep. Faust-Goudeau seconded the motion. Motion carried.

Approval of Minutes

Rep. Sawyer made a motion to approve the minutes of the January 17, 2006 meeting. Rep. Faust-Goudeau seconded the motion. Motion Carried.

Chairman Vickrey adjourned the meeting.

The next meeting is scheduled for Tuesday, January 24, 2006.

**House Governmental Organization and Elections
Committee**

Date 1-19-2006

Name	Representing
Brandon Myers	KHRC
Ruth Glover	✓
William Minner	KHRC
John Sheets	HACCD
Richard [unclear]	Ottawa
Jessie Torres	SILCK
Joe Takafusa Jr	ECKAN- OTTAWA, KS
Erik Sartorius	City of Overland Park
[unclear]	LGR
Walter [unclear]	LMHA
Chris Wilson	KBIA
W. Richards	TOPEKA NHACD
Jamie Epstein	Rep. Sue Storm
Mary Thomsen	Rep. Bill Otto

Ottawa Black Awareness Committee

Promoting Greater Opportunities and Cultural Awareness

Memorandum

To: Governmental Organization and Committee Elections

From: Richard Jackson

Date: January 19, 2006

Re: HB2544 Support

Although most Kansas City area residents are not aware, in more than 1200 documents involving thousands of homes contain racial language banning blacks, Jews and other ethnic groups in the form of restrictive covenants.

Many of these covenants were not removed, even after the U.S. Supreme Court ruled them unenforceable in 1948, and after they were banned by the Fair Housing Act of 1968 and their vestiges of discrimination kind of curse of the covenant-still linger locally.

On February 13, 2005, Kansas City Star reporter Judy L. Thomas wrote a story on restricted covenants called Curse of Covenants Persists. Restrictive rules, while unenforceable, have a lingering legacy. The article says that while these covenants are unenforceable the language could be psychologically damaging – reinforcing old fears that racism is alive and well in America. Such restrictive covenants are not found in the Kansas City metro area alone, but exist throughout Kansas.

In the 1980s, the U.S. Department of Housing and Urban Development began requiring title companies to cross out the restrictions on copies of covenants or note in the margin that the provisions were to be considered deleted.

In 1999, the National Association of Real Estate Brokers launched an effort to purge discrimination from property-related documents nationwide. In 2005, the state of Missouri enacted legislation requiring homeowner associations to remove restrictive covenants.

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Ottawa, Kansas 66067
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House Gov. Org. & Elections
Date: 1-19-2006
Attachment # 1

Kansas has always been a leader in the area of fair housing legislation. I would encourage you to amend the Kansas Act against discrimination to include restrictive covenants. Some may argue that this is not a state issue, but a local issue. I would strongly disagree with that argument.

Thousands of homes across the state are in neighborhoods that still have illegal "restrictive covenants" prohibiting blacks and other ethnic groups from owning property.

In Kansas, some of these covenants exist in such progressive communities and subdivisions as: Indian Hills, Mission Hills, Prairie Village, Leawood and Tomahawk Road in Johnson County. Other cities include Wichita, Emporia, Coffeyville and Topeka. It is interesting to note that property owned by former Kansas Governor Alf Landon also carried restrictive covenants.

Many of these covenants, especially in the Kansas City Metro Area, were written by J.C. Nichols Company, in concert with Hare and Hare, a Kansas City landscape architect friend. Covenants written by them were some of the most restricted and difficult to do away with.

Some say the covenants still unduly influence where people live and should be removed from plats, deeds and homeowners' association by-laws.

Kansas has been a leader in the country in the area of fair housing laws. I would encourage that we continue along that path ensuring that everybody is treated fairly and with respect.

TESTIMONY OF KANSAS HUMAN RIGHTS COMMISSION
REGARDING H.B.2544 AND H.B.2582 BEFOR THE HOUSE
COMMITTEE ON GOVERNMENTAL ORGANIZATION AND
ELECTIONS, JANUARY 18, 2006, BRANDON L. MYERS, CHIEF
LEGAL COUNSEL.

