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RECORDATION OF BALLOT FOR VOTE  
on  
REVISIONS to RESTRICTIVE COVENANTS  
by the  
HOUSTON HEIGHTS ASSOCIATION

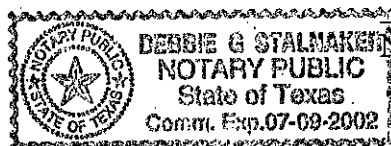
The Houston Heights Association hereby submits for recordation, pursuant to Section 208.006(e) of the Texas Property Code ("the Code"), a true and correct copy of the ballot to be submitted to property owners (as contemplated by Chapter 208 of the Code) to vote on proposed revisions ("the Revisions") to the Joint and Mutual Restrictive Covenant Agreement of the Houston Heights ("the Heights Covenant Agreement"), which further qualifies as a "common scheme for preservation of historic property" as defined in and contemplated by Section 208.004 of the Code, which vote will be taken by ballot as provided in Section 208.006(a)(1) of the Code. It is anticipated that the ballots will be mailed on or about February 26, 2002, and that the vote of ballots will be tallied on or about March 28, 2002.

The properties to which the Revisions will apply if adopted, which include all properties subject to the Heights Covenant Agreement, are within, but do not include all of the properties of, the following areas platted and recorded with the Map Records of Harris County, Texas: The Houston Heights, West Heights, Ridgewood, Houston Heights Annex, Sunset Heights, Stude Heights, Abstract 1J Austin, Stude Section 2, Kutschbach Addition, Bradshaw Addition, Milroy Place, Freeland, Harding Heights, Oxford Place, Kiam Place and Nicholson Heights.

*Michael B. Easley, President*  
Michael B. Easley, President  
Houston Heights Association

STATE OF TEXAS     )  
COUNTY OF HARRIS    )

This instrument was acknowledged before me on the 25<sup>th</sup> day of February, 2002 by MICHAEL B. EASLEY.



*Debbie G. Stalnaker*  
Notary Public in and for the State of Texas

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Please Return To:  
Janet Buchheit  
1620 Columbia  
Houston, TX 77008-4308

549-13-1537

Notice  
25.25  
T P

# HOUSTON HEIGHTS ASSOCIATION

P.O. BOX 70735

HOUSTON, TEXAS 77270

713-861-4002



February 25, 2002

## BALLOT

### REVISIONS TO RESTRICTIVE COVENANTS (DEED RESTRICTIONS) of THE HOUSTON HEIGHTS ASSOCIATION

#### **IMPORTANT NOTICE: IF YOU ARE LEASING THIS PROPERTY PLEASE FORWARD THIS BALLOT AND INFORMATION TO YOUR LANDLORD.**

I/We, the owners/co-owners of the below-described property ("the Property"), accept or reject, as indicated below, the proposed revisions ("the Revisions") to the Restrictive Covenants otherwise applicable to the Property under that "common scheme for preservation of historic property" as defined in Section 207.004 of the Texas Property Code, for Houston Heights and other properties, enforceable by action of the Houston Heights Association. The Revisions are set forth in the Exhibit "A" that was attached hereto and detached by the below-signed owner(s), with deletions shown by lines through the deleted text and additions shown by bold lettering and double underlining.

       ACCEPT the Revisions

       HOUSTON HEIGHTS ASSOCIATION

       REJECT the Revisions

PROPERTY OWNER(S)

PROPERTY ADDRESS/  
COUNTY CLERK RECORD

Signature

Printed Name

Signature

Printed Name

RECEIVED  
COUNTY CLERK  
HARRIS COUNTY, TEXAS  
*Barbara A. Hoffman*

FEB 25 PM 2:34

FILED

**PLEASE RETURN BALLOT TO THE HOUSTON HEIGHTS ASSOCIATION  
POSTMARKED BY NO LATER THAN MARCH 28, 2002**

**EXPLANATION AND INSTRUCTIONS TO  
BALLOT FOR REVISIONS TO  
HEIGHTS DEED RESTRICTIONS**

**EXPLANATION.**

**1. What is this all about?**

After more than two years of study, discussion, and solicitation of public comment, the Houston Heights Association is recommending that the Heights' "Restrictive Covenants" – commonly referred to as "deed restrictions" – be revised. The main purpose of the revisions is to prohibit the construction of "townhouses." The proposed revisions are described more fully under Q&A 4 below.

The Heights Deed Restrictions were first drafted in the late 1970's, when the main threat to the Heights was intrusion by incompatible commercial development, such as truck repair parks. However, since about 1990, the value of Heights property has risen sufficiently to largely remove concerns about commercial development. Instead, the main threat facing the Heights is the displacement of single family homes with townhouse developments.

