

MAYFAIR BEL-AIRE RESTRICTIVE COVENANTS PROTECTION FUND

Our beautiful, quiet neighbourhood, with tree-lined streets and spacious lots, owes its character to the continued existence of and compliance with restrictive covenants registered against almost every land title in Mayfair and Bel-Aire. Our restrictive covenants limit construction to one single family dwelling on each lot (with no secondary or backyard suites), with a variety of setback requirements to ensure generous spacing between houses. Our restrictive covenants operate as a “building scheme” outside of and in addition to municipal zoning by-laws. (You can find more information on the restrictive covenants themselves [here](#) on this website.)

The Mayfair Bel-Aire Community Association (MBCA) considers that our restrictive covenants are critically important to the preservation and continuation of the current character of Mayfair and Bel-Aire as single detached dwellings neighbourhoods, with parks, green spaces and a substantial urban forest. The existing low density and low intensity housing also indirectly results in lower levels of traffic and parking problems in our neighbourhoods.

The City of Calgary does not take our restrictive covenants into consideration when approving a development permit or a building permit for construction in Mayfair and Bel-Aire, with the result that the City often approves construction which is contrary to our restrictive covenants. In recent years, the City has implemented and updated a Municipal Development Plan which contemplates substantial densification of existing neighbourhoods such as ours, including semi-detached dwellings, row housing, and various scales of apartment buildings. The *Guide for Local Area Planning*, recently approved by the Planning and Urban Development committee of City Council, specifically contemplates removal of R1 zoning in all city neighbourhoods. The “upzoning” permitted by the Municipal Development Plan and the *Guide for Local Area Planning* will be in direct conflict with our restrictive covenants.

The City not only ignores restrictive covenants when approving development permits and building permits, it is now actively supporting developers who are challenging restrictive covenants in court. The Banff Trail neighbourhood, for example, now faces a lawsuit by a developer seeking to discharge the single family restrictive covenant in that neighbourhood, and in support of the developer the City has amended zoning to prohibit single family or duplex dwellings. This is shocking conduct by the City, because restrictive covenants are a well-established, legal tool for private land use planning, explicitly authorized by the *Land Titles Act* (Alberta).

Because the City does not require that any development or building permit must comply with our restrictive covenants, it's up to us – the affected homeowners – to ourselves enforce our restrictive covenants. The MBCA has established a Restrictive Covenants Review Committee to monitor all permit applications for Mayfair and Bel-Aire to determine compliance with our restrictive covenants, and to communicate with owners and builders to alert them to the need for compliance with our restrictive covenants. The Review Committee's mandate does not extend to enforcement of restrictive covenants, nor is there any provision for funding to cover legal costs of enforcement.

We are concerned about recent actions by the City and by various developers against similar restrictive covenants in other city neighbourhoods. We want funding in place and available on a timely basis should the need for protection of our restrictive covenants arise, or should there be a lawsuit in another neighbourhood which would be precedent-setting for our restrictive covenants. To that end, the MBCA has created a Restrictive Covenants Protection Fund (the Fund) and opened a bank account for

contributions to it. The Fund will be administered by the MBCA Board of Directors in accordance with the [Terms of Reference](#).

Our goal is to raise \$50,000 for the Fund (about \$150 per household if every household contributed). Contributions are not tax-deductible and are non-refundable. Several households have already contributed to the Fund, so we're on our way! A fundraising campaign will soon be launched. In the meantime, you can contribute to the Fund by cheque or e-Transfer. The contribution form is available [here](#).

If litigation becomes necessary, further contributions to the Fund might be required, but at least we'll have enough in the kitty to respond quickly and fully to any initial challenge by a developer or the City.

Please contact Bruce Williams (traffic@mayfairbelaire.ca or (403) 870-7391), Peter Collins (RCPF@mayfairbelaire.ca or (403) 978-7983) or Karen Mazepa (restrictivecovenants@mayfairbelaire.ca or (403) 831-2746) with any questions you have.

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