

# GARDEN OAKS GAZETTE

November 2001

Volume 24, Number 11

## GOMO and the Garden Oaks Deed Restrictions

*Sam Stengler*

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I would like to take this opportunity, as the chairman of the Garden Oaks Deed Restrictions Committee, to speak to all of you about the proposed Garden Oaks Maintenance Organization (GOMO), and its purpose and relationship to the property owners and residents of Garden Oaks. There has recently been a great deal of what, in polite society, we would call 'smoke' being generated and blown about GOMO and on what it would or wouldn't do for our neighborhood.

GOMO is being proposed to the neighborhood as an organization to functionally take the place of the Garden Oaks Board of Trustees (BOT), which in turn took the place of the original GO developer, the Garden Oaks Company. This replacement of the BOT was made necessary by one event: a lawsuit brought by a GO property owner in Section One, Victor C. Moore, against the BOT. (Details elsewhere in this issue.)

In his lawsuit, Mr. Moore argued that the authority of the BOT was not transferred to it from the Garden Oaks Company in conformance with either the existing GO deed restrictions or Texas State law. Because of that, the BOT had no authority to enforce the GO deed restrictions. Mr. Moore asked for a summary judgment (where the judge rules on the motion itself without any trial) on his suit and it was granted. Once that happened, there was nothing left for the BOT to do, and, after its funds were awarded to Mr. Moore for attorney's fees, the BOT was effectively dissolved.

However, while the ruling on Mr. Moore's suit did, indirectly, 'do away' with the BOT, neither this suit nor any other suit has resulted in **any** of our deed restrictions being waived or abandoned. Consequently, all of our deed restrictions are enforceable, with one exception. The United States Supreme Court has ruled racial restrictions unenforceable.

Let me say it again. **At this time all of the Garden Oaks deed restrictions, excluding the single exception noted above, are in force and are enforceable.**

However, there is now a vacuum. With no BOT, nor any other organization in existence that is legally able to enforce our deed restrictions, the only way to currently enforce compliance is for an individual neighbor to sue, or threaten to sue, another neighbor over a violation. The emotional toll of alienating a friend or neighbor over a deed restriction violation and the added burden of the not-inconsequential cost of actually following through with a lawsuit severely discourages any individual from trying to enforce and preserve our deed restrictions.

So, understandably, no one takes the responsibility...is that really so bad for GO?

*Continued on page 9*

### **Civic Club Meeting**

*Tuesday, November 6<sup>th</sup>*

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The next Civic Club Meeting will be held on Tuesday, November 6<sup>th</sup> at 7:00 P.M. in the Garden Oaks Elementary School Multi-Purpose Room.

Pastor Tom Moffat with The Net Church will address our group to discuss his plans for the church, the improvements planned, and how he plans to interact with our community.

The proposed 2002 Civic Club budget will be distributed and discussed in preparation for it to be voted on at the December meeting.

## From the Editor

*Joe Muscara*

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*[Sheriff voice]* You may remember me. My name is Joe, and I am the editor of this here *Gazette*. Seems that some folk need some reminding what the *Gazette* is all about.

"The *Garden Oaks Gazette* is the official publication of the Garden Oaks Civic Club and is published on a monthly basis.... Publication of any article does not imply endorsement by the Garden Oaks Civic Club and is solely the opinion of the author."

That's what it says in the masthead on page two, and has so every month. Every article published in the *Gazette* is the property and the opinion of the author. We do not own the copyright to the articles, nor do we take responsibility for them. This means that if in following the "advice" of an article included here, you have some problems, you should take that up with the author, not the *Gazette*.

Unlike large publications for which you can go to a store and pay money, the *Gazette* is staffed by volunteers, all of whom have regular jobs, families, and lives that take precedence over the *Gazette*. This means we do not have the staff that would be required to perform fact checking for every article, nor the ability to make sure that any advice given is proper, legitimate, safe, or anything else. The best we can do is make sure there aren't any obvious problems. (Consider this a reminder to any and all contributors as well. *You* are responsible for what you write. If you want to write a column about "Hot Stocks," including stocks that you guarantee will go up in value in a certain amount of time, anyone ignorant enough to follow your advice and get mad at you for losing their savings will be sent directly to your door. That's just a hypothetical example. I doubt I would publish such a thing since it is out of the scope of the *Gazette*.)

Realize that this applies to opinions as well. We are willing to publish any resident's opinion, so long as it is relative to the topic being discussed, reasonably stated, and publishable. If an author just makes some insulting comment like "Mrs. So-and-so is an ignorant dope" or "Mr. Such-and-such is full of [it]," that won't get published. However, if the author says something like the *Gazette* is one-sided and useless, that it is the puppet of the powers-that-be, the editor should be removed, and especially if they cite reasons, we'll print that without problem.

This is because the *Gazette* is a forum for residents of this neighborhood. Since this is America, the authors have a right to state their opinion. If you disagree, write back. It is a simple

### Garden Club Officers

<i>President</i> Brenda deAlba	713 694 5934
<i>Vice President</i> Janet Cones	713 956 7340
<i>Secretary</i> Barbara Ballance	
<i>Treasurer</i> Tina Nieto	
<i>Yard of the Month</i> Holly Veech	
<i>Sunshine</i> Terry Jeanes	
<i>Phone Committee</i> Ann Hollis	

yet powerful process, and I'm proud to be part of it. In a sense, it is a shame that the *Gazette* is only published monthly, as more frequent publication would allow for a more free-flowing discussion (it would also probably lead to insanity on the part of the editor unless there was a paycheck involved so it could be a full time job). But, we can work with what we have.

Finally, I'd like to clarify one thing regarding this and the original article that stirred it all up. The purpose of the *Gazette* is to inform and to provide a means of communication for Garden Oaks and the Civic Club. We exist to provide an open dialogue between interested parties, so long as the dialogue is civil and reasonable as described above. It is never the intent of the *Gazette* to insult nor offend any person or group in or affecting the neighborhood. Any author's opinions should not be misconstrued to be anything but the author's own opinion, which, of course, the author has a right to have.

If you have something to say about this subject or any thing that has appeared in the *Gazette*, or any neighborhood issue, let us know. Don't forget to include your name and address; anonymous submissions will not be published.

This month, I'd like to welcome Amanda Carlin to the *Gazette* staff. Amanda will at least temporarily take on the responsibility of Delivery Coordinator for the *Gazette*. With some help from her sister Margie Dalton, I'm sure they will do a great job. Thanks of course must go to Willie Stollenwerck for his work in this position.

Until next month, I'm...

still the editor.  
(Believe it or not.)

## Election Time

*David Bell*

If you are like me, you love the months of September and October when all the airwaves on radio are filled with political advertisements. All the good talk shows and music channels won't go any more than a couple of minutes before one candidate's ad comes on. Often, we get to hear the same ad within just a few minutes. If you are a channel surfer, you can also hear the same ad back to back on different channels. Maybe this is why we have such high voter turnout at our elections.

Seriously, we do have an election coming up on November 6 and the results do affect your lives. I think our country learned last November that every vote does count, contrary

to popular belief. Also, candidates have different views and will implement different policies that will affect your pocketbook. This election has direct implications to you as a citizen of Houston. This is a local election whereby we elect our city government and we will also vote on a number of referenda and bond issues that have implications for our future in terms of infrastructure and the associated debt obligations. If you own or rent, you pay property taxes, either directly or indirectly. Either way, you have a stake in the outcome.