Many other inner city neighborhoods, particularly in the Montrose/Neartown area and the West End area, have seen their traditional single family homes replaced by canyons of townhouses, with the streetscape dominated now by garage doors rather than front porches. Not only have many homes of significant historic value been lost, but the character and integrity of the entire neighborhood have been irretrievably changed. The proposed revisions may help prevent this from happening to the Heights.

**2. What properties are covered by the deed restrictions and the revisions?**

Only those properties for whom the owners have elected to be covered by the deed restrictions are covered by the restrictions, and only those properties will be affected by the proposed revisions. Presently, there are about 1200 properties in the Heights that are covered. All of the properties covered by the deed restrictions will be subject to the proposed revisions if they are adopted as explained below, including those properties whose owners voted against the revisions.

**3. What is the procedure for voting on the proposed revisions?**

To be adopted, the owners of at least 75% of the properties FOR WHICH BALLOTS ARE RECEIVED must vote in favor of adoption of the proposed revisions. Ballots will be mailed to all property owners that the Association has been able to identify and locate; a great deal of effort has been spent on finding everyone possible. Only ballots mailed after February 22nd and postmarked BY NO LATER THAN MARCH 28, 2002 will be counted.

The state statute that governs this process provides that, in the case of any property for which there are multiple owners, the affirmative vote (vote for the restrictions) of any one of the owners will count as an affirmative vote for the property. Similarly, if one person submits more than one ballot, one in favor and one against the revisions, only the vote in favor of the restrictions will be counted. Instructions for submitting your ballot are provided further below.

**4. What revisions are proposed?**

The proposed revisions, which are shown exactly in the "Exhibit A" attached to the Ballot, are summarized below:

- a. setbacks - a house or structure would have to leave at least the following amount of room from the lot lines: (i) side lines - 3 feet (increased from 2 feet); (ii) back line - 3 feet (there are no rear setbacks currently); front line - 15 feet (the current restrictions use a house-by-house measurement taken at the time the homeowner signed the restrictions). Corner lots would have the 15-foot setback apply for the front, and a 10-foot setback for the other street-facing line;
- b. house must face the street - to prevent multiple-unit "compound-type" construction, the new restrictions would require that each new house face the street (not a private common driveway);

549-18-1898

- c. common wall construction prohibited - although the setback rules should generally prevent common wall construction (two units sharing a common exterior wall), this provision would help ensure that the prohibition is not circumvented by multiple-unit construction on a single lot;
- d. garage setback - any garage must be set back at least halfway to the back lot line, and in any event be no closer to the street than the front of the house itself;
- e. "garage front" prohibited - a front-facing garage door could not take up more than a half of the first-floor front of the house;
- f. raised foundation required - to preserve another dominate characteristic of home construction in the Heights, the new restrictions would require either pier-and-beam construction, or other foundation construction that would raise the bottom floor of the house at least 2 feet from the ground;
- g. height restrictions - the revisions would retain the current height restriction of 40 feet, except that for lots of width greater than 50 feet, the limit would go up an additional foot for every one foot of additional setback from the nearest lot line, with a 50-foot maximum;
- h. density and lot width - the minimum lot size would be increased from one residence per every 2,500 square feet to one per every 5,000 square feet, and there would be a minimum frontage of 50 feet for each lot. This would essentially establish a minimum lot size of 50' by 100'. There would be two important exceptions: (i) garage apartments would not be treated as "residences" for this purpose, and (ii) lots of smaller frontage or size with existing houses as of the date that the property was deed restricted (when the owners signed on to the restrictions) would be "grandfathered," that is, their size would be treated as conforming to the deed restrictions.

In addition, there are some technical corrections or changes that clarify the application of the proposed or existing restrictions.

#### INSTRUCTIONS FOR SUBMITTING A BALLOT

The Ballot is printed on Houston Heights Association letterhead with the word "BALLOT" at the top. Enclosed with the Ballot is an "Exhibit A" that shows the proposed revisions. Language added is indicated by being double underscored. Deleted language has a line through it. Also enclosed is an envelope which is pre-addressed to the Houston Heights Association.

1. "Exhibit A" is yours to keep with your own records.
2. Mark the Ballot, either to "Accept" or "Reject" the proposed revisions. Your vote to ACCEPT the revisions will go a long way to protecting the Heights!
3. Sign the Ballot; make a copy of the Ballot for your own records.
4. Mail the signed Ballot to the Houston Heights Association using the enclosed envelope. If you wish to confirm the date of delivery to the Association, you may send the envelope by certified mail.

