



LEGAL EQUESTRIAN™

EQUESTRIAN QUESTION FORUM: by Lisa L. Lerch, Esq.

I live in an equestrian community governed by a homeowner's association. Local zoning allows for 4 horses, but my homeowner's association says I can only have 2 horses. I do not want to get rid of 2 of my horses. Can I legally keep 4 horses on my property?

I think every horse owner longs for a nice 100 acre spread which would allow us the freedom to do as we wish. Unfortunately, the reality is most of us find ourselves on small patches of land that are often subject to rules and regulations.

For the longest time the only rules one encountered regarding the number of horses one could have came from local city government in the form of zoning compliance. Today, with the onset of Common-Interest-Developments, most of us now have to deal with the city and a homeowner's association.

Being the member of a homeowner's association has its pros and cons. On the one hand, if the development is established as an equestrian community, a homeowner might benefit from well-maintained trails. On the down-side, the covenants, conditions and restrictions (CC&Rs) often restrict the number of horses you can keep, as well as how you can keep them.

A common misconception is that if local zoning permits something and the CC&Rs are different then the CC&Rs are wrong and do not need to be followed. That misconception can cause a lot of headaches for the homeowner. CC&Rs are the governing documents for the development and mandate how the homeowners association functions, as well as the rules that owners, tenants and guests must follow. The documents are legally enforceable by the homeowner association.

CC&Rs differ from local zoning in that they are private land use restrictions put in place by the original land owner and not by government legislation. CC&Rs have the ability to further restrict the actions of a homeowner that would otherwise be legally permissible under local zoning laws. For example, if local zoning allows for 4 horses on your property and your CC&Rs only allow for 2 horses then, despite zoning, you can only have 2 horses on your property.

When you purchased your home in a Common-Interest-Development, you agreed to abide by the terms set forth in the CC&Rs, whether you read them or not. Every homeowner should carefully read the CC&Rs prior to purchase to ensure they allow you to have the lifestyle you want on your property. It is even more important to do so when animals are involved because misunderstandings and violations of CC&Rs usually result in costly legal battles and the eventual loss of your animals.

If you have further questions regarding this issue, please feel free to contact our office for further information.

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