



GARDEN OAKS GAZETTE

VOLUME 22, ISSUE 6

JUNE 1999

RESPONSE LETTER TO SECTION ONE RESIDENTS FROM VICTOR MOORE

Dear Neighbors in Garden Oaks, Section I:

My name is Victor Moore. I live at 532 West 32nd Street which is my second home in Garden Oaks, Section I. I have lived in Garden Oaks, Section I for 18 years, previously owning a home on West 31st Street.

I am extremely proud of my home. I have invested a large amount of money to expand the size of the home for living purposes and the garages associated with the home for the practical purpose of being able to house vehicles that are newer than a 1948 Ford Coupe. I have been a good neighborhood citizen who has contributed to the constable patrol, made diligent efforts to make sure that the patrol continued, and sought to improve the quality of the houses in the neighborhood, especially that of my own.

Since the open letter from Ms. Shelly Rogers included in the *Garden Oaks Gazette*, May 1999 issue, encouraged you to contact me, I felt it was appropriate to express my side of

("Moore" continued on page 10)

BIKE PATH STILL NOT CLEAR CUT

Shelley Rogers

Despite the fact that all 68 households (out of a possible 72) who live along W. 33rd who responded to the survey request that W. 33rd be removed from the city's bikeway network if a widening of the street is required and despite the fact that council member Bruce Tatro has formally indicated that he is opposed to any widening of the street to accommodate bike traffic, Public Works Director Jerry King has told Tatro that his department will not agree to take the street off the bikeway network. As of the *Gazette* deadline, I had not talked to Tatro to get his response.

It is my understanding from King's employee, Mignette Dorsey, that the city is still waiting to hear from the Texas Dept of Transportation (TxDOT) regarding whether it will require that the street be widened. As I read King's memo to Tatro, if TxDOT sticks with its requirement that the street be widened in order to be a bike route, the

("Bike Path" continued on page 13)

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EDITOR'S CORNER

As I sit and write this month's column, my self imposed deadline is well behind me. Now, a sense of urgency propels me to produce something, anything, so I can rush this off to the printer. It's been a busy month, one filled with change and small victories. The change occurred in my employment. I work as a manager for a restaurant company which has locations throughout Texas as well as Chicago and Atlanta. I've been told from the time I began working for them that a transfer to another location could happen at the drop of a hat and came to accept it as part of the job terms. Well, the day arrived when my G.M. told me I had to report to another Houston location in two weeks. Three years of working practically around the corner from home were about to come to an end. Now I have the pleasure of driving in rush hour to Westheimer, outside the Loop. I've been there a few weeks now and am starting to settle in. I still feel like an outsider at times, but with each passing day I'm getting more comfortable and getting to know my new co-workers. It could have been worse. The other transfer option was to go to Atlanta.

The small victories involved the completion, finally, of our front yard landscaping. Well, almost completion. We still have to stucco the retaining wall and install landscaping lights but all the flag stone has been mortared in, the compost has been added to raise the bed, the potted plants covering our

back driveway have been transplanted to happy homes and the bed has been dressed with 3" of mulch. The lesson learned was that even after 14 years, the Other Half and I still don't agree on some things. When it came time to begin planting, we had two different ideas. The Other Half is a perfectionist. Sketch the bed out, use a different colored pencil to represent each plant and lay it all out just so. Me? Give me a shovel and tell me where to dig the hole but don't make it look orderly and unnatural. Pots were picked up and relocated all over the bed. Then we had to step back and view it from different angles. And so it went on. Finally, a neighbor stopped by and we realized it was time for another opinion. The Other Half went inside to take care of phone business. Our kindly neighbor moved the pots around and told me where to dig. By the time the Other Half was ready to join us outside again, everything had been planted. Both of us are just relieved that the project is finished for the most part. There is one major decision which remains to be made. We still have to pick a color to paint the stucco wall. I feel the tension mounting already.

Another small victory came in the form of a seat frame. The Other Half built two beautiful Frank Lloyd Wright style chairs last fall. Handcrafted with mortise and tendon joints, built with solid mahogany and walnut, but no seat frames so we couldn't sit on them. They've been put away in an unused room of the house. I recently came home to discover the Other Half visited an upholstery shop and purchased seat webbing. The frames were constructed and the webbing applied. The seats are almost completed except for one minor detail. The Other Half insists I go along to select the material used to cover the frames. Does anyone else see where this is going?

I think I'll settle in and enjoy an iced cappuccino. I've taken to lacing it with a little Kahlúa for an added "oomph". Anyone care to join me?

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PRESIDENT FLOWERS

After a one month hiatus, I have returned. I got a lot of flack for having not contributed a president's letter to the *May Gazette*. Even the former president, Craig Lee, had contributed with a Letter to the Editor. Well, not to make excuses, but the past several months have meant a significant amount of travel for me. Having started my own company about 2 years ago, its recent expansion has meant paying attention to a lot of detail. And unfortunately, has meant a lot of time away from home. It has been a stressful time—but I won't complain—the success is worth the effort.

What has been significant to me during this very hectic time in my life are the things I have been able to enjoy when I have returned home to our neighborhood. You may have heard already of the Spring Fling that occurred in April. But I will repeat what a wonderful event it was, helping to galvanize our community with some fun and togetherness. I had a great time and I believe everyone there did also. It was an opportunity for me to meet, for the first time, some of my neighbors in close proximity to Graham Park.

In May, one of the best events our neighborhood has to offer took place. The Home and Garden Tour once again showcased our neighborhood. I was busy with work through that weekend, but I still was able to partake in that event, which is one of my favorites. A huge thanks to every family that was willing to have their home or garden showcased on the tour. I really appreciated having the opportunity to see the homes and gardens and interact with most of the owners who were gracious enough to open their private sanctum and make this event a success.

These two recent events, coupled with some strong friendships I have recently made with members of our community, reaffirm how nice it is to live in a community like Garden Oaks. No matter how much stress there is at work and how much travel I have to deal with, coming home to events that bring our community together and facilitate the interaction

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and blossoming of friendships I have seen and experienced, somehow makes it all worth it.

Special thanks to everyone involved in making the Spring Fling a huge success. Likewise, so much work goes in to coordinating, managing, and facilitating the Home and Garden Tour that I can't even begin to thank all who participated. I urge any of you that have never been involved in the tour to volunteer next year. It is a wonderful event that really brings out a sense of belonging in our community.