The results of the balloting will be announced as quickly as possible. *Thank you for your attention to this matter, and we hope for your vote in favor of these important revisions. If you have further questions, please send them to the Association by either e-mail at [deedrestrictions@houstonheights.org](mailto:deedrestrictions@houstonheights.org) or by telephone message at 713/861-4002, mailbox 1.*

The Houston Heights Association

**EXHIBIT "A" TO BALLOT**  
**JOINT AND MUTUAL**  
**RESTRICTIVE COVENANT AGREEMENT**  
**THE HOUSTON HEIGHTS**  
**(PART OF) BLOCK(S) \_\_\_\_\_ AND \_\_\_\_\_**

STATE OF TEXAS       §  
                                  §  
COUNTY OF HARRIS   §

WHEREAS, the undersigned persons own, respectively, the property set forth beside his, her, its, or their name(s) on Exhibit "A" attached hereto ("the Property"); and

WHEREAS, the undersigned persons desire to bind themselves in joint and mutual covenants to control the use and development of the property Property herein described;

NOW, THEREFORE, it is hereby declared that all of the Property, as defined below, shall be held, sold, and conveyed subject to the following restrictions, covenants, and conditions which are for the purpose of protecting value and desirability of the Property, as defined below, and which shall run with the Property and shall be binding on all parties having any right, title, or interest in or to the Property or any part thereof, and their heirs, successors, and assigns, and which restrictions, covenants, and conditions shall inure to the benefit of each Owner, as defined below, of any of the Property:

**ARTICLE ONE**  
**Definitions**

1.01 Owner. "Owner" shall refer to the record Owner, whether one or more persons or entities, of the fee simple title to any of the Property, as defined below, whether all or part of said ~~property~~ Property be improved or unimproved, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

1.02 Property. "Property" shall refer to any or all of those certain parcels of real property described on Exhibit "A" attached hereto beside the name or names of any person or persons who have executed this Agreement.

1.03 Lot. "Lot" shall refer to all of or that portion of any of the Property designated as a lot adjacent to \_\_\_\_\_ Street in Block(s) \_\_\_\_\_ and \_\_\_\_\_ shown upon the plat and subdivision map of The Houston Heights, recorded in Volume 1A at Page 114 of the Map Records of Harris County, Texas.

1.04 Residence. "Residence" shall mean and refer to a single dwelling unit (constituting a single residential space containing facilities for living, sleeping, cooking, and eating) included within or constituting a house, townhouse, condominium unit, apartment unit, or garage apartment.

**ARTICLE TWO**  
**Restrictions**

2.01 Use. All of the Property shall be used for residential purposes; or, for primary residential use and incidental business or commercial use, in the home, provided that the permitted business or commercial use is incidental to the primary residential use of the property Property and the general public is not invited, and the business or commercial use is limited to office or professional activity specifically excluding, without limitation, any manufacturing (other than home crafts and hobbies) or industrial activity. Except as otherwise provided herein, no ~~lots~~ the Property shall not be used for any type of business or commercial purpose, or for any industrial or manufacturing purpose whatsoever. Boarding houses or use of any of the Property for hotel purposes is expressly prohibited hereby. No structure of a temporary character, trailer, mobile home, tent, shack, or other outbuilding shall be used on any lot the Property at any time as a residence either temporarily or permanently.

Each Owner shall be permitted to construct or maintain only one Residence for every 2,500 square feet of contiguous Property owned by such Owner.

2.02 Destruction of Premises. Should any permanent structure located on any of the Lots Property be totally destroyed by fire, wind, rain or any other disaster, then in any event, the Owner of said Lot Property shall clean such Lot Property of any and all debris within nine (9) months of the date of such disaster. This restriction is not intended to preclude such Owner from rebuilding such structure in accordance with Article 2, Section 2.05 herein. The Owner may rebuild the destroyed structure in the same or substantially the same dimensions and site, and for the same use as immediately before the destruction.

2.03 Signs. No signs of any character shall be allowed on any Lot the Property or on any improvement located thereon, except (i) one sign of not more than five feet square advertising the Lot Property or any Residence located on the Lot Property for sale or rent, or (ii) signs of a temporary nature of not more than five square feet for political or garage sale purposes; and (iii) plaques or markers or other type of designation erected or affixed on the property Property awarded by federal, state, or municipal government or a civic association.

2.04 Use during Construction. An Owner and any other person or entity engaged in the construction and sale of Residences on any of the Property shall have the right during the construction and sales period, to construct and maintain, on a temporary basis, such facilities as may be reasonably necessary or convenient for such construction and sale, including, but not limited to, signs, offices, and storage areas, and model units.