Regular attendees of the civic club meetings have had a chance to meet candidates for City Council District A, one of the three candidates for mayor, as well as candidates for other elected offices. All of these positions are important and do affect your life. The choices for mayor and city council will affect your tax rate and the city services available to us. They will also have a huge impact on life in Houston long after their term is expired. If you care about your city and its future, you have an obligation to get out and vote.

Voter turnout for city elections historically has been quite low, and Garden Oaks has been no different. If you don't take the time to go vote, don't be surprised at how winners act when in office, and most of all, don't complain when you don't like what gets done. By turning out in large numbers, we can make Garden Oaks an area that gets attention because candidates will respond when they know the residents are politically active. Voting is easy and takes only a little amount of time. Please make sure you do so!

## GOMO Updates

*Sam Stengler*

Hey there! Make sure you all come to the November Garden Oaks Civic Club meeting, November 6, 2001! The Deed Restrictions Committee is giving out the prizes for the GOMO Contest announced in June. Eleven lucky GO property owners, who returned a completed ballot by the announced deadlines, will be each awarded a cash prize of from \$200.00 to \$500.00! Come see the fun!

Also, here are the numbers so far for the GOMO balloting:

Section One: 204 Yes

Section Two: 60 Yes

Section Three: totals at the November CC meeting!

Section Four: 73 Yes

Section Five: 82 Yes

As always, if you have a comment or question about the GOMO ballots, or GOMO in general, feel free to call me at 281-773-3478, or email at [sstengler@covad.net](mailto:ssstengler@covad.net).



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## Minutes of October 2, 2001 Civic Club Meeting

*Amy Shaughnessy, Secretary*

Vice-President Stacey Park called the meeting to order at 7:10 p.m. A motion was made, seconded, and voted on to accept the September minutes as published.

### Guest Speakers

Waite Smith, representing mayoral candidate Orlando Sanchez, Chris Bell, also candidate for mayor, and William Smith, running for Houston Community College Trustee, spoke. Bruce Tatro, City Council Representative for District A, spoke on his campaign for re-election and updated the Club on the status of the repairs on 43<sup>rd</sup> between Oak Forest and Ella. Construction should be under way by July 2002.

### Officer Reports

*Treasurer:* Cherry Wolfarth distributed copies of the monthly report. At this time there is \$1253.75 in the Constable Program account, with two payments still due on the current contract. The 2002 budget will be printed in the November *Gazette*.

### Committee Reports

*Beautification:* Rick announced a meeting on October 23. To join the Beautification Committee, contact Rick Grochoske at 713-864-8164.

*Citizens on Patrol:* Carl Waters said that crimes in our neighborhood were up in August, especially in the 200-300 blocks in Section 1. We are above the Houston average for burglary, but below the average for violent crimes. Carl announced that one of the program's long-time dedicated patrollers, Bill Hines, passed away. Patrollers are always needed – contact Carl Waters at 713-864-1992 for more information on becoming a GOCOP.

*Constable Program:* Co-chair Terry Jeanes passed the basket again to collect contributions to pay for the program through November 2001. Terry announced a drawing for a fabulous yet-to-be determined prize for all Program participants who have paid for 2002 in full by January 1, 2001. The drawing will take place at the January Civic Club meeting. This year we had 142 households paid in advance and 44 drafting month-by-month. We will need 227 fully paid households to cover the cost in 2002 at the reduced price. The Member Handbooks and stickers for 2001 paid participants will be distributed at the Fall Festival. Contact Terry Jeanes at 713-680-8550 for more information or to join the Constable Program.

*Fall Festival:* Shannon Thompson announced lots of great activities that will be taking place at the Festival on October 21 from 3-6 p.m. at Rick Englert Park. The event is being underwritten by Greenwood King Realtors and will be free to everyone. Shannon is looking for someone to help with set-up and volunteers to help with the activities. For more information or to join the committee, contact Shannon at 713-692-1042.

*Garden Oaks.org:* No report.

*Gazette:* Editor Joe Muscara announced that a new Delivery Coordinator is needed immediately. Amanda Carlin volunteered as a temporary coordinator. Brenda de Alba requested a retraction from the editor and letter from the Civic Club officers declaring that the statement about Ed de Alba in the letter published in the October *Gazette* was printed inappropriately. A motion was made that the editor has the editorial right to delete from publication any proper names included in submissions to the *Gazette*, the *Gazette* editor, or any Civic Club Officer, that can be considered libelous. This was seconded and passed. The suggestion was made that a disclaimer stating that all publications in the *Gazette* are the opinion of the author and do not reflect the opinions of the Garden Oaks Civic Club, *Garden Oaks Gazette*, or *Gazette* editor should be printed above published letters to the editor, not just in the front of the newsletter where it has always been. To contribute an article to the *Gazette*, contact Joe at 713-691-6833.

*GOMO:* Sam Stengler announced the drawing will take place at the November Civic Club meeting. He gave a partial update on the voting statistics. Section 4 still needs a captain. For more information on GOMO, call the hotline at 713-341-3737 or contact Sam Stengler at 281-773-3478.

*Home Tour:* Co-Chair Mike Caldwell announced that homes and gardens for the 2002 Tour have been selected and were published in the October *Gazette*. Three committees still need chairs. The next meeting will be October 9 at 420 32<sup>nd</sup> Street at 7 p.m. For more information, contact Sheila Briones at 713-861-8091 or Mike Caldwell at 713-697-8690.

*Membership:* Michael Froebel announced that there are 248 paid Civic Club members. He hopes to have a draft of the New Member packet to present at the November Civic Club meeting. To join the Civic Club or for more information, contact Michael Froebel at 713-683-8914.

*Garden Club:* Brenda de Alba announced there will be a plant sale at the Fall Festival. Orders will be taken for plants, with prices sharply discounted. There will also be a plant raffle. Contact Brenda at 713-694-5934 for more information or to join the Garden Club.

*Nominating Committee:* Terry Jeanes announced that the committee is working on a slate to be presented at the November Civic Club meeting.

**New Business**

Tom Moffett from the Net Church announced that they are having a Fall Festival on October 31, which will include a fundraiser for the Kay On-Going School on Shepherd.

Terry Jeanes encouraged neighbors to exchange work phone numbers with each other in case an emergency takes place at your home during the day so you can be contacted.

The meeting was adjourned at 9:05 p.m.

Refreshments for the meeting were graciously provided by Terry Jeanes, REMAX / Metro.

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## PIANO LESSONS

Juilliard graduate with extensive teaching and performing experience now has a few openings for students at all levels (children or adults).

**For information and/or an appointment, please call 713-956-6855**



## Citizens on Patrol

*Carl Waters, Jr.*

Two months ago I reported that one of our members, Bill Hines, was having some health problems. Sadly I must report Bill succumbed to his illness on October 1, 2001. Bill was a dedicated member of GOCOP since 1995. Bill and his wife Mary had patrolled almost 600 hours in the 6 years he was active with the program. That was about 2 hours a week, EVERY week. Bill's dedication to the community did not start or end with the GOCOP program. Bill served in the Air Force during the Korean War and continued his service to the country and the community by becoming an air traffic controller for 30 years following his military service. Bill and Mary moved to Garden Oaks to rear their four sons in 1965. Bill was active with the Republican Party and served as Precinct Chairman. Our deepest sympathies go out to Mary, sons Stephen, Christopher and Michael, their wives and children. We will deeply miss Bill's presence in our organization.

Last month I mentioned it was time to discuss holiday safety tips. The following was taken from a quarterly publication that I receive from the Houston Police Department.