Finally, I was extremely happy with the turnout at the April Civic Club Meeting. I know that a controversial topic helped facilitate the turnout. Still, I met a number of people I had never met before, and it was my pleasure to make their acquaintance. I would like to see every Civic Club meeting have that type of turn out. Remember, it takes every one of us participating to make a difference in our community.



MERLE NORMAN

Diane Morish
Garden Oaks Native

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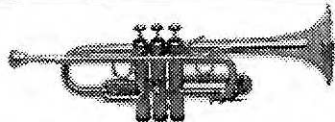
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**MINUTES OF MAY 4TH
CIVIC CLUB MEETING**

Felicia Adams, Secretary

President James Flowers called the meeting to order at 7:00 PM. A motion was made, and seconded, to accept the minutes from the April meeting.

Toni Lawrence candidate for City Council District A was in attendance and gave a brief introduction.

Officer Reports

VP Membership: David Bell was not present at the meeting but it was reported that work is still on-going on the "Welcome Packets" for new residents.

VP/Gazette Editor: Robert De Veau stated he had nothing to report at this time.

Treasurer: Jay Slemmer is working a full report for the June Civic Club meeting.

Committee Reports

Home Tour Committee: Meredith Jenkins stated there are no official financial numbers available yet because the accounts were still being reconciled. Many visitors from throughout Houston commented on how wonderful our neighborhood is. Meredith thanked everyone who volunteered for this year's Home Tour and will have a final accounting available for the June Civic Club meeting.

Beautification Committee: Ed de Alba reported there are several gardening books available for sale after the meeting.

GOCOP: Carl Waters reported crime was down about 2-3 from the prior month. Approximately 80 hours were logged in from volunteers. Carl reminded residents to never prepay anyone to cut down trees in your yard as this is a scam. One resident has recently been a victim of this activity. If you see or hear things like this, please call HPD at 713-222-3131 for non-emergency crimes. Call 713-916-3140 for direct contact with the 43rd Street police storefront.

Graffiti has been seen on the backs of houses on 30th that back up to 610. We can report this to the city and they will clean it up. Each property owner must report this for the city to pay for it.

Constable Program: Karl Engelmann informed residents that a glitch in the Direct Deposit program for constable dues has resulted in the money not having been withdrawn from resident's accounts. The problem has been resolved and Direct Deposit will commence at the end of the month but will not be retroactive. Enrollment is going fine. Area businesses are now being solicited for contributions. If anyone knows the owners of these businesses, please help. Terry Jeanes has organized a "foot patrol" to solicit more neighbors to contribute to this program. This will help us to expand the program to the rest of the sections of Garden Oaks and expand the hours that the constables patrol.

("Minutes" continued on page 5)



Old Business

Sound wall update: Craig Lee reported that Ken Yarborough has added an amendment to another bill that would provide enough money for the sound wall. This was approved in the House and it was sent over to the Senate and they will write their version of the Bill. Then the two versions will be merged and voted upon. It appears the amendment will obtain approval.

Bike trail issue: Shelley Rogers reported that bicycling clubs have indicated to the highway department that they are not in favor of widening the residential streets. They are going to write letters indicating this. It does appear that 33rd street will still be part of the proposed bicycle route.

Program

Guest speaker was Robert Bennett from the American Red Cross. Summer safety issues were briefly discussed and a comprehensive handout was available.

New Business

Garden Oaks' Board of Trustees members who were present were introduced. Victor Moore's attorney was also introduced. An overall recap of the situation was given by the president of the Board of Trustees. Both sides of the issue were thoroughly covered and an open forum was provided for all present to voice their opinion on this issue. Mr. Moore's attorney made mention that the lawsuit would be amended to exclude suing on behalf of all residents of Section 1.

There being no further business, President James Flowers adjourned the meeting at 8:25 PM.

WON'T YOU BE MY NEIGHBOR?

Terry Jeanes

The following real estate transactions occurred from March 15th through May 12th, 1999. These are MLS listings and do not include private transactions. If you haven't already done so, take a moment to welcome these individuals to the neighborhood and show them what makes Garden Oaks so special.

515 Azaleadell	324 W. 33 rd
919 Gardenia	324 W. 34 th
1050 Gardenia	915 W. 41 st
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1325 Sue Barnett	1002 W. 43 rd
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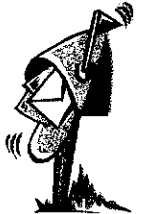
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MAIL POUCH

I am writing in response to your (Victor Moore) rebuttal letter which was delivered to the May Civic Club meeting by your attorney. You claim to have been singled out and victimized through the years by the Garden Oaks Board of Trustees and even go so far as to label 7 of the past and current Board members as VIOLATORS of the deed restrictions. In every example you offer, you OMIT the fact that the existing violations were already present at the time these individuals purchased their homes and, in almost every case, were part of the original construction. YOU, however, have WILLINGLY violated the deed restrictions TWICE in the 18 years you have resided in this neighborhood while the same cannot be said for any of the examples you cite in your letter.



When you purchased BOTH of your Garden Oaks homes you were given notice that deed restrictions existed and you, in essence, entered into an agreement with your surrounding neighbors to abide by those deed restrictions. You mention in your letter that you have been a "good neighborhood citizen". Mr. Moore, I beg to differ with you! In 18 years you have done NOTHING to distinguish yourself in this neighborhood beyond your selfish acts of violating the contract you entered into when you became a resident of Garden Oaks. Your lawsuit to abolish ALL deed restrictions in Section 1 is simply icing on the cake in your self-serving efforts to obtain a larger garage for your 2-4 vehicles.

The Garden Oaks Board of Trustees DID NOT initiate this disagreement with you! YOU are TOTALLY to blame for this action. Garden Oaks IS NOT West University, nor is it Tanglewood or River Oaks. If you wish to live that lifestyle, PLEASE MOVE, and let those who love Garden Oaks, warts and all, live in peace.

Brenda de Alba 858 Lamonte

Mr. Moore does not have my permission to speak on my behalf. To make the deed restrictions unenforceable would plummet our property values!

Pamela Marquis 436 W. 31st

As a recent buyer in Garden Oaks, I am very disturbed by the law suit filed by Mr. Moore requesting that all deed restrictions in Garden Oaks be declared unenforceable and invalid. I would like to go on the record to say that Mr. Moore does not speak on my behalf, a new property owner in Garden Oaks, in his suit.