These two bills propose to amend the Kansas Act Against Discrimination (KAAD), which is administered and enforced by the Kansas Human Rights Commission. KAAD generally prohibits housing discrimination based on race, religion, national origin, color, ancestry, sex, disability and familial status. Restrictive covenants which operate to violate these KAAD prohibitions are illegal and unenforceable. However, it is our understanding that some homeowners' associations have such restrictions which were created when the associations were formed many decades ago and that provisions established by those organizational documents make it very difficult for the association membership to remove the restrictions. These bills seek to supplement KAAD with provisions that would direct that such provisions would be removed and enforcement provisions should any association not comply, including authorization for KHRC to bring action for injunctive relief. The State of Missouri passed a similar bill last year and it is our understanding that these bills are essentially patterned upon the Missouri bill. Apparently the Missouri bill was prompted, at least in part, by articles in the Kansas City Star last year which outlined the existence of homeowners' association documents containing restrictive covenants, both in Missouri and Kansas.

The Commission certainly does not have any opposition to these bills. They make it easier for homeowners associations to purge these inappropriate restrictions from their governing documents.

Attached hereto are the letters submitted with regard to formulating the Fiscal Notes on these bills. Our letters contain more specific analysis of the bills (and their slightly different versions). We anticipate little impact on KHRC if the bills are passed. We believe that affected entities in Kansas would likely use this law as the basis to purge such restrictions from their governing documents without being sued. The Missouri Commission indicated to us that there had been essentially no impact on it from the adoption of the Missouri law. We note only a modest amount of expense from updating our publications and posters, and perhaps some additional staff travel to perform duties under these provisions.

House Gov. Org. & Elections
Date: 1-19-06
Attachment # 2

ERROL V. WILLIAMS, Chairman
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KANSAS HUMAN RIGHTS COMMISSION

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January 9, 2006**

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RICK FISCHLI
RACIAL AND OTHER PROFILING
ADMINISTRATOR
KAREN K. MCDANELD
OFFICE MANAGER

Trey Cocking
Division of the Budget
900 S.W. Jackson, Room 504
Topeka, KS 66612

Submitted via e-mail

RE: Requested Fiscal Note for HB 2544

Note: See also SB 328, which has the same language as HB 2544

Note: See also HB 2582, which contains language similar to that of HB 2544

Dear Mr. Cocking:

Please find below the Kansas Human Rights Commission's (KHRC) review of House Bill 2544 amending the Kansas Act Against Discrimination (KSA 44-1001 et seq) to prohibit discrimination in homeowners associations' restrictive covenants based on the protected classes of race, religion, color, sex, disability, familial status, national origin, and ancestry.

Analysis of the Proposed Legislation:

- Section 1 provides that no declaration or other governing document of a homeowners association shall include a restrictive covenant in violation of K.S.A. 44-1016 and amendments thereto.
- Section 1 also provides that, notwithstanding any other provision of law or governing documents, the board of directors of homeowners association shall amend any declaration or other governing document that includes a restrictive covenant in violation of K.S.A.44-1016, and amendments thereto, and shall restate the declaration or other governing document without the restrictive covenant but with no other changes to the other declaration or governing document. This action shall be taken without the approval of the owners.
- Section 1 further provides that if, after providing a written notice to a homeowners association requesting that the association delete a restrictive covenant in violation of K.S.A.44-1016, and amendments thereto, and the association fails to delete the restrictive covenant within 30 days of receiving the notice, the Kansas Human Rights Commission, a city or county in which a common interest development is located, or any person may bring action against the homeowners association

for injunctive relief to enforce the provisions outlined above. The court may award attorney fees to the prevailing party.

- Section 2 indicates the act takes effect upon its publication in the statute book.

As way of background, K.S.A. 44-1016 defines and prohibits unlawful acts in connection with the sale or rental of real property based on the protected classes of race, religion, color, sex, disability, familial status, national origin and ancestry.

Impact of the Proposed Legislation:

The *Kansas City Star*, on March 13, 2005, reported that, "...a *Kansas City Star* investigation last month that found that more than 1,200 documents involving thousands of homes in the Kansas City area still contain racist language banning blacks, Jews and other ethnic groups. The racially restrictive covenants were routinely recorded in plats and deeds for the first half of the 20th century and placed in many homes association documents not only in Kansas City, but nationwide. Though ruled unenforceable by the U.S. Supreme Court in 1948 and later deemed illegal by the federal Fair Housing Act, many of the restrictions were never removed, mainly because covenants were crafted in such a way that made them difficult to eliminate." The article goes on to report, "If the (Missouri) bill becomes law, it will help numerous homes associations in the Kansas City area deal with what they describe as an embarrassment that has been almost impossible to eliminate. Restrictions written prior to 1950 for many of the J.C. Nichols Co. subdivisions, for example, required that notices to amend the documents be filed five years in advance of their renewal dates-usually every 20 to 25 years-and that all homeowners must agree to the changes."