### While Shopping

- Stay alert to your surroundings; thieves prey on those who are inattentive.
- Do not shop alone (swimming isn't the only time there is safety in numbers).
- Avoid carrying large amounts of cash. Purchase your merchandise with checks and credit or debit cards if possible.
- Always carry some form of identification, preferably a Texas Driver's license or identification card.
- Do not carry a large purse. If you must carry a purse wrap the strap tightly around your arm.
- Do not carry your wallet in your back pocket. Consider carrying it in your front pocket. This is good advice for checkbooks as well.
- Keep an eye on your packages when eating at the mall. Bags can be easily switched. The same is true while shopping for additional purchases.
- Teach your children what to do if they become separated from you while shopping.
- Do not carry a large number of packages when you leave the store or mall. Consider using the package pick-up service.
- Always have your keys in your hand before leaving the store.
- When you arrive at your vehicle place your packages in the trunk or other covered area.
- Avoid shopping until the store closes.
- Check with the store or mall security to see if they can escort you to your vehicle.

### In Parking Lots

- Shop early to avoid evening darkness and night travel.
- Park in areas with high visibility. Check for lighting in the event that you must leave after dark.
- Avoid parking next to vans or other vehicles with tinted windows.
- Walk briskly, confidently and directly through the parking lot to your vehicle. Be wary of strangers soliciting sales or information.

### At Home

- Keep the outside of your home well lit with your doors and windows locked.

- Do not display gifts beneath the Christmas tree that can be seen from the street.
- After Christmas destroy all gift boxes and place them in non transparent garbage bags to avoid advertising to thieves what gifts came into the house.

**August Crime Statistics (14)**

*Robbery (1)*

4200 block of Golf on August 6 at 4:45 p.m. (public street). This incident was brought to my attention back in August by one of our patrol members. The person in question was being followed and turned onto Golf where she then confronted the follower. The man attacked the woman and either payroll funds or a bank deposit was taken.

*Burglary (8)*

700 block of W. 32nd St. on August 3 at 7:00 p.m. (residence).  
 700 block of W. 43rd St. on August 3 at 9:00 p.m. (residence).  
 300 block of W. 32nd St. on August 10 at 2:00 p.m. (residence).  
 700 block of W. 31st St. on August 11 at Noon (residence).  
 300 block of W. 30th St. on August 15 at 7:30 a.m. (residence).  
 4200 block of Apollo on August 15 at 11:00 p.m. (residence).  
 200 block of W. 32nd St. on August 23 at 6:45 a.m. (residence).  
 700 block of Sue Barnett on August 28 at 9:00 a.m. (residence).

*Burglary of a Motor Vehicle (3)*

200 block of W. 34th St. on August 9 at 12:05 a.m. (residence).  
 200 block of W. 32nd St. on August 10 at 6:00 p.m. (residence).  
 3200 block of N. Shepherd on August 22 at 10:15 a.m. (dry cleaner's parking lot).

*Auto Theft (2)*

300 block of W. 30th St. on August 3 at 10:45 a.m. (driveway).  
 300 block of W. 32nd St. on August 4 at 11:30 p.m. (street).

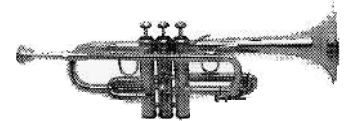
A word of warning for those of you who have security gates for your driveways. A resident called me late in September reporting that she had left her garage door open during the rains the night before figuring her security gate or family dogs would let her know if anyone entered the property. During the early morning hours someone forced open the security gate and because the dogs were in the house they did not alert the owner to the intruder. Unfortunately for this neighbor her \$500.00 mountain bike was stolen. So remember, take the time to close your garage door. Thieves can't take what they can't see and security gates are not always secure.

As I mention almost every month the Citizens On Patrol program is looking for volunteers. Please contact me via the Internet at GOCOP77018@AOL.com or call me at 713-864-1992 for details about joining our program.

**Emergency Contact Numbers**

**CALL THESE FIRST - THEN CALL ME TO REPORT NEIGHBORHOOD CRIMES**

Crimes in progress, Fire or Ambulance	911
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Precinct One Constable Dispatch	713-755-5200



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## Remaining 2002 Home & Garden Tour Committee Chair Positions Filled

*Sheila Briones, 2002 Co-Chair*

At the October 9<sup>th</sup> Tour Committee meeting, volunteers filling the remaining Committee Chair positions were announced. "Thank you" and "Welcome Aboard" to the following new Committee members:

- **Trish Ricklefsen** will head the Silent/Live Auction Committee. Trish and her committee will be busy the next few months soliciting donations for both the Silent & Live Auctions that take place at the Sponsor Party, held the night before the Home & Garden Tour. Call Trish at (832) 618-1606 or e-mail her at [tricklefsen@houston.rr.com](mailto:tricklefsen@houston.rr.com) to donate an item or to help solicit donations.
- **Wende Clemence & Frances Schwartz** will both chair the Pre-sale Ticket/Poster Distribution Committee. Both will be busy identifying pre-sale ticket locations in the coming months and also identifying those businesses that will display our Tour posters. Contact Wende at (713) 695-0844 or e-mail her at [wclence@bosltgdesign.com](mailto:wclence@bosltgdesign.com). Frances can be reached at (713) 699-0619, e-mail: [schwarfa@bp.com](mailto:schwarfa@bp.com).
- The Graphics Committee will be lead by **Catherine Ellett**.

- **Cherry Wolfarth** has agreed to chair the Underwriting Committee. Cherry's main responsibility will be to solicit underwriters for each of the homes and gardens on the tour. Underwriters at all levels are needed. A Corporate Underwriter level is \$1000, a Platinum is \$500 and a Gold is \$250. Contact Cherry at (713) 688-5131 or e-mail her at [chwolfarth@aol.com](mailto:chwolfarth@aol.com) if you would like to underwrite a home or garden.

The Tour committee has been busy these past couple of months but there is still a tremendous amount of work to be done. We need volunteers! Volunteer as a tour docent, ticket taker, greeter, trolley guide, or as a member of the set-up crew. Contact the Staffing/Volunteer Chairs to volunteer. They are: Tina Sabuco, (713) 692-6778, [tinamarie@houston.rr.com](mailto:tinamarie@houston.rr.com) or Brenda de Alba, (713) 694-5934, [brenda.p.dealba@exxonmobil.com](mailto:brenda.p.dealba@exxonmobil.com). As an incentive, volunteers are given t-shirts and a tour ticket.

Mark your calendars for this year's Home & Garden Tour scheduled for Sunday, April 7<sup>th</sup>, 12 noon to 6 p.m. Keep in mind that the Tour benefits the entire neighborhood. Proceeds are pumped directly back into our schools, beautification projects, etc.

## November Yard of the Month 1050 Gardenia

Congratulations to **Danna Nixon** for new pretty landscaping and festive fall decorations.



*Continued from page 1*

I believe so, and I'll tell you why. With each unresolved violation of a deed restriction, the chance of that deed restriction being declared waived or abandoned goes up. Once a deed restriction is waived or abandoned, it becomes nearly impossible to put it back.

To help stop this, and to relieve our individual neighbors of the sole responsibility of preserving our deed restrictions, the Deed Restrictions Committee of the Garden Oaks Civic Club was formed.

After considering various alternatives, including having the GO Civic Club take over the DR enforcement duties, the committee decided that creating a separate organization as provided for in the Texas Property Code would be the best way to go. That organization, the Garden Oaks Maintenance Organization (GOMO), a non-profit corporation, is now being presented to the neighborhood at large for approval.