I purchased my home at 324 W. 33rd Street, BECAUSE OF deed restrictions; these restrictions are an asset to Garden Oaks - not a liability. One need simply turn east off of Yale Street, or south of 610 within a stone's throw of Section 1, to see how lifting deed restrictions could ultimately impact the beauty of our neigh-



borhood, and value of our investments in it. Without the presence of deed restrictions in Garden Oaks, I never would have risked making my home - or any other investment of time or money here. There is a thin line between our neighborhood and suburban decay - which, once started, is difficult to reverse.

The deed restrictions on my property were made clear to me before my home purchase, and were reiterated upon closing. Given Mr. Moore's history with the Board of Trustees, it is clear that he was familiar with them as well when he chose to violate them. These restrictions are voluntary; if you don't like the terms of them, you shouldn't buy property in Garden Oaks. Nobody forced you into the investment; there are plenty of unrestricted developments around. They are easy to spot, and cost a lot less to get into.

In essence, a breach of deed restrictions is like a breach of contract. In this case, it could be said that Mr. Moore is in breach of his "contract" with property owners in Garden Oaks. If any law suit is justifiable here, it would be one filed by Garden Oaks property owners against Mr. Moore, with a claim for damages tied to the expected loss in property values should he win his frivolous and selfish suit. That would be a large number indeed.

While there may be elements of deed restrictions that some of us would like to change, the ultimate result of the restrictions is an environment unique in Houston which we are all proud to call home. Rather than wasting my money as a tax payer, and risking my investment as a property owner, I would much rather see Mr. Moore resolve his issues with the Board of Trustees out of court, and in a manner which does not jeopardize his neighbors.

Catherine Schmitz
324 W. 33rd

The repeated failure of zoning to pass in Houston is threatening our island of tranquility in G.O. section I. The attack on the deed restrictions, while seemingly unlikely to succeed, will be supported by our commercial neighbors. The awful consequence of encroachment is visible just across 610. House to house personal alerting of residents should be done to be certain all resources can be brought to bear to influence any outcome of the litigation. I missed the civic club meeting, but would be willing to contribute to efforts to protect the neighborhood as well as the property values.

G. DePaul
319 W. 33rd

I live in section 5, but if he succeeds in section 1, all of G.O. deed restrictions are subject to this kind of action. If Victor Moore doesn't like the restrictions here, MOVE!

I hope the courts uphold our deed restrictions and Victor is caused a great deal of expense! Furthermore, since the fiscal capabilities of the G.O. Board are limited, not to mention there is no constant source of income for it, I believe that the Board should sue or place a lien on Victor's residence for the expense he has caused the Board.

Lastly, I hope this does not turn out as most lawsuits do. Which is to sue for a large objective only to settle later for much less. For example, sue for all the deed restrictions validity, so he can settle later with G.O. granting him an exception to his side setback.

Kirk B. Dice
1559 Sue Barnett

I do not agree with Mr. Moore's suit on deed restrictions. They are much needed to maintain our neighborhood. He will not be filing a suit on our behalf.

Barbara Sawyer
3114 Randall

We are definitely opposed to abolishing or modifying deed restrictions in our section, or any other section of Garden Oaks.

We were long time residents of the Spring area and would not move into town because we did not think that we could find a neighborhood that had a "preserved" feeling. The first time we visited this neighborhood, we knew that this was the right environment to raise our children and continue our lives. When you turn onto 32nd Street from Yale, it is like entering another world. This July will be our second year here in Garden Oaks and we love it!

Granted, our house is not the prettiest one in Garden Oaks, but we are looking forward to our continued renovations and our future here, in Garden Oaks. We would be horrified if our neighborhood was left unprotected! Deed restrictions do just that, protect our neighborhood.

We certainly hope that Mr. Moore does not follow through with this suit or better yet, the suit is dismissed.

Timothy, Lec, Kristen and Timmy Ortiz
331 W. 32nd

("Letters" continued on page 8)



(“Letters” continued from page 7)

Vic, it is good that you are proud of your home, and it is evident that you have spent a considerable sum of money enhancing your property. You and your family have already lived here for 18 years, and from the additions you’ve made it’s obvious that you plan to spend many more years in Garden Oaks. Let’s work together to make those years pleasant and beneficial to the neighborhood.

We want you to maintain and enjoy your home. But we ask that you do it in accordance with the covenants you agreed to abide by when you moved into the neighborhood. Those covenants are the Deeds Restrictions applying to Garden Oaks Section 1.

Section 1 of Garden Oaks has been here for 62 years and for 46 of those years, the Garden Oaks Board of Trustees has been charged with maintaining those Deed Restrictions. The Board is a group of 15 of your neighbors each of whom volunteers his or her time to help keep Garden Oaks looking like Garden Oaks. You accuse us of haphazard and selective enforcement. You have no facts to support your accusation, and of course, you really have no idea what we do because you’ve never asked. We investigate and pursue every violation that is brought to our attention or that we happen to see. Being on the Board is not fun and investigating violations is even less so. Everyone wants the benefits of our deed restrictions but no one is happy—including us—when we have to enforce them. But, the major reason why Garden Oaks looks as nice as it does today is because we have Deed Restrictions. (To see a neighborhood where deed restrictions have lapsed, drive through the neighborhood immediately south of Loop 610. There is a big difference.)

While you disparage our enforcement of the deed restrictions, you’ve missed important aspects of those restrictions that we need to bring to your attention. First is your misconception that anyone on the Board has violated the deed restrictions. A property owner violates the deed restrictions by doing what you deliberately did, which is to build a structure that does not stay within specific setbacks. By contrast, a person who purchases a property where a building already encroaches on a setback line does not violate the restrictions. In fact, the deed restrictions specifically state in the ‘Right to Enforce’ paragraph that a property owner can not be held liable for breaches prior to his ownership of the lot. Our enforcement is not selective— it is just extremely limited by the deed restrictions. Your accusation that the Board members are violators is simply wrong. Every single one of us purchased our lots with existing violations. And many of those ‘violations’ were built 50 or more years ago— before the Board of Trustees even existed.

Another misconception you have is that the deed restrictions

inhibit “updating our properties to accommodate our current style of living and to construct garages that accommodate current vehicles”. The deed restrictions address where you can place your garage – not how big it can be. Building a garage that accommodates 1, 2, or even 18 cars is allowable, as long as it respects the setbacks that give us the attractive open spaces one sees driving through the neighborhood.