2.05 New Construction. Subject to the provisions of Article 2, Section 2.01 herein, all new construction on any of the Property, whether as an addition to an existing structure or otherwise, constituting in excess of one story shall be a minimum of two feet from the side property lines. No structure shall exceed 40 feet in height, provided however, that such height limitation may be exceeded to accommodate portions of a portion of a structure not constituting living area such as architectural embellishments, steeples, and towers. All single family residences facing (having a primary entry or entry steps facing a given street) a "primary street" (one having a named street designation, and bearing North-South) shall have a \_\_\_\_\_ foot setback from the center of the street to the first entry step from the street or front wall of the structure whichever is closer.

2.06 the Property, whether new or as an addition to an existing structure, shall comply with the following restrictions.

a. Side and back setbacks. No part of a Residence shall be constructed any closer than three (3) feet to each property line of the Property other than the front property line defined in Subsection b of this Section 2.05 (see Subsection c for the front setback), except that with respect to corner lots, the setback for the property line that faces a street (other than the front property line) shall be ten (10) feet. For purposes of this Section 2.05, "part of a Residence" shall mean any part of a Residence below the roof overhang, except for fireplace chimneys, stairsteps, wheelchair ramps, and bay windows. Roof overhangs shall extend no further than halfway into any side or back setback area.

b. Residence to face a street. Each Residence must be constructed so that its main entrance is incorporated into the elevation of the Residence that faces a street ("the face elevation") and so that no other Residence or significant structure is situated between the Residence and the street that it faces. For purposes of this Agreement, the property line between the face elevation of the Residence and the street that it faces is the "front property line," and the "main entrance" may consist of a porch or stoop that is designed to be entered from the direction of the front property line, even if the entry into the Residence from such porch or stoop is not facing the front property line.

c. Front setback. No part of a Residence shall be constructed any closer than fifteen (15) feet to the Property's front property line as defined in Subsection b above.

d. Height restrictions. No structure shall exceed the following height restrictions (from ground elevation to the highest point of the structure), except that such height restrictions may be exceeded to accommodate architectural embellishments that do not constitute living area, such as chimneys, steeples, and towers, and that are each of a circumference of no greater than thirty-six (36) feet:

(i) if the width of the Property (from side property line to side property line) is 50 feet or less, 40 feet in height;

(ii) if the width of the Property is greater than 50 feet, 40 feet in height plus an additional one (1) foot of height for every one (1) foot of setback (from the nearest side property line) in addition to the initial three (3) foot setback required in Subsection a above, provided, however, that in no event shall the structure exceed fifty (50) feet in height.

e. Common wall construction prohibited. No Residence shall be constructed to share a common wall with another Residence, nor shall any Residence be constructed so that any exterior wall of such Residence is within six (6) feet of an exterior wall of another Residence; provided, however, that this restriction shall not prohibit the renting or leasing of space within a Residence that is otherwise permitted by this Agreement, nor shall it prohibit the construction of an apartment unit as part of a garage structure appurtenant to a Residence on a single Property that otherwise meets the density requirements of Section 2.06 hereof;

f. Garage setback. No garage shall be constructed closer to the front property line of the Property than the midway point between the front property line and the opposite property line (i.e. the rear property line), nor shall any garage be constructed so that it is closer to the front property line than the face elevation of the Residence to which it is appurtenant. If the garage is part of the structure of the Residence, the structure shall be constructed so that the garage door and frame comprise no more than half of the width of the first floor of the structure's face elevation as defined in Subsection b. above.

g. Raised foundation required. Each Residence (but not including a garage or other structure appurtenant to the main Residence) shall be constructed with a pier-and-beam foundation or, if not pier-and-beam, a foundation that otherwise raises the bottom floor of the Residence no less than two (2) feet from ground elevation.

i. Minimum street frontage. Each Residence shall have a front property line of no less than fifty (50) feet, except that if the length of the front property line of the Property on which the Residence is located is less than fifty (50) feet as of the date that this Agreement is executed with respect to such Property, the minimum front property line shall be such lesser length.

j. Restrictions on modifications. The provisions of this Section 2.05 shall not be effective to the extent prohibited by Section 207.008 of the Texas Property Code.

2.06 Density. No Residence shall be constructed on the Property if the consequence would be a density of greater than one (1) Residence for every five thousand (5,000) square feet of area of the Property ("the minimum square footage"), except that if the square footage of the Property is less than five thousand (5,000) square feet as of the date that this Agreement is executed with respect to such Property, the minimum square footage shall be such lesser square footage. For this purpose, "Residence" shall not include any garage apartment that is appurtenant to a Residence on the same Property.

