

BARRINGTON HEIGHTS OWNERS ASSOCIATION

NOTICE TO BARRINGTON RESIDENTS

14 September 2016

Subject: Garage or Yard Sales

On July 9th of this year, the homeowner at 6005 Barrington Avenue held a garage sale at their residence. There were several complaints made to our Management group regarding traffic issues at the Dowlen intersection and the fact that garage sales are prohibited in our neighborhood per Article VIII, Section 5 of the Declaration of Covenants, Conditions, and Restrictions recorded under County Clerks File No 96-9637003 of the Real Property Records of Jefferson County, Texas. A \$25 administrative fee was assessed to the homeowner for violation of the Restrictions.

As many residents in the neighborhood are aware, there is currently a petition posted in the mail kiosk and possibly being circulated to allow garage and/or yard sales in Barrington Heights. Under the Bylaws, the following requirements are necessary in order to amend the current Restrictive Covenants:

- Currently, there are 349 lot/home owners in the Barrington Heights development, each of which has a single vote. The Covenants currently require that 80% or 279 owners must approve any petition to amend the Restrictions in place
- Once the signatures are verified, the Board will submit the names and addresses of the residents/lot owners to the Barrington Heights Owner's Association (BHOA) attorney for preparation of an amendment document in recordable format.
- Upon completion of the amendment document, the residents/lot owners that signed the petition will be required to sign the Amending document prior to recording.
- After the document is recorded and filed with the County Clerk's office, garage or yard sales would be permitted in our neighborhood from that date going forward.

While Barrington Heights has restrictions in place that prohibit garage or yard sales, the City of Beaumont Ordinance, Section 28.04.008 states that garage sales are a permitted use (unless restricted by Covenants) in all residential zoning districts provided the following conditions are complied with:

- A garage sale shall not be for more than three (3) continuous days;
- No more than two (2) garage sales per calendar year per premises shall be allowed;
- Hours of operation shall be limited to sunrise to sunset;
- No merchandise shall be displayed or placed on the public right-of-way (on the streets in Barrington, that would be no items placed within 11.5 feet of the curb);
- Only one unlit sign, no larger than six (6) square feet, and set off the public right-of-way shall be allowed
- Garage sales conducted out of a dwelling unit are exempt from the parking requirements

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Despite perception by some in our neighborhood, the Board of Directors has no power to change any of the Bylaws or Restrictive Covenants that were originally put in place in 1996. However, given that there is currently no deterrent in place to stop someone else from having another garage sale prior to amending the Restrictive Covenants as outlined above, effective this date, the Board has authorized the Association's Management group to contact the BHOA attorney to file a lawsuit seeking a temporary and permanent injunction against any homeowner or resident that advertises or is setting up for a garage or yard sale event within the Barrington neighborhood. Additionally, that homeowner or resident will be responsible for reimbursing the BHOA any fees associated with the injunction process (attorney/filing fees/etc). These fees may become a lien against the homeowner's property which will be enforceable as provided in the Restrictive Covenants.

The Board of Directors has voted to assess a \$500 fine in addition to a \$25 administrative fee to any homeowner or resident that violates Article VIII, Section 5 of the Restrictive Covenants. For repeat violations by any homeowner or resident, the fine will increase by \$500 for each additional event. If a homeowner or resident decides to follow the City's Ordinance by holding a three day sale, the fine would increase incrementally by \$500 (\$500 for the first day, \$1,000 for the second day, and \$1,500 for the third day). The fines are in addition to any damages, attorney fees, and costs assessed against the property and the homeowner in any lawsuit that is filed to enforce the Restrictive Covenants.

The developers of Barrington Heights imposed the restrictions we currently have in place as a positive for all of us who have invested and chose to live in a restricted neighborhood. Their reasons for prohibiting garage sales are in keeping with many other restricted developments in the State.

Submitted by:

The Barrington Heights Owner's Association Board of Directors