You are also way off the mark in accusing us of somehow distorting the meaning of the deed restrictions in the booklets that we reprint for the use of new property owners. The Deed Restrictions in Section 1 do not, as you assert, eliminate the sideline setback for garages more than 100 feet from the front lot line, and no reasonable reading of those restrictions will support your claim. The Board’s reprint of the restrictions – originally printed in 1952 – does place a (nor) between the two restrictive phrases but the “nor” does not change the meaning. The paragraph below shows the “nor” in italicized parenthesis (*nor*). You can see for yourself that the provision is clearly drafted with three parallel phrases describing three setbacks on any lot, one from the front, one from the sides, and one from the back.

Paragraph (i): No garage, barn, servant’s house or other outbuilding of any kind shall be erected nearer than one hundred (100) feet to the front property line of any lot (*nor*) nearer than ten (10) feet to either side property line of any lot, nor nearer than the easement on the rear or side property line of any lot. This does not apply to garage or servant’s quarters attached to main residence but any servant’s quarters attached to main residence must be in rear of same. No outside toilets will be permitted.

By reading the first two phrases to describe a single sideline setback for garages (i.e. the sideline setback only applies to garages built within the front 100 feet of any lot), the restrictions would allow one to build a garage on his front lawn in front of his residence (because the 50 foot front set back is only for “residences”). We assume you see the absurdity of this construction.

You end your letter with a Quixotic attack on the Board. Wrapping yourself in the American flag, you compare the Board’s actions to the tyranny of King George. Let’s keep one thing clear. You brought suit to have our deed restrictions declared void, and you did so because you did not want to place your new garage 6 feet from where it is. You are not the victim, Mr. Moore. The victims in this case are the 490 other property owners in Section 1 who stand to have their Deed Restrictions judged unenforceable because of your selfishness.

Bennett Bartlett
Ed de Alba
Garden Oaks Board of Trustees, Section 1



ESPLANADE BANDIT STRIKES AGAIN

Brenda de Alba

The "Bandit" has struck again! This time we lost 3 of the Dogwoods planted on the south side of the Esplanade. To say I'm angry is a gross understatement! The neighborhood has also recently experienced theft of garden accents (birdbaths, sundials, & benches) from homeowners' front yards. If you see ANY suspicious activity around our parks or neighbors' homes, PLEASE contact the police!

Numerous comments were heard on the Home Tour Trolleys from tour attendees regarding the beauty of our parks and gardens. One woman was overheard to say it is evident to her how much Garden Oaks is loved by its residents. I couldn't agree more!

As we move into the heat of the summer, our primary agenda with Beautification is to get the timers installed on the 3 existing irrigation systems.

Keep your fingers crossed that we don't experience another drought like the summer of '98...

ANOTHER SUCCESSFUL HOME TOUR

Meredith Jenkins, 1999 Home Tour Chair

Over 650 visitors toured six amazing homes and three beautiful gardens on Sunday, May 2nd during the 1999 Garden Oaks Home and Garden Tour. While many attendees were Garden Oaks neighbors, a surprising number of people traveled from other parts of Houston to experience a small slice of Garden Oaks' charm.

As of this *Gazette* printing, an exact figure of Home Tour profits had yet to be determined. The committee estimates that the event grossed approximately \$18,000 and netted \$10,000. Past proceeds have been used for donations to beautification projects, area schools, neighborhood security, the *Gazette*, and for the preservation of our deed restrictions.


The committee wants to extend their thanks to the following businesses and individuals who helped make our home tour such a success: 1.) our two Corporate Sponsors: AES-Houston Carrier and Shannon & Associates, Inc. 2.) our seven Platinum Sponsors: ARTS ALIVE!, Inc.; Campos Roofing; Harry James Building & Design; Houston Structural, Inc.; James Garman, Builder; Lauder Properties; Tony's Mexican Restaurant and 3.) our eleven Gold Sponsors: Sandy Altman; Andrew V. Smith, CPA; Bos Lighting Design; Judi Morawski, Coldwell Banker United Realtors; Clause Wood Floors; Mike Caldwell Contracting; Northwest Mall; Judy Camp and Pat Walker, Prudential Premier Properties; Denise Epstein, Prudential Premier Properties; Reliant Energy/HL&P; and Terry Jeanes, Re/Max-Metro.

Many thanks especially to all the owners who graciously opened up their homes and gardens for everyone to enjoy. We also want to recognize Rick Englert at Haute Groceries for cooking up a delicious Greek feast for the Sponsor Party. Com-

("Home Tour" continued on page 15)

TEMPLE OAKS
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Guillaume "GEM" Morvan (Shepherd Park Plaza Resident)



("Moore" continued from page 1)

my disagreement with the Garden Oaks Board of Trustees. It is not my desire to leave Garden Oaks, Section I without enforceable deed restrictions. It is only my desire to be able to maintain and enjoy my home in a manner which is consistent with a majority of my neighbors in Section I and a majority of the Trustees serving on the Garden Oaks Board of Trustees. My lawsuit against the Garden Oaks Board of Trustees was only filed in response to a continuing series of threats and lawsuits asserted against me at the direction of the Garden Oaks Board of Trustees. If the deed restrictions become a victim of this fight, it is not my fault, but instead the fault of the Board of Trustees and its haphazard and selective enforcement of deed restrictions.

The deed restrictions for Garden Oaks, Section I include side setback restrictions which purport to require a residence and any attached garage or carport to be a minimum of 15 feet from either side property line, and any detached garage or other outbuilding to be a minimum of 10 feet from either side property line. There apparently are similar restrictions for Sections II through V. The deed restrictions also purport to require residents to obtain Board approval for any home improvements or changes in exterior design, including material selection and paint color selection. Next time you drive or walk through Section I, take a look at the number of garages and carports, both attached and detached, that violate these 15 foot and 10 foot setback restrictions. By my count, there are over 200 violations in Section I alone. By the Board's own count, there are more than 100 in Section I alone. Indeed, many of the current and recent members of the Board of Trustees have homes, garages, or other outbuildings which violate these very restrictions.

A perfect example of this is Mr. Bennett Bartlett who is a Trustee for Garden Oaks, Section I, and who lives at 511 West 33rd Street. Drive by Mr. Bartlett's residence and look at the location of his garage in perspective to his property line. It is clearly evident from the street that Mr. Bartlett's garage is not even remotely close to being 10 feet away from the side property line. Mr. Bartlett is Ms. Rogers' neighbor. I wonder if she feels as threatened by the location of his garage as she does by mine.