Once approved in a section, all property owners of that section automatically become members of GOMO. There will be no yearly dues and no mandatory annual fees. GOMO will be funded entirely by fees paid by the purchasers of properties within GO (more on that in a bit). The members of each section will then get together, and nominate/elect from the section up to three (3) Directors whose job it will be to actually do the sole business of GOMO: enforcing our existing deed restrictions.

Now, what about that fee that a purchaser of a GO property must pay?

For an organization like this to be effective, it needs to be adequately funded. Our proposed funding amount for GOMO is 0.75% (three-quarters of one percent) of a property's purchase price, payable by the buyer of a property at the time the property changes ownership. It may seem like a lot, but it's actually very much in line with the original assessment that we all used to pay when we bought a property here in GO, which was \$0.40 (forty cents) per linear foot of the front property line.

After going through news articles and advertisements from Houston's local newspapers from 1939-40, I found the following random (the first ads I found) figures: 7 houses from sections One and Two of GO, average price \$5123.00 (range \$4450.00 to \$6250.00); average frontage-footage 84 linear feet (range 75 to 99 linear feet); average payment to the BOT \$33.60 (84/ft X \$0.40 = \$33.60). This works out to about 0.65%, comparable to the percentage (0.75%) that we are proposing for GOMO. Unfortunately, the earlier assessment was tied to a parameter that would neither increase nor decrease as property values, or the economy, grew or shrank. So, while the original assessment may have been sufficient in the late 1930's and into the 1940's, it was, by the 1980's and '90's, woefully inadequate due to vastly increased legal fees and operating expenses. This new fee structure fixes that.

As far as the fee itself being higher than River Oaks, or West University as Mr. Moore states, I did some checking.

- West University does not have a Property Owners' association. As an incorporated city, its deed restrictions are enforced by the City of West University government and are funded by West University taxes.
- I was not able to ascertain what the River Oaks owners pay, but since RO was historically one of the first communities that set up a Homeowners' Association

*Continued on page 15*

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## Letters, we get letters...

Dear neighbors,

I write to correct some of the major factual misrepresentations made in Victor Moore's letter published in the October Gazette. Regardless of whether you support the formation of the Garden Oaks Maintenance Organization (GOMO), you should know that Mr. Moore in his letter makes certain statements that simply are not true. While I do not know whether this was Mr. Moore's intent, my concern is that if his statements go uncorrected, we will end up with the very thing that Mr. Moore says he wants to avoid—unnecessary litigation. While I do not intend to engage in a point-by-point refutation of Mr. Moore's letter, I do address these major points regarding our deed restrictions and the effect of Mr. Moore's 1998 lawsuit against the Garden Oaks Board of Trustees (GOBOT).

### **1. No court in Texas, including the court in which Mr. Moore's suit was filed, has ruled that any deed restriction for any section of Garden Oaks is unenforceable because of prior lack of enforcement.**

In Mr. Moore's suit, cause no. 98-06276, filed in the 281st Judicial District Court of Harris County, Judge Jane Bland granted Mr. Moore's motion for summary judgment and in doing so specifically found only that the individuals then acting as GOBOT: 1) were not appointed in conformance with the deed restrictions, 2) were not appointed in conformance with the laws and statutes of Texas, and 3) did not have the authority or standing to enforce the deed restrictions governing Garden Oaks Section One.

That is all. The judge did not make any finding that the deed restrictions for Section One, where Mr. Moore lives, had been waived or abandoned because of prior lack of enforcement or for any other reason. Even Mr. Moore admitted, in his response to a plea in abatement filed by the GOBOT, that in order to pursue his claim of waiver of the deed restrictions, he would need to sue every Section One property owner. I reviewed the court's file as recently as October 9, and found no ruling to the effect that the deed restrictions are unenforceable for any reason. After he won the ruling regarding GOBOT's lack of authority to enforce, Mr. Moore did not pursue his argument that all of the restrictions in Section One had been waived.

Mr. Moore's statement, presented as fact, that the side setbacks are not enforceable because of the number of existing violations is nothing more than his opinion.

### **2. There is no law in Texas to the effect that deed restrictions that are more than 50 years old cannot be enforced.**

It is true that Texas courts do recognize that deed restrictions can be waived or abandoned, and in those cases, the jury is asked to consider the following factors: 1) the number of existing violations, 2) the nature of the violations, 3) the severity of the violations, 4) any prior acts of enforcement, and 5) whether it is still possible to realize to a substantial degree the intended benefits of the restriction(s) at issue. No court has held that there is a magic number nor percentage of violations that render the restrictions waived as a matter of law. There are no applicable "Texas real estate laws" that tell us when or under what circumstances restrictions are waived. Almost all of the time, it will be decided on a case-by-case basis, usually as the result of a jury trial.

### **3. Mr. Moore did not prevail in his lawsuit because he presented evidence to the court to the effect that 68% of the properties in Section One have side setback violations.**

In my review of the court's file, which should contain everything filed with the court, I found no such evidence. I found no 300 photos. What I did find was Mr. Moore's "exhibit list," a list of exhibits he planned to offer if the case was tried. He listed "surveys" and photos of 39 properties, not all of which are in Section One. Unfortunately, he did not attach the exhibits to the list he filed with the court, so I was unable to review the exhibits themselves. Even if all 39 properties were in Section One and even if they all have side setback violations, by my calculations, this is less than 10% of the homes in Section One, which has more than 400 homes.

*It is important to make the point here that Texas courts have recognized that waiver of one restriction is not necessarily waiver of any other restriction.* For example, even if there has been a waiver of a side setback for outbuildings (garages), that does not necessarily mean that there has been a waiver of a front setback for garages, a side setback for the residence, a front setback for the residence or a residential-use-only restriction.

Finally, I know that other residents in Section One and I have been active in enforcement of the deed restrictions since the court ruled that GOBOT could not do so and that we will continue to be active. This is a task that is about as pleasant as having teeth pulled without anesthesia. So, why do we do it? I do it because I know that if the restrictions are not enforced, we will get to the point where a violator can successfully argue that they have been waived. Then, I believe, it is only a matter of time before we see undesirable, high-density development that will change the look and character of our neighborhood forever. I do not stay up nights worrying about someone's new carport or garage or master bath that violates a setback. I do worry that if we do not enforce the restrictions against those types of seemingly harmless violations, they will be "Exhibit 1" in any case made by a well-funded and well-represented developer seeking to obtain a court ruling that Garden Oaks has waived its setbacks

and perhaps other restrictions, as well. I believe that, especially for Section One, the only thing keeping the developers out now is our deed restrictions. Considering our land value, they must put as many units as possible on a lot in order to make the kind of profit they desire. Our deed restrictions prevent them from doing that.

I do not know of anyone who actually likes living here who does not consider our neighborhood to be unique. I believe it is worth preserving as an original, in-tact neighborhood. Some of the neighborhood real estate agents can tell you that the developers would love to beat a path to Garden Oaks. Unfortunately, some residents do not seem to realize that they are paving the way.

Shelley Rogers  
Section 1

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Dear Mr. Moore,

You believe you have improved your house to the betterment of the neighborhood. That is your opinion and you are certainly entitled to it. However, there are as many opinions as there are people.

When my husband and I were looking for a house, we ran across this charming little neighborhood that kept drawing us back no matter where else we looked. After a while we realized much of the charm came from the big lots and open spaces; houses were set far back from the street and there was a reasonable distance between houses as well. Obviously, the deed restrictions are greatly responsible for the look and feel of Garden Oaks; without them, houses and garages can be as close to each other as the property lines. It is my opinion that anyone who knowingly and willingly chooses to violate the Garden Oaks' deed restrictions does *nothing* to improve the neighborhood, and in contrast destroys the integrity of Garden Oaks as well as hurting long-term property values. I also take exception to several of the opinions you expressed in your letter.