The Kansas Human Rights Commission does not expect a significant administrative or workload impact if HB 2544 is implemented for two reasons. First, we anticipate that most homeowners associations will willingly comply with the provisions of HB 2544, although publicity from the passage of the proposed legislation may bring this issue to the forefront for the public and increase inquiries to the Commission. Second, if a homeowners association declaration or governing document did contain a restrictive covenant based on a protected class of race, religion, color, sex, disability, familial status, national origin or ancestry and an attempt was made to exercise the illegal, unenforceable provision(s), an individual can already file a complaint with the Commission under the Kansas Act Against Discrimination.

Among other regulations designed to prohibit discrimination based on the protected classes, Kansas Administrative Regulation 21-60-5 states, "It shall be unlawful because of race, religion, color, sex, disability, familial status, national origin or ancestry for an agent, broker, person in the business of selling or renting or any other person for profit to restrict or attempt to restrict, by word or conduct, the choices of a person seeking, negotiating for, buying or real property so as to perpetuate, or tend to perpetuate, segregated housing patterns, or to discourage or obstruct choices in a community, neighborhood or development."

Further, Kansas Administrative Regulation 21-60-6 (b) states, in part, "Discriminatory notices, statements and advertisements, but are not limited to:.....(2) expressing to agents, brokers, employees, prospective sellers or renters or any other persons a preference for or limitation on any purchaser or renter because of race, religion, color, sex, disability, familial status, national origin, or ancestry."

The above regulations were promulgated in support of the existing provisions of the Kansas Act Against Discrimination, which involves a complaint process. HB 2544 provides an alternative to the existing complaint process, namely by providing a means to remove the illegal provision(s) without the approval of

the owners. Further, if the homeowners association fails to delete an illegal restrictive covenant within 30 days of receiving the covenant, the Kansas Human Rights Commission, the city or county in which the development is located, or any person may bring an action against the homeowners association for injunctive relief.

The State of Missouri passed HB 832, which contains language almost identical to that of HB 2544, during their last legislative session. It became effective on January 1, 2006. According to the Nebraska Equal Opportunity Commission, Nebraska does not have a statute similar to HB 2544. However, individuals can file complaints under the Nebraska Fair Housing Act regarding alleged illegal acts based upon their protected classes. The Oklahoma Civil Rights Commission indicated that individuals may file complaints against homeowners associations that discriminate based on one of their protected classes. We were unable to contact the Colorado Civil Rights Division.

Fiscal Impact:

It is difficult to estimate the number of actions the Commission might need to pursue or the number of contacts received under this bill. We expect that most homeowners associations will willingly comply with the proposed legislation's provisions without our involvement. As such, the fiscal impact on the agency should be limited and we conservatively estimate approximately 100 inquiries, versus the almost 10,000 public contacts made in FY 2005. Based on our experience in employment, housing, and public accommodation complaints in FY 2005, we estimate that approximately 11 of the inquiries will advance beyond the initial stage.

Minimal additional costs will be incurred for communication costs to answer inquiries, the reprinting of statute books and housing posters, miscellaneous office supplies, and travel for the filing of injunctions. Court filing fees are waived for State agencies. No additional FTE are scheduled as it is anticipated existing personnel can incorporate any additional duties.