Megan Berry-Barlow, the President of the Board of Trustees, has a home located at 903 West 42nd Street in Section IV, which by her own admission encroaches on the 10 foot side setback restriction in Section IV. Trustee John Goodman owns two homes located at 850 West 41st Street and 846 West 41st Street in Section III which by his own admission have garages and carports which violate the side setbacks. Trustee Ed de Alba admits that his wife's home at 858 LaMonte has both sideline and height violations with

respect to the garage. Former Trustee Rod Walker has a home at 701 West 31st Street in Section I, which violates the side setback restriction. Former Board President and current Board Trustee, Susan McMillian has a home at 718 West 42nd Street with a mini-barn which violates the side setback restrictions. Former Board President Jim Doyle has a home located at 722 West 41st Street with a garage that violates the side setback restrictions.

By my count, approximately one-half of those of you receiving a copy of this letter also have homes, garages, carports, or other outbuildings which violate the side setback restrictions in Section I. Do not take my word for it - drive around the neighborhood and look at the numerous other garages and carports virtually on the property line. I have produced pictures in my lawsuit with the Board which show that approximately 60% of the garages/houses/out-buildings on properties in the approximately 360 homes included in the original Garden Oaks, Section I, are in violation of the deed restrictions as described.

I do not believe those of you with similar sideline violations are bad neighbors; I do not believe you are trying to strip this community of its deed restrictions; I do not begrudge the fact that your violations exist. I only believe that I should be free to do the same thing with my property. Instead, I have been sued on three separate occasions by the Garden Oaks Board of Trustees or others acting on its behalf. Ms. Rogers' letter neglected to state that the Board of Trustees is currently suing me to obtain a court order requiring my garage to be torn down. The Board of Trustees is also suing me for approximately \$150,000 in fines and penalties plus an undetermined amount of attorney's fees. Ms. Rogers also neglected to tell you that the Board of Trustees requested the City of Houston to file a similar lawsuit against me. Does it seem fair to you that I should be subject to hundreds of thousands of dollars in damages and the forced demolition of a part of my home for alleged violations of restrictions no different than those violated by many of the Board members themselves and hundreds of my neighbors? The Board of Trustees has also sued Scott Hopes, another Section I resident residing at 227 West 34th seeking to recover tens of thousands of dollars in penalties plus the forced demolition of a beautiful addition to his home. Mr. Hopes has done nothing more than allegedly violate the same side setback restriction violated by the Trustees and hundreds of his neighbors. Finally, Ms. Rogers' open letter neglected to tell you that the City of Houston recently dismissed its lawsuit against me because of the numerous similar violations which are prevalent throughout Garden Oaks, Section I. Why does the Board of Trustees continue its selective persecution of a few residents when they them-

("Moore" continued on page 11)



(“Moore” continued from page 10)

selves are violating the same restrictions? How much more inconsistent and hypocritical can you get?

I did not initiate this dispute with the Garden Oaks Board of Trustees. The Garden Oaks Board of Trustees threatened me with legal action when I attempted to improve my property. After almost two decades of dealing with this Board of Trustees, I have decided to fight back.

If there is anything that will add value to all of our collective properties, it is the fact that we must update our properties to accommodate our current style of living and to construct garages that accommodate current vehicles. When most of these homes were built, the normal family owned one 1948 Ford Coupe that cost \$750 new and the little inadequate garages served the purpose at the time. However, fast-forward to today’s market where the average car costs in excess of \$20,000 and every family has at least two, it will ultimately be a significant deterrent in property value if we are unable to construct garages to allow people to protect their investment in automobiles. Judging by the number of “illegal” carports and expanded garages located throughout Section I, many of you obviously believe this as well.

One of the primary differences between our neighborhood and West University, Tanglewood, and River Oaks is that their homeowner’s organizations have been flexible enough to allow new homes, new constructions and new garage construction that accommodates anywhere from two to four of the expensive cars that we all drive in today’s environment. If we continue to inhibit improvements through archaic, inaccurate, and incorrect deed restriction interpretations, the development of houses and garages in this neighborhood will ultimately stop and we will all lose money on our investment in these properties.

Back to the Board of Trustees; the actual deed restrictions recorded in Harris County as the official recorded deed restrictions pertaining to the Garden Oaks subdivisions include wording that, in essence, states that if a garage is more than 100 feet from the front property line there is no sideline restriction. The existing Board of Trustees have reprinted those deed restrictions; however, they added one word, and that one word (nor) completely changed the meaning of the original deed restrictions as filed with the county. Mr. Herbert E. Kellner, a Trustee and the Architectural Committee Chair, in a sworn deposition on April 12, 1999, was asked about this difference. Mr. Kellner was asked by my attorney the following questions, “So what you’re saying is if you had been given the language contained in paragraph 5 [the recorded deed restrictions at Harris County] to interpret and apply, you would have applied it

differently than the way the language contained in exhibit 4 [the blue booklet] has been applied.” His answer was, “Correct.” Our Board of Trustees does not even know what is recorded at Harris county, nor have they understood the difference from what is included in the “blue book.” This Board of Trustees is arbitrarily and capriciously making their own interpretations of the deed restrictions, changing words in the recorded deed restrictions and then selectively enforcing them within the neighborhood in a way that is totally inappropriate, inequitable and, in my opinion, a violation of our constitutional rights.

When was the last time you, as a resident of Garden Oaks, Sections 1, 2, 3, 4 or 5, voted on the election of trustees? The answer is “never.” The original Boston Tea Party was spawned by taxation without representation. We have, as residents, no ability to change or elect any of the Board of Trustee members. The Board of Trustees selects its own members or replacement members at its will. Does that sound like the United States of America to you, it doesn’t to me!

Ms. Rogers encouraged you to contact me about your concerns with what I have done in my litigation with the Garden Oaks Board of Trustees. I encourage you to also talk to those Board of Trustee members, in violation of the current deed restrictions, and ask them why are they trying to enforce deed restrictions on you, as a Garden Oaks resident, that they do not live or comply with themselves at their own residential property.

BLOOD MOBILE ROLLS IN TO GARDEN OAKS

The blood bank is dangerously low and is having a difficult time meeting the demand of blood needed in the Houston area. We desperately need your help! The American Legion Post 560 (between W. 34th and W. 43rd) is sponsoring a Bar-B-Que and Blood Donor Drive on Saturday, June 26th between the hours of 10:00 AM and 4:00 PM to make it more convenient for you to give the “Gift of Life”.

You can donate blood and purchase a bar-b-que plate to dine in or take out. There will be beef, chicken and sausage accompanied with all the trimmings. You do not need to be a member of the American Legion to participate in the blood drive or enjoy the delicious food. For more information, contact Buck McIlvain at 713-691-2965.