First of all, I would ask you for cites in Texas law that support your assertion that the GOMO directors must be elected by the residents of GO. You stated, "one of the things not included in the GOMO ballot and is ultimately required under Texas law is a slate of directors that have to be elected by a majority of the residents of the community."

Well, GOMO is being created as a non-profit corporation and a property owners' association as required by the Texas Property Code section 204. Both chapter 204 and the Texas Non-Profit Corporation Act (art 1396-2.15(B)) allow the board of directors to be appointed *or* elected as determined by the corporation. If you have Texas statutes that say something else, I would appreciate knowing that information so the GOMO committee can discuss it with its attorney. The

GOMO committee is working with its attorney to ensure that the GOMO is created according to the laws of the State of Texas, and further that the GOMO will be run according to the powers given to it by these same laws. The GOMO committee has already curtailed some of the powers GOMO could have as a property owners association, i.e. the right to foreclose on a GO property for non-payment of annual fees. It has always been the intention of the GOMO to have elected directors, partly because of perceived secrecy around the old board of trustees. Of course this also means that the residents of GO will have to take the responsibility to run for office and participate in the elections.

Secondly, it is my understanding, along with numerous others in the neighborhood, that the GO deed restrictions are still perfectly enforceable. To my knowledge, there has been no order from any court of competent jurisdiction invalidating, waiving, voiding, or in any other way eliminating our deed restrictions (except for the obvious discrimination changes by the federal law and courts). The judgment in your lawsuit did not rule on the validity of our deed restrictions. Do you have any order from a court stating otherwise? You also mention the percentage of existing violations and how the restrictions are now waived because they have violated the rule of law. I am not familiar with this rule of law. Do you have the cite or case law for it which will support your assertion *and* evidence that it has been applied to GO? If there is no legal ruling that makes our restrictions unenforceable, then they are still enforceable. I would appreciate some verifiable, outside facts to support your opinions on the matter. If there are facts to support your assertions, this information would certainly be useful for GOMO. If you do not have the facts, then they remain just that - your uncorroborated opinions.

As far as the fees, if GOMO is going to enforce our deed restrictions, it has to have funding from somewhere. The money will not just magically appear. Funding is based on the same mechanism as used in the original deed restrictions created by Mr. Crain. Only instead of \$0.40 per linear foot, which amounts to very little today, the rate has been adjusted to a more appropriate rate. It is a one-time fee; no one will pay the fee unless they *purchase* a house in GO. Further, nothing says that the buyer and seller cannot work out alternate means for payment. I don't know the rates in West U or River Oaks, but my guess is that they will ultimately cost more. If you have facts and numbers about how these neighborhoods charge their fees (percentage, dollar, annual), I would be curious as to the actual numbers.

These fees are for the operation of GOMO and are not intended to provide a "war chest" for lawsuits. I think it is rather presumptuous of you to claim that these are the motives and intentions of GOMO. Lawsuits are not the pur-

*Continued on page 12*

*Continued from page 11*

pose of GOMO. The purpose of the GOMO is to preserve and protect our deed restrictions, thereby maintaining the integrity, desirability and value of the neighborhood. *That* is what is being discussed by proponents of GOMO. One of the means available to GOMO is to file a lawsuit *if* the violator insists on pursuing the violation. A lawsuit would not be the first means of contact to attempt to stop a deed restriction violation; it is simply not practical or necessary. There is nothing right now to prevent one neighbor from suing another; there will be nothing to prevent that after GOMO is created. GOMO is not creating lawsuits. If GOMO does not exist that does not mean that no lawsuits will be filed. In my opinion, keeping the deed restrictions effective for our neighborhood *is* something positive that GOMO will do. GOMO may be able to do other positive things for GO but only if they fall within the scope of its authority.

The immediate concern is not the permitting of "commercial businesses" on our residential lots but the probable profusion of townhomes. It is not a farce that a resident on 39th street wanted to divide his/her property into 2 lots; I saw the notice sign. Only the actions of concerned residents prevented this. The new lots would have violated the deed restrictions and would have created homes and lots out of character with GO - more than likely, townhomes.

Finally, I am a member of the GOMO committee and have been working on it for well over a year. Since you know nothing about me, why do you feel you can say I am part of a "self-appointed group of litigious proponents of GOMO whose purpose is to abuse us through litigation and intimidation"? I want to protect this neighborhood and keep the deed restrictions that have made it so enjoyable. I ask you Mr. Moore, if you believe, as you said, that you "fail to understand how any litigation can ever be advantageous to the neighborhood," then why did you choose to sue the old board of trustees? I wish you had taken your own advice and said "no" to lawsuits.

Sincerely,

Lori Kennedy  
Section 2

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I am writing in response to the October letter from Victor Moore in last month's *Gazette*. Mr. Moore touched on a number of points and I want to respond to a few of those. His article was mostly an argument against the creation of GOMO, and while I disagree with his premise and logic, I will leave it to others to counter his points on that topic. I have no doubt there will be a couple of letters to do just that. The points I want to address relate to his comments about appropriate community involvement.

While I do not know Mr. Moore personally, I have spoken to him on the phone and found him to be very engaging and personable as well as very informed. However, Mr. Moore misses the point on what should be discussed and proposed by the proponents of GOMO. His article suggests that GOMO should create a liaison with the City for various matters, an HCAD liaison related to tax relief, pocket park improvements and entrance signage, elderly help, etc. What Mr. Moore failed to recognize is that most of these activities are currently done by the Garden Oaks Civic Club. All the pocket parks in our community have been landscaped and maintained, not by the city, but by the dedicated efforts of community volunteers. We have a Senior Helper program. The civic club is routinely involved with city officials about various matters affecting our neighborhood; witness the situation with the proposed hotel on 30<sup>th</sup> at Yale, the Conn's adventures, the re-routing of traffic at the Randall/W30<sup>th</sup>/N. Durham intersection, clean up of a burned out garage, etc. Also, all the streets in Sections 2-5 were fully re-paved, including new sub-base some 7-8 years ago. Further, let me not fail to mention the annual Home Tour that brings in large numbers of outside visitors who often see our neighborhood for the first time. Civic club volunteers do all these activities, and their funding comes from the dues paid by voluntary membership fees to the civic club. I was previously the membership chairman for the civic club and I do not have any recollection that Mr. Moore ever supported the civic club. Sadly, only some 15% of the neighbors do support the civic club.

Mr. Moore is entitled to his opinions and I respect his thoughts and ideas, but do not agree with them. Unfortunately, he and all the other opponents of GOMO have failed to accept my challenge and offer to come forward and debate the issues openly and outwardly. GOMO is being created for one purpose: to oversee the enforcement of the deed restrictions for our neighborhood. The civic club has been and will continue to be the group that works for the external and internal improvements of our community. Its success will depend on the level of involvement from the neighbors.

Respectfully,

David Bell  
Section 3  
President, Garden Oaks Civic Club

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I would like to write about the former Board, deed restrictions and a reference to an individual Board member that appeared in last month's *Gazette*. First, I believe the comments about Ed de Alba were inappropriate, unfair, and inconsistent with the person I know him to be. I've known and worked with Ed for a number of years. I find him to be a man of good moral character and integrity who has served

the Civic Club very well, not only as a multi-term officer including two terms as president, but also in putting in far more than his fair share of time working on Garden Oaks-related projects, from beautification to home tours to the Board. I don't think I'm alone in that impression. He's very dedicated to the community. Ed—thanks for all your good hard work sir!