2.07 Rubbish, Trash, and Garbage. No Lot Property shall be used or maintained as a dumping ground for rubbish or trash, and no garbage or other waste shall be kept except in sanitary containers. All incinerators or other equipment for the storage and disposal of such materials shall be kept in a clean and sanitary condition.

**ARTICLE THREE**  
**General Provisions**

3.01 **Enforcement.** Any Owner or Owners of property a Property restricted herein, jointly or severally, and/or The Houston Heights Association, a Texas nonprofit corporation (the "Association"), its successors or assigns shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, and reservations now or hereafter imposed by the provisions of this Agreement against any property Property reflected hereby. If restrictions are enforced exclusively by The Houston Heights Association, each owner, by his execution hereof, shall be deemed to have appointed the Association, its successors and assigns, as Agent and Attorney-in-Fact of such owner, to act in the place, stead, and on behalf of such owner in the enforcement of any restrictive covenant contained herein. Notwithstanding the foregoing, the Association shall not be required or obligated to bring any such claims or litigation or otherwise enforce the restrictive covenants herein contained or be joined in any proceeding as a necessary party. Failure to enforce any covenant or restriction herein contained shall, in no event, be deemed a waiver of the right to do so thereafter.

3.02 **Severability.** Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provision, and all other provisions shall remain in full force and effect.

3.03 **Non-Conforming Use.** All Owners expressly agree and acknowledge that as to any Property restricted hereby, any non-conforming use, legally and lawfully in existence as of the effective date hereof, which that does not comply with the restrictions and covenants set forth herein, shall not be enforceable against the Owner of such Property whose non-conformance falls within the terms and provisions of this paragraph; provided, however, that upon the voluntary discontinuation of a non-conforming use or the abandonment or substantial destruction of the improvements located on the Property whereupon such non-conforming use existed, then in such event(s), these restrictions and covenants shall be of full force and effect and enforceable against such Owner and Property whereupon such non-conforming use existed, and such Owner shall be prevented from re-establishing such non-conforming use after such abandonment, voluntary discontinuation, or substantial destruction of such improvements.

3.04 **Duration and Amendment.** The covenants, conditions, and restrictions of this Agreement shall run with and bind the land, and shall inure to the benefit of, and be enforceable by, the Owner of any Lot Property subject to this Agreement, and his/her/its respective legal representatives, heirs, successors, and assigns (or The Houston Heights Association, as provided in paragraph 3.01 herein), and unless amended or terminated as provided herein, shall be effective for a term of twenty (20) years from the date this Agreement is recorded, after which time said covenants, conditions, and restrictions shall be automatically extended for successive periods of ten (10) years. The covenants, conditions, and restrictions of this Agreement may be amended or terminated during the first twenty (20) year period by an instrument signed by the Owners of not less than ninety percent (90%) of the Lots restricted hereby, and thereafter by an instrument signed by the Owners of not less than seventy-five percent (75%) of the Lots restricted hereby only as provided in Chapter 207 of the Texas Property Code. No amendment or termination shall be effective until recorded in the Real Property Records of Harris County, Texas.

3.05 This instrument may be executed in multiple counterparts, all of which shall be considered but one and the same instrument.

3.06 This Agreement may be executed and filed of record in multiple originals, all of which, in the aggregate, shall be considered one and the same instrument for purposes of the enforcement or interpretation of any provision hereof.

EXECUTED by the undersigned Owners as of the dates of the respective acknowledgments shown on the attached sheets, and effective for all purposes of the dates of such respective acknowledgments as to that portion of the Property owned by the undersigned persons, respectively.

**END**

**RECORDER'S MEMORANDUM:**  
At the time of recordation, this instrument was found to be inadequate for the best photographic reproduction because of illegibility, carbon or photo copy, discolored paper, etc. All blockouts, additions and changes were present at the time the instrument was filed and recorded.

549-18-1894

549-18-1895

ANY PROVISION HEREIN WHICH RESTRICTS THE SALE, RENTAL, OR USE OF THE DESCRIBED REAL  
PROPERTY BECAUSE OF COLOR OR RACE IS INVALID AND UNENFORCEABLE UNDER FEDERAL LAW  
THE STATE OF TEXAS  
COUNTY OF HARRIS

I hereby certify that this instrument was FILED in File Number Sequence on the date and at the time  
stamped hereon by me; and was duly RECORDED, in the Official Public Records of Real Property of Harris  
County, Texas on

FEB 25 2002



*Dorely B. Kayman*

COUNTY CLERK  
HARRIS COUNTY, TEXAS