GOCOP REPORT

Carl Waters, Jr.

Did you know that the State of Texas has a program to compensate victims of violent crime? The program is run through The Office of the Attorney General and the funds are generated by payments made into the program by convicted offenders. To qualify you must be a resident of Texas, a U. S. resident that was victimized while in Texas or a Texas resident victimized in a state without a similar compensation program. The crime must be reported within 72 ¼ hours of its commission to law enforcement officials unless the victim is under 17 or a reasonable circumstance prevents the reporting in a timely manner. Benefits cover lost earnings or support of up to \$200.00 a week, reasonable medical expenses, counseling, and funeral expenses. Victims need to fill out an application form which can be obtained from the Attorney General's Office or by contacting the Harris County District Attorney's Office Victim Witness Division at 713-755-6655.

In April patrollers were out for a total of 72¼ hours. That was down slightly from March. Thanks again to all our volunteers who make this program possible.

March Crime Statistics (5)

Aggravated Assault (1)

200 block W. 34th on March 31st at 10:20 p.m.

Burglary (2)

400 block W. 30th on March 2nd at 9:00 a.m. (garage)

800 block W. 34th on March 2nd at 9:00 a.m. (residence)

Narcotics Arrest (2)

900 block W. 41st on March 31st at 4:00 p.m. (residence)

3400 block Shepherd on March 9th at 8:57 p.m. (public street)

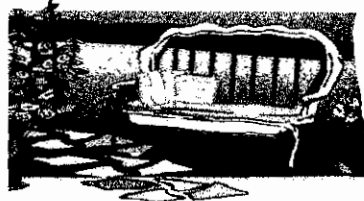
Summer is coming on fast. Now is the time to start planning your block party for **National Night Out**, Tuesday evening, August 3rd.

Just a reminder. Patroller training classes are held on the 2nd Thursday each month at 10:00 a.m. (that would be the 10th of June) and on the 4th Thursday at 7:00 p.m. (June 24th) at the North Division, 9455 W. Montgomery Rd.

JUNE GARDENING GUIDE

Tina Sabuco

June is busting out all over and what better place than in the garden! Now is the time to plant nursery stock. Water carefully for the first summer, since new plants dry out more quickly. Purchase crape myrtles in bloom to ensure color choices. Thinking Fall already? Start tomato seeds or cuttings early in the month for the fall garden. When selecting annual color plants, choose stock which have been grown and held in the same lighting conditions they will receive in your gardens. You can plant gomphrenas, cooper plants, moss rose, purslane, trailing lantanas, celosia, purple fountain grass and firebush now. Best color for the shade comes from wax begonias, caladiums, and coleus.



Remove dead foliage from wildflowers and spring flowering bulbs as it turns yellowish-brown. Remove all the canes from blackberry plants which have just borne fruit, since they will never bear again. "Tip" prune the new shoots of blackberry plants to keep the plants more compact. "Pinch" the growing tips out of lanky plants such as mums, fall asters and copper plants. Remove the flowers from coleus, dusty miller, caladiums, santolina and lamb's ear to maintain the vegetative growth. Remove the seed heads from crape myrtles immediately to encourage subsequent blooming.

Use a 3-1-2 or 4-1-2 ratio fertilizer early in the month, to stimulate good growth of turf going into summer. Apply the same fertilizer, one pound per 100 square feet, to shade trees, shrubs and groundcovers. Use a water-soluble complete-and-balanced fertilizer with each watering made to patio pots and hanging baskets.

TIP FROM SPERRY HOME GARDEN: Find garden art where you can, whether it's in antique malls, pottery shops or in your own garage. Keep your landscape simple and tasteful, but add a little whimsy to your wildscape. This is where you can really let your personality shine through.



("Bike Path" continued from page 1)

public works department will not take the street off the route and will widen it as far as TxDOT requires.

I have written to State Senator John Whitmire and State Representative Ken Yarbrough, asking them to lobby TxDOT on our behalf and to convince TxDOT to allow our street to stay the way it is.

Since it looks like we may be in for a battle, are any of you interested in serving on an "ad hoc" committee to fight the widening of the street? If so, come to the June Civic Club meeting or call me at 713-880-0503. I would like to ask the Civic Club to approve of the ad hoc committee at the June meeting.

Please, please, please write to State Senator John Whitmire, State Representative Yarbrough and City of Houston Public Works Director Jerry King and let them know your thoughts and opinions about the city's plan to widen the street as per TxDOT's requirement (you need to mention to Whitmire and Yarbrough that it is a TxDOT requirement, or they won't think it has anything to do with state government). Send copies to Tatro. Here are the addresses:

- State Senator John Whitmire: P.O. Box 12068, Austin, TX 78711
- State Representative Ken Yarbrough: P.O. Box 2910, Austin, TX 78768
- City of Houston Public Works Director Jerry King: 611 Walker, 25th Floor, Houston, TX 77251
- City Councilman Bruce Tatro: 900 Bagby, First Floor, Houston, TX 77002.

Also, I am sure you can call Tatro's office and get e-mail addresses for Tatro and King (713-247-2010).

FLAG DAY CELEBRATION

A special Flag Day Celebration will be held at Northwest Mall on June 14th, 1999 beginning at 10:00 AM. Congresswoman Sheila Jackson Lee has honored Northwest Mall by presenting us with a flag which has flown over our Nation's Capitol Building. A special program has been arranged and the schedule of events will include the following: speeches by various dignitaries, pass and review consisting of ROTC units from Reagan and Lamar high schools, twenty-one gun salute, and taps. A monetary donation will be given to a representative from the John H. Reagan World War II Memorial Association. Representatives from various wars will be participating in this ceremony. All activities are free of charge.



Come and pay tribute to the symbol of Our Great Nation. Remember those individuals who so generously gave of themselves so we all could enjoy the most precious of all gifts – FREEDOM.

Hope to see you at the Flag Day Celebration.

INFANT CARE NEEDED:

Seeking loving and enthusiastic person experienced with infants to provide love and warmth to our baby. Hours are 8-4 Monday through Friday. Must be a non-smoker and have own transportation. Generous salary and benefits given for the right person.

References required.

Please call 713-699-4166.



VOLUNTEERS WANTED

The Garden Oaks' 4th of July Bicycle Parade is in need of a volunteer (or several) to coordinate the event. If interested, contact Civic Club President, James Flowers, at 713-862-6593

SHOULDN'T YOUR AD BE HERE?