Like all Board members, he directed himself towards maintaining the integrity of the deed restrictions and working with homeowners to make sure their projects were in compliance. That was the Board's job. There was no indication then, and none now in my view, that any of those restrictions were invalid or should have been enforced selectively. For an example to illustrate that idea, while a police officer is writing me a ticket for speeding, several dozen more cars literally speed past. They don't get caught. Is that selective or is it just an overwhelming task to catch all of them? Because all the other cars are speeding, but I got caught, can I make a case that the law is no longer valid? Probably not. With deep enough pockets, can I "buy" my way out of the ticket? Probably so. Granted it's a different set of statutes that govern deed restrictions and speed limits, but if that happens, is the speed limit now invalid? The Board was probably not perfectly conceived and it was run by volunteers who at times had a difficult task at best, so there were struggles.

The Board of Trustees was set up by the founders of Garden Oaks to preserve the deed restrictions. For various reasons that the Board could not really financially afford to challenge, the entity no longer formally exists. Now comes the proposed GOMO, the design of which, from my observations, was pretty carefully and deliberately crafted to address many of the known criticisms of the old Board but continue the Board's mandate of preserving and protecting the deed restrictions. Garden Oaks Maintenance Organization (read maintain Garden Oaks) has not done a lot of self-promoting because, for the most part, its value to the neighborhood should speak for itself. But with all the "Vote NO" signs I've seen, which are highly visible, perhaps people aren't sure anymore. Visibility does "sell," but it's not necessarily selling the truth or the best solution. Is GOMO the ideal solution? Probably not to each of us individually, but it is a compromise and it has to be that. In any successful compromise you like some of it and you don't like some of it, but you live with all of it. That's the only way the 1400-some household Garden Oaks community can be properly protected from "rogue" encroachments. If we're unwilling to compromise on this, then we become a divided community and there are many risks that go with that selfishness.

Perhaps a person has a great deal of volunteer time available to come up with a "better" solution than what the committee developing GOMO has done, if that's possible, risk-

ing themselves to others' sometimes unkind criticisms. A little tweak here or there maybe. Is it worth that much more effort? This group has worked hard, with a large amount of input in designing GOMO. Passing a GOMO-like entity is very important to this neighborhood's long-term vitality and residential character. People looking at Garden Oaks for a new home want to know that the residential integrity will be maintained.

It takes a great deal of effort and much foregone personal time to get where we have gotten with the proposed GOMO—with beautification, with all the projects that are going on in this community, etc.—many give a whole lot more time than I personally give. My response is to thank people like Ed and others who put themselves on the line to help this neighborhood become as good of a place to live as it has become.

Craig Lee  
Past President

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## Heard Under the Oak Tree

*Terry Jeanes*

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**Welcome New Neighbors** who recently closed on their homes:

312 West 33<sup>rd</sup>                      813 West 31st.    1475 Sue Barnett  
962 Lawrence                      958 Althea

Congratulations and we hope to see you at a Civic Club meeting soon.

**Welcome Back** *Jerry & Martha Kennedy* who just returned to Garden Oaks from a lengthy overseas job transfer. *James King & Family* plus *Margie Dalton* who also recently returned from overseas travel.

**Thank you** *Amanda Carlin* for stepping forward at the October Civic Club meeting to handle the Gazette delivery position. Belated thanks to former section one residents, *Bill Lehnert* and *Walt Stovall*, who recently moved to the Heights. Their personal crusade was daily trash pick up at Graham Park. Sometimes you really don't appreciate someone until they are gone.

**Welcome new addition** to the *Same & Anita Mehta* household. Baby girl, *Shivani*, was born on August 9th.

**Congrats** to *Linda Reichle's* organization of her annual Canton bus trip. It was a tremendous success with a number of goodies being at one of Garden Oaks 2002 home tour homes!

**Happy belated birthday** to *Tina Sabuco*, October 9th.

*To highlight an event or special recognition of a neighbor please forward your information to Terry Jeanes at [jeanest@pdq.net](mailto:jeanest@pdq.net) or via phone at 713-812-9154.*

# The Lighter Side of Gardening

*Mark Saranie*

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I garden; therefore I laugh at myself. Many times while in the front yard engrossed in mowing, watering, or digging in my beds I have wanted to be a bird on a branch watching me. Why? Well, simply because at times amusing things happen that, I am sure, make my neighbors and passersby question my sanity. I believe that during these, “oh God, I hope no one is watching,” moments, everyone is. So, you see if you catch me at the right time, you will be greatly entertained. I thought I would share.

In my gardening affairs, Mr. Murphy is always present and waiting to trip me up. For instance, after watering in a new occupant, it does not matter how carefully I toss the nozzle to the ground to free up my hands. The nozzle, without fail, will fall on the handle and hose me down. While blindly hopping around the yard from the shock of cold water, (because the usual first torrent is in my face), I know and feel that eyes are upon me. What’s funnier is that after I compose myself and furtively scan the far surroundings to spy any observers, I discover that, not only is the grass severely trampled, but also, the new plant, and others, were crushed during my happy dance.

Another watering event that cracked me up recently occurred while setting out the sprinkler. I unrolled the hose with said attachment and turned on the water. The hose was empty so it took a few seconds for the spraying to start. Realizing this too late I crouched on the grass to ward off the inevitable spraying and caught it right in the face. I thought I could hear neighbors chuckling behind their curtains. I grabbed the sprinkler, immobilized the head while I went to the first spot, stuck it in the ground and forgot to move while I adjusted the spray radius. I caught the water again and off I went dancing like a fool. Cold water will make this happen if you catch it in the right place.

A mystery to me is how I can spend a good amount of time in the backyard hunting for doggie bombs prior to mowing and then having the lawn mower find the one that got away. Eau-de-Chien at its finest. How does this happen? Oh, and bare feet at night on their way to the compost pile to add kitchen scraps—bad idea if you are me. Invariably unpleasantness is encountered. I hate when this happens. Worse, the flashlight provides a false sense of security. When will I learn?

Another thing I am great at is overreacting to stuff that appears insectile in nature. Now, I am not saying I am afraid of bugs or other creatures of that realm. I have come across many different critters and snakes without losing a beat. Its just that at times, when lost in thought, or mesmerized by the monotony of mowing, a dry leaf might fall from above and amazingly go down the back of my T-shirt. Talk about St. Vitus dance. Once, while preparing a spot for a new acquisition I came upon the largest grub I have ever seen in my gardening life. I picked it up and placed it in the palm of my hand to admire. Well, in a flash the grub ended up flying through the air like a missile after biting me. I think I screeched when it happened. The thought of the sound I made makes me laugh. Enjoy gardening. It really connects you with your beginning and your ultimate end. Life is what happens in between.

## Garden Things for November

- Get your push brooms out, because the leaves are falling. As always, take advantage of this free mulch and use it in your beds. I normally collect it with the mower so that the vast quantities of leaves are made more manageable.
- The weather is perfect for setting out additional fall and winter plants. If you visited the Bulb and Plant Mart back in October, now is a good time to give most bulbs a home.
- If the August heat, September events, and the October rains put your plans for a veggie patch on hold it is a bit late to start out full blast. Some items you could try though are brussel sprouts, collard greens, onions, garlic and chives. Onions and garlic would be ready for harvesting next summer. However, the greens produced by these two are great when added to soups, chowders, or a big pan of Huevos Rancheros. I find puny heads of garlic, separate the cloves and stick these in the ground. I love the greens for different dishes. They, like onions, do not like soggy ground.
- If a veggie plot is in your future, plan your spring veggie garden now. What an excellent dumping site for all the leaves you will have collected. Later, when the weather warms, you can till all this into the ground to enrich the soil. Into this garden plant peppers both sweet and hot, squash, cucumbers, tomatoes, basil, carrots, and radishes.