<i>Detailed Computation of Expenditures to Implement the Bill:</i>					
	Total FTE	FY 2007	FY 2008	FY 2009	FY 2010
Salaries and Wages by Classification					
N/A		0	0	0	0
Benefits		0	0	0	0
Total Salaries & Wages		0	0	0	0
Contractual Services (list items)					
Object Code: 200 Communications		287	381	381	381
220 Printing/Advertising		418	427	427	427
250 Travel		171	176	176	176
Total Contractual		876	984	984	984
Commodities (list items)					
Object Code: 370 Stationery/Office Supplies		124	126	126	126
Total Commodities		124	126	126	126
Capital Outlay (list items)—N/A					
Object Code: 400 Capital Outlay		0	0	0	0

<i>Detailed Computation of Expenditures to Implement the Bill:</i>					
	Total FTE	FY 2007	FY 2008	FY 2009	FY 2010
Aid to Local Units of Govt.					
Total	0	1,000	1,110	1,110	1,110
<i>Detailed Computation of Revenue Impact (increase or decrease) Created by the Bill and the Funds Affected:</i>					
		FY 2007	FY 2008	FY 2009	FY 2010
Annualized Revenue Impact					
SGF	0	1,000	1,110	1,110	1,110
Other Funds					
TOTAL REVENUE IMPACT	0	1,000	1,110	1,110	1,110

We hope this submission meets your needs. Should you have any questions or concerns, please feel free to contact me at 296-2806 or Ruth.Glover@khrc.state.ks.us.

Sincerely,

Ruth Glover
 Assistant Director

cc: File

ERROL V. WILLIAMS, Chairman
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January 13, 2006

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OFFICE MANAGER

Ben Cleeves
Division of the Budget
900 S.W. Jackson, Room 504
Topeka, KS 66612

Submitted via e-mail

RE: Requested Fiscal Note for HB 2582

Note: See also SB 328, which contains similar language to HB 2582

Note: See also HB 2544, which contains language similar to that of HB 2582

Dear Mr. Cleeves:

Please find below the Kansas Human Rights Commission's (KHRC) review of House Bill 2582 amending the Kansas Act Against Discrimination (KSA 44-1001 et seq) to prohibit discrimination in homeowners associations' restrictive covenants based on the protected classes of race, religion, color, sex, disability, familial status, national origin, and ancestry.

Analysis of the Proposed Legislation:

- Section 1 provides that no declaration or other governing document of a homeowners association shall include a restrictive covenant in violation of K.S.A. 44-1016 and 44-1017 and amendments thereto.
- Section 1 also provides that, notwithstanding any other provision of law or governing documents, the board of directors of a homeowners association shall amend any declaration or other governing document that includes a restrictive covenant in violation of K.S.A.44-1016 and 44-1017, and amendments thereto, by removing the illegal restrictive covenant. The amendment shall not require the approval of the dwellings owned by members of the association. No other change shall be required to be made to the declaration or governing document of the association pursuant to this section.
- Section 1 further provides that, from and after January 1, 2006, if the Kansas Human Rights Commission or the city or county in which the association is located provides written notice to an association requesting the association delete an illegal restrictive covenant as outlined above, the association shall delete the restrictive covenant within 30 days of receiving the notice.

- Section 1 also states that, if the association fails to delete the illegal restrictive covenant, the Kansas Human Rights Commission, a city or county in which the association is located, or any person adversely affected by such illegal restrictive covenant may bring an action against the homeowners association for injunctive relief to enforce the provisions outlined above. The court may award attorney's fees to the prevailing party.
- "Association" is defined, pursuant to K.S.A. 60-3611, as a nonprofit homeowners organization exempt from federal income tax pursuant to section 528 of the revenue code of 1986, as in effect on the date of this act.
- "Dwelling" is defined, pursuant to K.S.A. 60-4701, as a single-family house, duplex, or multifamily unit designed for residential use in which title to each individual unit is transferred to the owner under a condominium or cooperative system and shall include common areas and improvements that are owned or maintained by an association or by members of an association.
- Section 2 indicates the act takes effect upon its publication in the statute book.

As way of background, K.S.A. 44-1016 defines and prohibits unlawful acts in connection with the sale or rental of real property based on the protected classes of race, religion, color, sex, disability, familial status, national origin and ancestry. K.S.A. 44-1017 defines unlawful acts as to real estate loans based on the protected classes of race, religion, color, sex, disability, familial status, national origin, and ancestry.

The effective date of the legislation is unclear because section one references January 1, 2006, whereas section two references "upon its publication in the statute book", which is considered to be July 1, 2006.