For advertising rates, contact Christine Stevens at 713-956-7067

The *Gazette* is published monthly and distributed to 1,500 homes in Garden Oaks.

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LEASH LAW REMINDER

Traci Carroll

I moved into my house, 408 W. 30th (Section 1) last year. In that time, I have seen many dogs running loose on my street but recently had a horrifying experience.

To help you in picturing the situation, I have a fenced backyard, but the house is on blocks, which allows dogs clearance. On Monday, March 29, while getting ready for work, I heard loud barking and growling under the house. I went to the back door just in time to see two pitbulls dragging a black chow/lab mix dog into my backyard. While I helplessly watched, these two vicious pitbulls mauled this dog to death! Literally dragging him all over the yard tearing him to pieces! Needless to say, I was horrified at this sight and it is not one I will soon forget.

When I left for work, the pitbulls were still in my yard, one in the back and one in the front. Luckily for me, I have an attached garage and could safely get into my car. As I backed out of the driveway, the pitbull in the front literally chased my car barking quite ferociously.

I had an important meeting at work that I just could not miss, so I asked my brother who works a split shift to stop by my house and see if the dog was dead in my yard.

After just arriving at my house and sitting in the driveway contemplating a plan of action because both pitbulls were still in my front yard, the constable patrolling that morning (I am sorry, but my brother did not get his name) stopped, too, because he saw the loose dogs. And just at that moment, a pickup truck pulled up, a guy jumped out, called the dogs, and they jumped in the truck. My brother flagged down the constable and the dog owner and spoke to them both, retelling the attack I had witnessed. The owner of the dogs, Cesar Guerra of 511 W. 30th (713-880-2141) was apologetic, claiming the dogs had "got out again".

My brother and the constable found the dog dead behind the storage shed. The constable claimed he knew where the owner of the pitbulls lived, and drove just down the street to get his name and phone number so I could report the incident to Animal Control.

When I called Animal Control, I was shocked and now angrier to learn that Mr. Cesar Guerra had so many complaints on file for those two dogs, that the City could not even tell me the number! It seems that not only have several Garden Oaks residents complained, but last fall the U.S. Mail was not delivered for a week because the postman had

been bit, and refused to deliver the mail because they were always running loose and he was afraid of being attacked again! Why, I asked Animal Control, was Mr. Guerra still in possession of these animals if all these complaints were on file? They claim that under Houston law, when they visited Mr. Guerra, he had the animals penned, therefore they could not seize them. It seems that Animal Control must witness the dogs loose themselves and the animals must attack a human twice in a 12 month period in order to be removed! And to top it off, the City will not remove a dead animal unless it is at curbside.

As you can imagine, at this point I was outraged! First of all, I spend a lot of time in my yard, especially the backyard. Yes, I suppose I am at risk with a house on blocks, but that should not matter! As a homeowner and taxpayer, I should be able to safely walk in my yard! I can't imagine what would have happened if me or, God forbid, children had been in the backyard at the moment those vicious dogs came charging through!

After reporting the incident to Animal Control, I called City Councilman Bruce Tatro's office. They, too, were appalled at this incident, and included me in a conference call with the City's legal department. Unfortunately, there was not much they could do as Mr. Guerra has to be caught with the dogs loose, or the dogs have to bite or maul another human being within the 12 month period of the last attack. Or someone has to be killed.

When I arrived home that evening, I called Mr. Guerra who was apologetic, but who had also contacted his attorney. He informed me that his attorney claimed that the owners of the dead dog were just as much at fault because their dog, too, was loose. The black chow/lab was wearing a flea collar and a red nylon collar, but had no tags. I am sure that someone is missing their dog! As for the pitbulls, Mr. Guerra claims that he has moved them to some property he owns in Hockley. I have no way of knowing if that is the truth, only that I have not seen the dogs since. I had to threaten legal action myself in order to get him to remove the dog from my property. As I mentioned, Mr. Guerra was apologetic and regretful, but I really don't think he believes his dogs are dangerous.

I think it is imperative that all residents be constantly aware of loose dogs and their potential danger. I see many adults and families walking, and lots of children playing in the neighborhood. They all should be reminded to be careful and to call Animal Control as soon as they see a loose dog. I would hate anyone to witness what I did, and I can't even begin to imagine the sight of these dogs attacking a child.



(*"Home Tour" continued from page 9*)

mittee members, home & garden owners, and sponsors enjoyed a fabulous night at the home of James Flowers and Jerry Vuchak. Their generosity was greatly appreciated. Thanks also to Pat Buron for the wonderful renderings of the tour homes provided as gifts to the homeowners. Then, to the many volunteers who gave their time and energy to make this a successful event and also to all of the Garden Oaks residents who supported us. We appreciate your overwhelming support! A bouquet of thanks to the florists which provided the gorgeous arrangements in the homes for the day of the tour: Darlene's Flowers, Flowertime, Heights Floral Shop, Jana's Flowers, Mark Anthony, and Teas Nursery. Lastly to Aztec Party Rental for donating tables, chairs and other tour supplies; The Frame Shop for donating the framing of posters & renderings for the owners; Haywood Graphics for donating the printing of the tour ticket and event poster; Mountain Valley Water Company for providing bottled water at a reduced cost for our thirsty tour guests; and Walter Hinkle at Nextel Communications for donating radio phones.

I would be remiss in not thanking the committee members who worked long and hard to produce the 1999 Home Tour: Clare Bell, Sheila Briones, Mike Caldwell, Missy Coward, Ed and Brenda de Alba, Robert De Veau, M T Herring, Michelle Heugley, Terry Jeanes, Shannon King, Susan Kostelecky, Bernadell Larson, Amy McInnis, Laura Morgan, Tina Rowe, Tina Sabuco, Caroline Seibel, Susan Simpson, Rebecca Stark, Shana Tatum, Jennifer Taylor, Stephanie Quisenberry and Margaret Yale.

The date for the 2000 Tour has been set for April 30th. Volunteers are needed NOW to help work on various committees. Also, the committee will begin viewing homes in June for inclusion in the tour. If you are interested in being a committee member or having your home and/or garden considered for inclusion in the tour, please call Meredith Jenkins at 713 697-5654.