*Continued from page 9*

tion, I imagine that it, like most others, charge either a yearly fee or dues. Considering the neighborhood, the fee is not likely to be cheap.

- Many of the newer, suburban communities have a Property Owners' Association or something similar, which, of the five that I was able to get data on fairly quickly, charge anywhere from \$150.00 to \$350.00 per household per year. These are **mandatory** fees, folks. If owners in these communities don't pay their fees every year, the associations have broad legal powers to recover the money, including foreclosure.

However, GOMO will assess the proposed 0.75% fee once, only at the time a property changes hand (excepting transfers in divorce or inheritances), *not* yearly. The \$1500.00 given as example by Mr. Moore amortizes out to between 5 and 10 years of fees, but without the associated anxiety and bother of having to come up with dues/fees every year.

In addition, the powers of GOMO have been drawn up to be as minimal as practicable. If a purchaser refuses to pay the fee to GOMO, GOMO will **not** have the power to foreclose on any GO real property, or on any homestead property outside of GO within the state of Texas.

As far as how litigious GOMO turns out to be, that is entirely...up...to...YOU!

You, as a member of GOMO, will be free to nominate and elect almost any GO property owner that you feel will represent your views on deed restrictions in our neighborhood. You could even 'take the bull by the horns' and run yourself! There will also be recall procedures for all officers and directors of GOMO. Your vote, your actions, will be what makes GOMO into the organization that preserves Garden Oaks as you think it should be.

Finally, several neighbors, including Mr. Moore, have expressed concern about the absence of additional functions of GOMO, such as liaison between GOMO and the City of Houston/HCAD, neighborhood improvements, etc.

These functions already have a home, and an active one at that. That home is the Garden Oaks Civic Club and its various working committees that cover most everything from pocket park maintenance, City/County liaison, to a forum for our elected Government Officials and Candidates to talk about their plans and activities. Rather than duplicate efforts in these areas, GOMO is presented as an organization whose **sole** purpose is to enforce our existing Garden Oaks Deed restrictions.

(Shameless plug) Speaking of the GO Civic Club, this is a fine organization that is trying its best to do what is best for

our neighborhood in many ways. But we can always use more people to fill out the ranks of 'doers' ...won't you help? Come to the meetings (1<sup>st</sup> Tuesday night of almost every month at 7 PM), and get involved with your neighborhood!

As always, if you have any questions about any of this, or want more information about GOMO, please feel free to contact me at 281-773-3478 or email at sstengler@covad.net.

## Constable Program: New Membership Drive/ Drawing & Report

*Terry Jeanes & Susan Saranie  
co -chairs*

Our 2002 Campaign is underway! A Raffle will be held at the January meeting for all who pay their dues prior to January 1, 2002. Anyone paying in the month of November will receive 2 chances, those paying in December will receive 1 chance. The prize will be announced soon! Inserted in this month's *Gazette* you will find a question and answer sheet, member profile form, and draft form available for your convenience. In hopes of increasing participation in the program throughout the community we have reduced the minimum participation to \$180 per year if you pay your dues by January 31, 2002; after February 1st fees will be \$200. This is a \$50 reduction over the past years in hopes more will join. We need everyone to participate to keep the program a viable security asset to our community. For additional information call Terry at 713-812-9154 or Susan at 861-7994.

Welcome to our new Deputy James Moncrief and his patrolling of our neighborhood. The following is a recap of the report from the month of September (please note the figures reflect lighter numbers than other months due to the deputy being called to heightened alert for incidents related to 9/11).

W 30th - Alarm call  
Lawrence/W 34th - Suspicious person  
W 30th - Home invasion  
W 30th - Information call  
N Shepherd - Vehicle stop  
W 32nd - Suspicious person

## Critter Corner

### *Casey and Mau Mau Farris*

Hi neighbors, I'm Casey Farris and I live at 1047 Gardenia with my husband, Michael, a Border Collie/Blue Heeler mix named Sydney, and two black/white American Shorthair cats, Elizabeth and Mau Mau. Mau Mau is 13, very wise, and just the best cat in the whole world. He is always in my lap so he will be helping me write this column every month. One of the best things about Garden Oaks is the pets and all the pet-friendly people. This column is dedicated to all of our faithful pets that help make this neighborhood so great.

**Neighborhood News:** Gardenia folks welcome two new puppies; a black Lab named Sam Houston Sauberli and a Sheltie named Buddy Hammond. Killer Pruitt (Jack Russell Terrier mix) keeps himself so busy he doesn't have time to sit, let alone learn the sit command. Sasha Saunders (Border Collie mix) is a very sweet and social girl who moved to section five from section one and is trying to make new friends. Bear Lee (Australian Shepherd) recently went squirrel hunting in Louisiana with his Daddy. Edris Pradt (Doberman) had a weekend sleepover with Tbone Benzuly (Golden Retriever). Ivan Lee (Tabby) was recently upset and made it known to everyone when he discovered the next-door neighbors had switched to the same cat food as his house. Owen (yellow Lab/Boxer) and Jake (chocolate Lab/Springer Spaniel) Veech think the Spark Park is an excellent place to watch the squirrels. Presley Thompson (Pug) is the cutest thing this side of the Mississippi and you can find her every night walking five houses down to the speed bump on 41<sup>st</sup> Street. Kodiak (Eskimo) and Serenity (Border Collie) Wylie have a new sister, Hope (Norwich Terrier), who loves to run off, so if you see her around Apollo, send her home.

**Pet of the Month:** "Mr. November" is Austin Posada, a Border Collie/Husky mix. Austin is 3 years old and lives with his parents, Ivan and Margie Posada at 750 42<sup>nd</sup> Street. Austin is a black dog and a little larger than your typical Border Collie. He has the facial markings and temperament of a Husky. Austin is extremely social and has a lot of energy. Austin graduated from obedience school and is presently working very hard on the "no jump" command. Austin enjoys long walks, chasing squirrels, and making new friends.

#### **Critters 101: How to Avoid Dog Attacks**

Any dog may bite if it is threatened, angry, afraid, or in pain. When properly socialized and trained, dogs are safe, reliable, and joyful companions. However, all strange dogs should be treated with caution and a person should not approach or stroke a dog unless invited to do so by its owner.

Then the dog must be approached slowly, allowing time for it to sniff the person or make friendly contact with them. Speaking to the dog gently, avoiding eye contact, and patting around the chest or neck region are all non-threatening actions. Approaching suddenly, bending over the dog or patting it on the head or back are dominant and threatening gestures and may cause a dog to react by biting. Each dog has a different social and personal distance that a stranger is permitted to enter. This is why a dog that is tied up, outside a shop, may snap or bite when someone tries to pat it. The dog cannot escape when there is a sudden invasion of its personal space. Here are some dos and don'ts if you encounter an aggressive dog.

- Do not run when confronted with a threatening dog. Running only stimulates the dog to increase its aggression. Keep still and try to remain calm. Tell your children to "be a tree," with feet together, elbows against your chest and hands under your neck.
- Don't turn your back on the barking animal or face the animal. Keep the side of your body closest to the animal.
- Avoid direct eye contact, which the dog interprets as a challenge.
- Hold your ground and demonstrate moderate dominance by telling the dog in a calm but firm voice to go home. "No" and "sit" may also work.
- Let the dog sniff you. In most cases, it will leave as soon as it realizes that you aren't really a threat.
- If you are carrying something, offer it to the dog. If the dog is truly aggressive he will grab the object and hold on. Do not let go of the object; if you do, he will soon realize that it is not you and will likely attack again. Normally after he realizes he is having little or no effect he will stop the attack or at least give you time to plan your next move.
- If knocked down, curl into a ball, and use your arms to protect your head and neck.
- When the dog begins to back away, slowly retreat also, keeping the dog in view. If the dog begins to come back, stop and wait until it moves off again.

