

CAUSE NO. GV 400101

CITY OF SUNSET VALLEY, TEXAS;
SAVE BARTON CREEK
ASSOCIATION, INC.; and SAVE OUR
SPRINGS ALLIANCE, INC.
Plaintiffs.

vs.

CITY OF AUSTIN, TEXAS and LOWE'S
HOME CENTERS, INC.
Defendants.

§ IN THE DISTRICT COURT
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§ OF TRAVIS COUNTY, TEXAS,
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§ 201st JUDICIAL DISTRICT

TEMPORARY RESTRAINING ORDER

ON THIS DAY, the Court heard Plaintiffs, City of Sunset Valley, Texas, Save Barton Creek Association, Inc., and Save Our Springs Alliance, Inc.'s Application for Temporary Restraining Order in the above entitled action. After a hearing on the application for a temporary restraining order, and having examined Plaintiffs' First Amended Original Petition and Application for Temporary Restraining Order and Temporary and Permanent Injunction (the "Amended Petition") and the exhibits and affidavits attached thereto and incorporated therein by reference, and having considered the applicable authorities and the argument of counsel for Plaintiffs and Defendants, City of Austin, Texas and Lowe's Home Centers, Inc., the Court finds that the application is well taken and should be granted.

It clearly appears from the sworn facts set forth in Plaintiffs' Amended Petition that, unless Defendant Lowe's Home Centers, Inc. is immediately restrained, it will proceed with

and the additional affidavits submitted at the hearing be all relevant parties

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BY COURT CLERK
TRAVIS COUNTY, TEXAS

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[Signature]

construction activities and development of the property described in Plaintiffs' Amended Petition, and that if the commission of these acts is not restrained immediately, Plaintiffs will suffer irreparable injury in the form of degradation of the waters in Williamson Creek, Barton Springs, the Edwards Aquifer, and drinking water wells used by the City of Sunset Valley, because of creek-bank erosion that will ^{affects} result in parklands owned by the City of Sunset Valley, as a result of the development of the property ^{as defined below.} in violation of the City of Austin's SOS Ordinance.

The Court further finds that the degradation of such waters and the damage to the City of Sunset Valley's parkland resulting from ^{construction activities which are alleged to be in violation} a violation of the City of Austin's SOS Ordinance would constitute immediate and irreparable harm and injury to Plaintiffs for which there is no adequate remedy at law.

The Court further finds that Plaintiffs ^{have a probable right of recovery} are likely to succeed on the merits of their claims ^{whereby Plaintiffs assert a violation of the City of Austin's SOS Ordinance} against Defendant Lowe's Home Centers, Inc., and that Plaintiffs are probably entitled to a Temporary Injunction as prayed for in Plaintiffs' Amended Petition, and that all conditions precedent to the granting of such injunctive relief have been satisfied.

IT IS, THEREFORE, ORDERED that a Temporary Restraining Order will immediately issue restraining Defendant Lowe's Home Centers, Inc., its representatives, contractors, subcontractors, and employees from developing the property on Brodie Lane in Southwest Travis County, Texas described in the attached Exhibit "A" (the "Property") and/or constructing improvements thereon, including but not limited to land clearing, placing or maintaining heavy equipment, temporary buildings or fill materials on the site, or proceeding with the construction of any foundations, structures, water, wastewater, or other utility infrastructure or any other improvements, without first obtaining any permits or approvals for development as ^{maybe} required by

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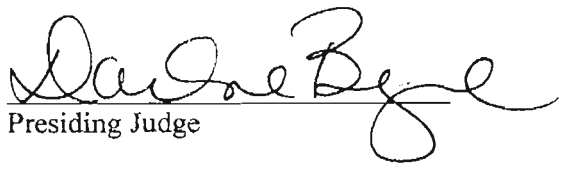
the City of Austin's SOS Ordinance and fully complying with the restrictions of such SOS Ordinance, including all provisions of that ordinance relating to maximum impervious cover and limitations on the discharge of water contaminants to levels existing prior to development, unless and until the terms of such SOS Ordinance and its application to the Property is lawfully varied

or waived in accordance with the terms of the SOS Ordinance and other applicable law, *except that courts may conduct such limited and reasonable activities on the property to secure the property for safety between June 18, 2004 and June 21, 2004 at 5:00pm.*
IT IS FURTHER ORDERED that Plaintiffs' application for Temporary Injunction as contained in Plaintiffs' Amended Petition will be heard in the District Court of Travis County, Texas at 2 o'clock p.m. on the 1 day of JULY, 2004, which is within 14 days of the signing of this Temporary Restraining Order.

IT IS FURTHER ORDERED that this Temporary Restraining Order shall expire on the hour of its issuance on the fourteenth (14th) day after entry unless within such time the Order is extended for good cause shown or by agreement of the parties.

This Order shall not be effective unless and until Plaintiffs execute and file with the clerk a bond, in conformity with the law, in the amount of \$ 20,000. -.

Signed this 18 day of June 2004 at 4:25 o'clock p.m.