1999 HOME TOUR IN-KIND DONATIONS

- | | |
|------------------------------------|---|
| Adrian's Restaurante Y Cantina | Kaplan's-Ben Hur |
| American Health Food Store | Kroger Signature Store, 43 rd St.* |
| Another Place in Time | Laff Stop |
| Aztec Party Rental* | La Tour D'Argent |
| B&W Meat Market | Local Attorney* |
| Bells MyOwn Cleaners | Lone Star Transportation |
| Binswanger Glass Company | Luby's Cafeteria |
| Black-Eyed Pea, Northwest Frwy | Mary Parks Massage Therapy |
| Brink's Ace Hardware | Merle Norman Gifts & Collectibles |
| Buchanan's Native Plants | Mexicatessan |
| California Closets* | Miller's Caf  |
| Casey's Seafood/Gaido's Restaurant | Mills Bible Store* |
| The Cat's Pajamas | Mirror Lake Landscaping & Pools* |
| Chassy's Yogurt & Ice Cream | Mi Sombrero |
| Christiane's Hair and Nails* | Mister Car Wash* |
| Conn's Appliances, N. Shepherd* | Moody Gardens |
| Country Caf  | Mountain Valley Water |
| Data Voice Technology* | Nails by Michelle & Diane |
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| D.J.'s Lawn Care | Oak Forest Exxon |
| Doyle's Restaurant | O.D.'s Printing* |
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| Exxon Company, USA | Pappadeaux Seafood Kitchen |
| Flying Sauce Pie Co. | Pat H. Foley Funeral Home* |
| The Frame Shop | Peco's Grill |
| Galveston Historical Foundation | P G's Tees* |
| Garden Oaks Cleaners | Pizza Hut |
| Garden Oaks Elementary School | Rainbow Lodge |
| GO Cops* | Randall's Food Markets |
| Gold, Glass & Wood Effects | Roznovsky's Hamburgers |
| Granny Had One Antiques | Sears Roebuck and Co. |
| Grogan Builders Supply | Sheraton-Houston Brookhollow |
| Gulf Greyhound Park* | Shipley Do-Nut Shop on Ella |
| HA-LO Marketing & Promotions* | SK Designs* |
| Kelly Gorski/Halen Hair Designs | Smith & Hawken |
| Harold's in the Heights | Spiritual Heights |
| Hartman Management | Teas Nursery |
| Haute Groceries* | Tex-Sun Tan |
| Hickory Hollow | Watches by Paulin |
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| Home Depot* | Willie's Handcrafted Fine Jewelry* |
| | Wings N' More |

*Special thanks to these businesses who donated \$100.00 or more in product or services. Please remember to patronize these generous businesses.



HEAVY TRASH

1st Tuesday
Sections 1 & 1A

2nd Tuesday
Sections 2 - 5
South of West 41st St.

3rd Tuesday
Sections 2 - 5
North of West 41st St.

RECYCLING

1st and 3rd Tuesday
North of West 43rd St.

2nd and 4th Tuesday
South of West 43rd St.


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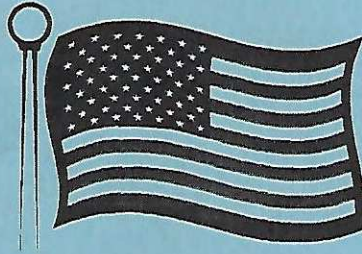
JUNE EVENTS

- 1st: Civic Club Meeting, 7:00 PM
G.O. Elementary School
- 10th: Garden Club, 7:00 PM
Call for location 713-869-6534
- 26th: Blood Donor Drive &
Bar-B-Que
American Legion Post 560



Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
		1 Civic Club Meeting 7:00 PM	2	3	4	5
6	7	8	9	10 Garden Club 7:00 PM	11	12
13	14  Flag Day	15	16	17	18	19
20 Father's Day	21 Summer Begins	22	23	24	25	26 Blood Donor Drive & Bar-B-Que
27	28	29	30	<p><i>"It is the month of June, The month of leaves and roses, When pleasant sights salute the eyes, And pleasant scents, the noses"</i></p> <p>—N. P. Willis</p>		

NORTHWEST MALL



FLAG DAY CELEBRATION

- Dedication of Flag donated by Congresswoman Sheila Jackson Lee
 - Lamar & Reagan High School ROTC Units
 - Marine Corp 21-Gun Salute
 - Daughters of American Revolution
 - FREE Flight Simulator Rides
 - National Anthem sung by Scott Sileo
 - American Legion Post 416 Color Guard
 - Various Dignitaries
 - Daughters of Confederacy
 - Texas Air Aces
Aerial Dog Fight
- And Much More . . .

PLEASE JOIN US!

Monday, June 14, 1999
10:00 a.m.

NORTHWEST MALL
9800 Hempstead Highway
(Loop 610 & Highway 290)
Houston, Texas 77092
(713) 681-1303



Sit down with a cup of joe
and read why you ought to go
to Haute Groceries!

10 Great Reasons to Buy Gourmet Suppers
at Haute Groceries:

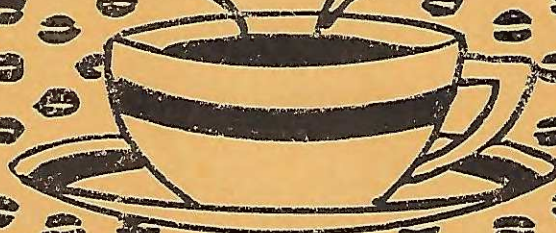
10. We believe that we can cook better than you, your mom or dad.
9. "Fresh off the vine or the bone" is our motto.
8. We don't serve fast food; we serve great food fast.
7. We really love to cook and it shows.
6. We're located right in your neighborhood.
5. It is so easy order; just call and pick up your supper when you want.
4. You now have three entree choices each day.
3. We have the cleanest kitchen in town.
2. We want to be your 1st choice when eating in the neighborhood.
1. We serve generous portions that are reasonably priced.

You can always find
next week's menu
in the Leader.



3468 Ella
3:00 p.m. - 8:00 p.m.
Monday through Friday.

Direct order: 713-267-0703
Main menu: 713-267-0701
Faxed menu: 713-914-5074
Office: 713-682-6320



wouldn't it be nice
if you could
please everyone?

now you can.



your **boss.** your **co-workers.** your **self.**

mall **gift certificates.** make it **easy.** make 'em **happy.**

NORTHWEST MALL

Loop 610 at Hwy. 290

713-681-1303

Gift Certificates Make Great Gifts for Dads!

EXCLUSIVE OFFER FOR GARDEN OAKS RESIDENTS

Bring this card to
Northwest Mall
Guest Services,
Buy a mall gift certificate,
and receive a FREE
Golfing Bear Photo Frame
for Dad!
(while supplies last)