We are all susceptible to dog attacks and dog bites so learn the signs of an aggressive or fearful dog and practice how to act if you were to have an encounter. If you are bitten, seek immediate medical attention. Report all aggressive loose dogs or incidents of actual bites to the Bureau of Animal Regulation & Care (B.A.R.C.) 713-238-9600. If minor incidents are reported, major incidents can be prevented.



**Dear Mau Mau:** Is it okay for my cat to go a day without eating? *R. Lee, 1051 Gardenia*

NO, Big NO, absolutely NOT! We cats must eat every 24-hour period. Serious problems could develop if a cat goes without eating. In fact, it is so important that if you humans don't see your cat eating you should smooth down the food so you can tell that food has been eaten or even measure if necessary, but see that your cat eats every single day. What's up with you people?! *Mau Mau*

**Casey's Comments:** Have you ever noticed that a dog comes when you call him, but a cat takes a message and gets back to you?

**Migratory Report:** Although some hummingbirds are year around residents here in Houston, you may have noticed peak numbers as their southern migration occurred September through mid-October. Hawks will continue their migration through mid-December. If your wild birds are raising a raucous there may be a hawk nearby.

Please forward your questions and pet news to [Casey@goDOGusa.com](mailto:Casey@goDOGusa.com) or call 713-683-6191.

## Diet and Prostate Cancer

*Catherine Kruppa, MS, RD, LD*

Prostate cancer is a disease not to be taken lightly. This cancer affects 80% of men over the age of 80, and some men at a much younger age. Scientists have been researching this disease for years in order to find a cure and ways to prevent prostate cancer from even forming. However, after years of research, there are not many answers for men who want to prevent the disease through diet. This article will let you know what we do know so far.

There is a general consensus that saturated fat or red meat is associated with a higher risk of prostate cancer. It is unclear whether it is the animal fat or the high calorie-density of diets rich in meat that is the culprit. One study found that prostate cancer is more readily found in Western countries than in Asian countries. The reason for this may have to do with the difference in diets between the two countries. Western countries are known for their high intake of red meat while Asian countries usually choose more fish, a good source of omega-3 fatty acids, which would help support this theory.

As long as the intake of dietary fats is no greater than 21% of total calories, the tumor will inhibit growth.

We also know that soy helps to inhibit the growth of prostate cancer in animal and test tube studies. Because soybeans

are such a significant part of the traditional Japanese diet, the possibility that soy extracts could inhibit the growth of prostate cancer is quite strong due to the fact that soy products are not prevalent in Western countries' diets.

We have known since 1995 that lycopene is a possible protector of prostate cancer. Lycopene is a carotenoid found in tomatoes. It scavenges free radicals and suppresses damage due to oxidation in the tissues. There is evidence that cooking and processing tomatoes make lycopene more available to the body than when tomatoes are eaten raw. In a 1995 study, men who consumed tomato sauce two to four times a week had a 34 percent lower risk of prostate cancer than men who ate no tomato sauce.

Selenium supplements have been shown to decrease the three leading cancers – lung, prostate and colon. A study performed by Larry Clark from the University of Arizona found that selenium takers decreased these cancers by an unheard-of two-thirds. It is possible that selenium only works in people who get too little from their food.

Vitamin E is another antioxidant with a link to prostate cancer. Researchers at The Johns Hopkins School of Hygiene and Public Health found that men with high blood levels of gamma-tocopherol (another form of vitamin E) had only a quarter the risk of prostate cancer over the next eight years.

The bottom line, although it is too soon to know for sure, is that these steps may help to reduce the risk of prostate cancer:

- Limit red meat, full-fat cheese, and other fatty animal foods.
- Eat seafood- especially fatty fish like salmon – 3-4 times a week.
- Eat tomato-rich dishes, spaghetti or other pastas at least twice a week. Watch out for cheesy dishes like lasagna or pizza.
- Consider supplementing with 200 mg of selenium.
- Consider supplementing with vitamin E (preferably containing gamma-tocopherol)
- Limit calcium intake from food and pills to 1,200 mg a day.

## GOMO Section Captains

Section 1 - Mary Tyler Martinez	713 681 3913
Section 1A - James King	713 426 1607
Section 2 - Warren E. Carlson	713 697 8690
Section 3 - David Bell	713 694 5016
Section 4 - <b>Needs You!</b>	<b>Call Sam Now!</b>
Section 5 - Shelly Immel	713 688 4681
All Sections - Sam Stengler	281 773 3478

**Useful Numbers**

Senior Helper  
713 862 3747

One Call Program  
(Heavy trash and more)  
713 956 6589

Recycling Hotline  
713 837 9130

Rat-on-a-Rat  
(Illegal Dumping)  
713 525 2728

Neighborhood  
Protection Team  
(Enforce City Codes for  
environmental matters)  
713 525 2525

Public Works  
(Water/sewer, street  
repairs, street lighting,  
trees or bushes that are  
traffic hazards)  
713 837 0600

Bruce Tatro (District A)  
713 247 2010

Ken Yarbrough  
713 263 1516

John Whitmire  
713 864 8701

# November 2001

Sunday    Monday    Tuesday    Wednesday    Thursday    Friday    Saturday

<b>Upcoming events</b> Civic Club Meeting, Officer Election, Budget Vote, and Dinner Tuesday, December 4 <sup>th</sup> <i>Make sure your Civic Club committee meeting or event gets on the calendar! Email the editor at GOGazette@Mac.com with your information.</i>					1	2	3
4	5	6 Civic Club Meeting 7:00 P.M. GO Elem Election Day	7	8 Garden Club 7:00 P.M. 858 W.41 <sup>st</sup>	9	10 Garden Club Fall Work Day Friendship Garden	
11 Veterans Day	12	13 Home Tour Meeting 7:00 P.M. 336 W. 34 <sup>th</sup>	14	15 Gazette Article Deadline	16	17 Ramadan Begins	
18	19	20	21	22 Thanksgiving	23	24	
25	26	27	28	29	30	"Peace if possible, truth at all costs." - Martin Luther	

**2001 Garden Oaks Civic Club Membership Form**

Please note that your Civic Club dues are now payable on the first of each year.

Name(s) \_\_\_\_\_ Phone \_\_\_\_\_

Address \_\_\_\_\_  Own  Rent Section # \_\_\_\_\_

(A) Annual Dues

- Household \$20
- Senior Citizen \$5
- Business \$50

(B) Additional Program Support

- All Three Programs \$18
- Gazette \$7
- Citizens on Patrol \$7
- Beautification \$7

(C) Constable Patrol Program

- Annual Payment \$230
- Contact me about participating in the Monthly Debit Program
- Other Contribution \$ \_\_\_\_\_

(D) Gift to the Garden Club \$7 or other \$ \_\_\_\_\_

Total amount enclosed (A) \_\_\_\_\_ + (B) \_\_\_\_\_ + (C) \_\_\_\_\_ + (D) \_\_\_\_\_ = \$ \_\_\_\_\_

MAKE CHECK PAYABLE TO Garden Oaks Civic Club  
Mail completed form and payment to PO Box 10273, Houston, TX 77206