Impact of the Proposed Legislation:

The *Kansas City Star*, on March 13, 2005, reported that, "...a *Kansas City Star* investigation last month that found that more than 1,200 documents involving thousands of homes in the Kansas City area still contain racist language banning blacks, Jews and other ethnic groups. The racially restrictive covenants were routinely recorded in plats and deeds for the first half of the 20th century and placed in many homes association documents not only in Kansas City, but nationwide. Though ruled unenforceable by the U.S. Supreme Court in 1948 and later deemed illegal by the federal Fair Housing Act, many of the restrictions were never removed, mainly because covenants were crafted in such a way that made them difficult to eliminate." The article goes on to report, "If the (Missouri) bill becomes law, it will help numerous homes associations in the Kansas City area deal with what they describe as an embarrassment that has been almost impossible to eliminate. Restrictions written prior to 1950 for many of the J.C. Nichols Co. subdivisions, for example, required that notices to amend the documents be filed five years in advance of their renewal dates-usually every 20 to 25 years-and that all homeowners must agree to the changes."

The Kansas Human Rights Commission does not expect a significant administrative or workload impact if HB 2544 is implemented for two reasons. First, we anticipate that most homeowners associations will willingly comply with the provisions of HB 2544, although publicity from the passage of the proposed legislation may bring this issue to the forefront for the public and increase inquiries to the Commission. Second, if a homeowners association declaration or governing document did contain a restrictive covenant based on a protected class of race, religion, color, sex, disability, familial status, national origin or ancestry and an attempt was made to exercise the illegal, unenforceable provision(s), an individual can already file a complaint with the Commission under the Kansas Act Against Discrimination.

Among other regulations designed to prohibit discrimination based on the protected classes, Kansas Administrative Regulation 21-60-5 states, "It shall be unlawful because of race, religion, color, sex, disability, familial status, national origin or ancestry for an agent, broker, person in the business of selling or renting or any other person for profit to restrict or attempt to restrict, by word or conduct, the choices of a person seeking, negotiating for, buying or real property so as to perpetuate, or tend to perpetuate, segregated housing patterns, or to discourage or obstruct choices in a community, neighborhood or development."

Further, Kansas Administrative Regulation 21-60-6 (b) states, in part, "Discriminatory notices, statements and advertisements, but are not limited to:.....(2) expressing to agents, brokers, employees, prospective sellers or renters or any other persons a preference for or limitation on any purchaser or renter because of race, religion, color, sex, disability, familial status, national origin, or ancestry."

The above regulations were promulgated in support of the existing provisions of the Kansas Act Against Discrimination, which involves a complaint process. HB 2544 provides an alternative to the existing complaint process, namely by providing a means to remove the illegal provision(s) without the approval of the owners. Further, if the homeowners association fails to delete an illegal restrictive covenant within 30 days of receiving the covenant, the Kansas Human Rights Commission, the city or county in which the development is located, or any person may bring an action against the homeowners association for injunctive relief. The proposed legislation is significant in that it states a public policy prohibiting discrimination.

The State of Missouri passed HB 832, which contains language almost identical to that of HB 2544, during their last legislative session. It became effective on January 1, 2006. According to the Nebraska Equal Opportunity Commission, Nebraska does not have a statute similar to HB 2544. However, individuals can file complaints under the Nebraska Fair Housing Act regarding alleged illegal acts based upon their protected classes. The Oklahoma Civil Rights Commission indicated that individuals may file complaints against homeowners associations that discriminate based on one of their protected classes. We were unable to contact the Colorado Civil Rights Division.

Fiscal Impact:

It is difficult to estimate the number of actions the Commission might need to pursue or the number of contacts received under this bill. We expect that most homeowners associations will willingly comply with the proposed legislation's provisions without our involvement. As such, the fiscal impact on the agency should be limited and we conservatively estimate approximately 100 inquiries in FY 2007 and subsequent years, versus the almost 10,000 public contacts made in FY 2005. Based on our experience in employment, housing, and public accommodation complaints in FY 2005, we estimate that approximately 11 of the inquiries will advance beyond the initial stage.

Minimal additional costs will be incurred for communication costs to answer inquiries, the reprinting of statute books and housing posters, miscellaneous office supplies, and travel for the filing of injunctions. Court filing fees are waived for State agencies. No additional FTE are scheduled as it is anticipated existing personnel can incorporate any additional duties.

