

No vacancy: Deed restrictions are the weapon of choice for governments in the fight against vacant homes

But their terms and definitions could come to define their effectiveness in the gig economy

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A sale sign sits in front of a home in Avon. In a recent attempt to offer relief on local homebuyer fees, Town Council members in Avon have decided to offer the tax exemption to people earning 75% their income while working in Eagle County.

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Editor's note: This story is the fourth part in a five-day series focused on housing issues in the Vail Valley. To view the entire series as it unfolds, visit vaildaily.com/news/home-economics.

Across the country's most desirable areas, which certainly includes Eagle County, houses are providing something other than housing, and residences are owned by something other than residents.

Many of the nation's marquee housing opportunities have become investment properties, and their ownership histories look more like a commercial area than a residential zone district. Banks, LLCs, private equity firms and real estate speculators have assumed the role of the proud homeowner.

As people began to realize that many of the residences in their communities were not being occupied by community residents, an idea emerged: Perhaps there's something governments can do to ensure new houses become used for housing. In approving developments planned in their districts, deed restrictions became a go-to answer to the question of how to accomplish such an idea.



Self-explanatory

Real estate development is a complex industry filled with insider jargon, making deed restrictions refreshingly self-explanatory: The property's deed has a restriction on it, and that restriction stipulates that you have to be a local community member to live in the property.

A common restriction might say the homeowner must earn at least 75% of their income from the general area in which the home is located. Another might say the homeowner must earn at least 75% of their income in the general area in which the home is located.

Council and staff in the town of Avon have taken a hard look at Eagle County's deed restriction language over the course of the last few months, and their determination is that one word – “in” versus “from” – can make a difference in who meets the terms of the restriction. Stories of airline workers, self-employed individuals and other community members not qualifying for housing under certain definitions were offered as examples of flaws that can prevent governments from attaining their goals.



A view of Avon from Buckhorn Lane. Council and staff in the town of Avon have taken a hard look at Eagle County's deed restriction language over the course of the last few months, and their determination is that one word – “in” versus “from” – can make a difference in who meets the terms of the restriction.

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Gig economy

In a recent attempt to offer relief on local homebuyer fees, Town Council members in Avon have decided to offer the tax exemption to people earning 75% their income while working in Eagle County. But that does not necessarily mean that income must be coming from Eagle County businesses. The explosion of “the gig economy” was mentioned several times in the discussion.

“Say you’re going down to Denver this weekend to play a gig. I don’t consider that you’re living somewhere else,” said Jennie Fancher.

“What if I’m on the road for three weeks?” Council Member Jake Wolf, who is himself a musician, asked Fancher.

“When you’re down in Denver, you’re not saying ‘I’m not an Avon resident,’” Fancher replied.

The consensus was, as long as Wolf considers Eagle County his true home — he votes here, his identification says he lives here — from where he earns his money isn’t as important as the fact that he does in fact earn, and when he pays his taxes, he does so from his true home in Eagle County.

Other working situations that would qualify individuals for the exemption include a retired individual who has worked 30 hours per week for five years or more in Eagle County, self-employed people whose businesses are in Avon, or a person who works a minimum of 30 hours per week for an employer outside of Eagle County if that person can demonstrate that their Avon residence is their primary residence.

Housing, but no benefits

In exploring the language of deed restrictions, the town of Avon also explored another central theme of a deed restriction’s intent. In addition to ensuring residences become occupied by residents, a deed restriction can also stipulate, to a degree, what kind of resident will come to occupy the home. Most governments in Eagle County want to see deed-restricted houses inhabited by working people, and some restrictions include definitions stipulating occupants work at least 30 hours per week in Eagle County.

Detractors of the 30-hour per week policy say 30 hours is the magic number where an employer can get their workers into deed-restricted housing without having to give them the benefits that come with full-time employment. Supporters say in Eagle County, an abundance of seasonal jobs create an average yearly workload of minimum of 30 hours per week, rather than the minimum 32-hour average workweek that is more common in non-seasonal work and considered full-time in the state of Colorado.

The town of Avon, in examining the language of deed restrictions in its effort to increase real estate transfer tax exemption levels, did include an Eagle County employee definition ensuring the exemption would be offered to people working 30 hours per week or more.

“The only thing this definition is giving us, in addition to verifying primary residence, is that someone is actually working, or they worked in Eagle County for five years before they retired,” said town manager Eric Heil.

Preferred method

Other ideas have emerged, but for now, the deed restriction still appears to be the preferred method for area governments in their attempt to find more equitable housing situations for locals.

While [a vacancy tax was mentioned in Avon](#) as another tool that could be used in the fight to fill area homes with locals, the idea hasn’t been brought up again since its initial suggestion in October.

But later that month, when the potential developer of an empty lot in the Riverfront area of Avon entered into negotiations with the town to build high-end residences there, the bargaining chip the town was happy to pocket in seeing the deal though was, you guessed it, deed-restricted units.

“We went back and analyzed employee housing, and that’s why we agreed to come back in and deed restrict some units,” said Jim Telling with East West Partners.

East West Partners was asking the town for an extension of the development rights on the land, as well as an alteration to the setbacks approved on the future development. In exchange, the developer offered to add two deed-restricted units to the plan for 60 to 100 units for the space next to the Westin. The request received unanimous approval.

“They’ve responded to requests that we’ve made, they’ve added some deed-restricted units,” said Scott Prince of the Avon Town Council. “I think they’ve been very good in terms of working with us in some of the things we’ve asked for. In exchange, I’m certainly willing to give them that setback.”

