Putting an End to Housing Discrimination One Step at a Time

By Maureen Leddy

San Francisco Bay Area attorney and AAJ Past President Elise Sanguinetti generally devotes her time to personal injury, wrongful death, and legal malpractice cases, but after a startling discovery during the sale of her home this year, she took up a new cause—fighting to remove Jim Crow-era language from homeowners agreements. Sanguinetti's agreement included a covenant precluding non-Caucasian people from purchasing, owning, leasing, or even visiting the property. Although the U.S. Supreme Court found such covenants unconstitutional over 60 years ago (*Shelley v. Kraemer* (334 U.S. 1 (1948)), and Congress prohibited them in the federal Fair Housing Act of 1968, they are all too common in homeowners agreements in California and nationwide. Such agreements are unenforceable, but Sanguinetti called them "horrible"—a reminder of the lingering discrimination that remains today.

Sanguinetti started by amending her homeowners agreement, which took almost 75 hours. The process involved filling out paperwork, getting it notarized, submitting that paperwork to the recorder's office, and awaiting the county counsel's approval. She is helping others do the same in far less time and for little or no cost. Most California counties charge a nominal recording fee, and Sanguinetti is volunteering her time—she also has teamed up with notaries and California's largest title company, Old Republic Title, who are doing the same.

These racially restrictive covenants became common in homeowners agreements after 1917, when the Supreme Court held in *Buchanan v. Warley* (245 U.S. 60) that city and state segregation ordinances violate the Fourteenth Amendment. Developers responded by establishing homeowners associations that required these restrictive covenants in private deeds, which they argued were not subject to the Fourteenth Amendment.

Later, during the Great Depression, the Federal Housing Administration began "redlining" in urban and suburban areas—mapping out geographic areas where mortgage lending was the riskiest and refusing to insure mortgages in those areas. Unsurprisingly, redlined areas were communities of color, and the effect was to limit the availability of mortgages and, therefore, home ownership. To avoid communities from becoming redlined, developers and realtors encouraged mortgage companies to add racially restrictive covenants to title documents.

During the civil rights protests that flared up nationwide over the summer, Sanguinetti thought about how she could help reduce discrimination. She is working with attorneys in other states who also are willing to help homeowners remove these discriminatory provisions from their deeds on a pro bono basis. She hopes that her work to eliminate these restrictive covenants and, as she put it, their "antiquated, racist, and disgusting language" will have a positive impact nationwide. "People of color should not have to be reminded of this country's history of racial discrimination as they are purchasing a new home," she said. T

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