Since it is unclear if the effective date of the bill is January 1, 2006 or July 1, 2006, we estimated a nominal expense for implementation in FY 2006 in case the effective date is January 1, 2006. We used 50 inquiries, with five progressing beyond the initial stage. FY 2006 expenses include communication expenses for

answering inquires, printing of books and posters, miscellaneous office supplies, and travel for the filing of injunctions.

<i>Detailed Computation of Expenditures to Implement the Bill:</i>					
	Total FTE	FY 2006	FY 2007	FY 2008	FY 2009
Salaries and Wages by Classification					
N/A		0	0	0	0
Benefits		0	0	0	0
Total Salaries & Wages		0	0	0	0
Contractual Services (list items)					
Object Code: 200 Communications		144	287	381	381
220 Printing/Advertising		418	418	427	427
250 Travel		86	171	176	176
Total Contractual		648	876	984	984
Commodities (list items)					
Object Code: 370 Stationery/Office Supplies		62	124	126	126
Total Commodities		62	124	126	126
Capital Outlay (list items)—N/A					
Object Code: 400 Capital Outlay		0	0	0	0
Aid to Local Units of Govt.					
Total	0	710	1,000	1,110	1,110
<i>Detailed Computation of Revenue Impact (increase or decrease) Created by the Bill and the Funds Affected:</i>					
		FY 2006	FY 2007	FY 2008	FY 2009
Annualized Revenue Impact					
SGF	0	710	1,000	1,110	1,110
Other Funds					
TOTAL REVENUE IMPACT	0	710	1,000	1,110	1,110

We hope this submission meets your needs. Should you have any questions or concerns, please feel free to contact me at 296-2806 or Ruth.Glover@khrc.state.ks.us.

Sincerely,

Ruth Glover
 Assistant Director

cc: File

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TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
VICE-CHAIR: ECONOMIC DEVELOPMENT
MEMBER: COMMERCE & LABOR
CORRECTIONS AND JUVENILE
JUSTICE

Testimony for HB 2582
Restrictive Home Owners Association Covenants
Submitted by Representative Terrie Huntington
January 19, 2006

In the early 1900's when land tracts were being developed for residential use, covenants were drafted that provided for easement rights, sewer right of ways, the definition of out buildings, the minimum amount that could be spent on a residence and other rights and restrictions. One Article of Incorporation included in many homes associations' covenants was who NOT to allow to purchase property in designated developments.

In 1948, the Supreme Court ruled on Shelley v. Kraemer, and the Court began removing various elements of discrimination as related to property ownership. Two decades later, most deed restrictions and homeowners associations had been changed. However, in the case of a developer in the 25th District, for the covenants to be amended there had to be a vote of 100% of the residents in the Homes Associations. Until recently that proved to be a stumbling block in eliminating embarrassing language.

On July 12, 2005, Missouri Governor Matt Blunt signed into law SB 168 that made it possible for the Officers of Homes Associations to delete any discriminatory language and forgo the notarized signatures of 100% of the residents.

HB 2582 provides for similar legislation, allowing for removal of only the restrictive covenants pertaining to discrimination against race and religion, thus bringing the homes association covenants into compliance with Federal Law. No other language can be changed, only that which Federal law prohibits. This amends KSA 44-1016 and KSA 44-1017 and provides legal remedies for those bylaws not amended in a timely manner.

Thank you for your consideration of HB 2582.

House Gov. Org. & Elections
Date: 1-19-06
Attachment # 3

City of Westwood Hills

5008 State Line

Westwood Hills, Kansas 66205

(913) 262-6622

January 11, 2006

Rep. Terrie W. Huntington
25th District
State House—Room 182-W
Topeka, Kansas 66612

Dear Rep. Huntington,

In reference to your December 13, 2005 letter regarding Homeowners Association Restrictive Covenants, we wish you to know that the City Council of Westwood Hills, Kansas wholeheartedly supports this initiative.

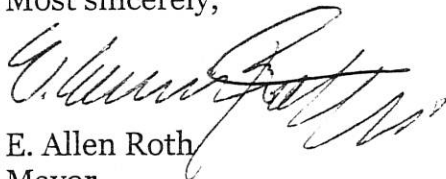
At the January 3, 2006 Westwood Hills city council meeting members

“RESOLVED, that the City of Westwood Hills supports Kansas legislation amending K.S.A. 44-1016 and 44-1017 that will allow for the deletion of discriminatory language in the bylaws of the Westwood Hills Homes Association without following the process currently contained in those bylaws. Westwood Hills wishes to be known as an inclusive city.”

Also, at its meeting on January 10, 2006, the Westwood Hills Homes Association passed this same resolution, and by the additional signature of its representative below wishes to convey its strong support for your actions as well.

Thank you for your efforts to move this forward.

Most sincerely,

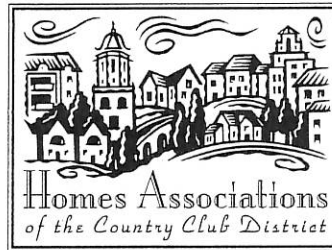


E. Allen Roth
Mayor
Westwood Hills, Kansas



Rich J. Willetts
President
Westwood Hills Homes Association

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My name is John Sheets and I am the Executive Director of the Homes Associations of the Country Club District. It's a long and fairly dated name for a rather simple concept. We're a consortium of 41 homes associations, all in the Kansas City area, but which fall on both sides of the state line – with about 20 associations in Kansas and 20 in Missouri.

Our association was founded by the one of the pioneers of planned residential communities J.C. Nichols. Mr. Nichols designed and built his first residential neighborhood in the early 1900s and soon after formed the first authentic homeowners association in 1914 in Mission Hills, Kansas. As he proceeded to develop adjacent tracts along the Kansas-Missouri border, he designed each as a cohesive, identified neighborhood with its own homes association, funded by the homeowners and run by a volunteer board.

By the 1940s, it became apparent that each association had similar operations, objectives and challenges. So he formed my organization, the Homes Associations of the Country Club District, to provide administrative services for the volunteer neighborhood leaders and promote interaction among the various associations.

Subsequently the HACCD was incorporated as a "Not for Profit" corporation and for the last 60 years we have provided administrative services and general support to the homeowners and their leaders. We handle everything from what we call the "barking dog" problems – the single most common homeowner complaint – to the financial services and legal affairs of the associations – which is what brings me here today.

In his wisdom, J.C. Nichols, whose first developments pre-dated zoning and other municipal controls, attached iron-clad restrictions to the deeds of the properties he developed. There were proscriptions against commercial development within the neighborhoods, against hotels and boarding houses, against parking lots and warehouses, all of which have withstood legal challenge and have helped to preserve the residential character of the neighborhoods..

Unfortunately, the deed restrictions attached to properties before 1948 also included provisions preventing the sale of properties to Negroes. As you know, that restriction was deemed unenforceable in 1948 but as I mentioned earlier, the documents were iron-clad, well-crafted and drafted to prevent amendment. The provisions for amendment of the documents provided only a brief window for revision every 20 years and only with a nearly impossible to achieve one hundred percent ratification. As you well know, just physically *locating* 100 percent of the population – with absentee owners, properties held in trust, properties in estates of deceased owners, part-time residents and other odd circumstances – is difficult. Then there's the added challenge and substantial expense of individually convincing each of those owners to sign a legal document and witnessing that signature.

House Gov. Org. & Elections
Date: 1-19-06
Attachment # 4

So the language – unenforceable and meaningless but nevertheless offensive – has remained in the documents for all these years. It's been an embarrassment to homeowners and to our associations but the cost and daunting logistical challenge of amending the documents was far beyond the limited resources of the associations.

Finally, in July of 2005, with the strong support of the HACCD, the Missouri legislature passed Senate Bill 168 which provides a simplified procedure for one-time amendment of the deed restrictions to delete the "No Negroes" clause. All of our Missouri associations quickly seized that opportunity and are now in the process of preparing and filing the necessary documents to remove the offensive language.

I'm here today, speaking on behalf of our Kansas associations, asking that you pass similar legislation in Kansas. As I mentioned earlier, this legislation would affect those associations formed before 1948, which, in our organization, would include three associations in Mission Hills, Kansas and three associations in Prairie Village Kansas, which represent approximately 4000 households.

On behalf of those 4000 households, I strongly encourage you to pass this legislation and allow us to remove the racial deed restrictions.