Presiding Judge

WL6237PG011

Unofficial copy - Travis Co. District Clerk Amalia Padilla Padilla

Legal Description
3.869 Acres

State of Texas
County of Travis

All that certain tract or parcel of land situated in the Thomas Anderson League No. 17, Abstract No. 2, Travis County, Texas, being part of a called 4.70 acre tract, described in a deed to William D Reese, dated October 6, 2001, recorded under Clerk File No. 2001171175 in the Real Property Records of Travis County, Texas, and being more particularly described as follows:

BEGINNING at a 1/2" iron rod (found) for corner in the southwest line of the above referenced 4.70 acre tract, same being in a northeast line of a 50 feet wide strip of land (Ben Garza Lane) dedicated to the public for use as a street and road way, described in a Dedication Document from Rosa Garza to the Public, dated July 29, 1988, recorded in Volume 3513 on Page 469 in said Deed Records, and in the northwest right of way line of Brodie Lane;

THENCE North 80 deg. 01 min. 01 sec. West with the southwest line of said 4.70 acre tract and with a northeast line of said 50 feet wide strip of land, a distance of 330.94 feet to a 1/2" iron rod (found) for the west corner of said 4.70 acre tract, same being the south corner of a called 4.84 acre tract, described in a deed to Edmund J. Flemming, et ux, dated January 21, 1954, recorded in Volume 1449 on Page 487 in the Deed Records of Travis County, Texas;

THENCE North 29 deg. 54 min. 31 sec. East with the northwest line of said 4.70 acre tract and with the southeast line of said 4.84 acre tract, a distance of 514.74 feet to a 1/2" iron pipe (found) for the north corner of said 4.70 acre tract and the east corner of said 4.84 acre tract and being in the southwest line of Lot 3 of the Rayford Subdivision No. 2, as recorded in Book 53 on Page 64 in the Plat Records of Travis County, Texas;

THENCE South 59 deg. 38 min. 31 sec. East with the northeast line of said 4.70 acre tract and with the southwest line of Lot 3 and Lot 2 of said Rayford Subdivision No. 2, a distance of 325.28 feet to a 1/2" iron rod (found) for corner in the northwest right of way line of said Brodie Lane;

THENCE South 29 deg. 16 min. 28 sec. West with the northwest right of way line of said Brodie Lane, a distance of 512.74 feet to the PLACE OF BEGINNING, containing 3.869 acres (168,551 sq. ft.) of land.

Joe W. Clark 08/01/03
Joe W. Clark Date
Registered Professional Land Surveyor No. 4386



ML6237PG012

Unofficial copy Travis Co. Deed Clerk's Office - Mendoza

Exhibit A p.1

Legal Description
16.445 Acres

State of Texas
County of Travis

All that certain tract or parcel of land situated in the Thomas Anderson League No. 17, Abstr. No. 2, Travis County, Texas, being part of a called 17.516 acre tract described in a deed to Eli James Garza, dated February 9, 1982, recorded in Volume 7684 on Page 700 in the Deed Records of Travis County, Texas and being more particularly described as follows:

BEGINNING at a 1/2" iron rod (found) in the northwest right of way line of Brodie Lane and in the southwest line of the above referenced 17.516 acre tract, same being the northeast side of Lot 1, Block A of the H.E.B./Austin # 23 Addition as recorded in Book 100, on Page 237 in the Deed Records of Travis County Texas;

THENCE North 80 deg. 00 min. 00 sec. West with the northeast line of said Lot 1, Block A and the southwest line of the 17.516 acre tract, at a distance of 1127.89 feet past a 1/2" iron rod (set) for the east corner of a called 0.192 acre tract, described in a deed to Eli James Garza, dated January 24, 1976, recorded in Volume 5091 on Page 194 in the said Deed Records, continuing with the southwest line of the 17.516 acre tract and with the northeast line of said 0.192 acre tract for a total distance of 1228.16 feet to a 1/2" iron rod (found) for the westernmost corner of said 17.516 acre tract;

THENCE North 29 deg. 22 min. 38 sec. East with the westernmost northwest line of said 17.516 acre tract, a distance of 340.32 feet to a 1/2" iron rod (found) for the westernmost north corner of same, and being an ell corner in the southwest line of Ben Garza Lane (unimproved in this area) recorded in Volume 3513 on Page 459 in the said Deed Records;

THENCE South 80 deg. 01 min. 41 sec. East with the southwest line of said Ben Garza Lane and a northeast line of said 17.516 acre tract, a distance of 269.83 feet to a 1/2" iron rod (found) for corner;

THENCE North 13 deg. 22 min. 07 sec. East continuing with a common line of said Ben Garza Lane and said 17.516 acre tract, a distance of 307.46 feet to a 1/2" iron rod (found) for the easternmost north corner of said 17.516 acre tract;

THENCE South 60 deg. 01 min. 01 sec. East continuing with a common line of said Ben Garza Lane and northeast line of said 17.516 acre tract, a distance of 1053.42 feet to a 1/2" iron rod (found) for the east corner of the 17.516 acre tract and in the northwest right of way line of the aforementioned Brodie Lane;

THENCE South 30 deg. 18 min. 21 sec. West with the northwest right of way line of Brodie Lane, a distance of 635.35 feet to the **PLACE OF BEGINNING**, containing 16.445 acres (716,326 sq. ft.) of land.

Joe W. Clark
Joe W. Clark Date
Registered Professional Land Surveyor No. 4386



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Exhibit "A" P 2

Legal Description
4.837 Acres

State of Texas
County of Travis

All that certain tract or parcel of land situated in the Thomas Anderson League No. 17, Abstract No. 2, Travis County, Texas, being all of a called 4.84, described in a deed to Edmund J. Flemming, et al., dated January 21, 1954, recorded in Volume 1449 on Page 487 in the Deed Records of Travis County, Texas, and being more particularly described as follows:

BEGINNING at a 1/2" iron rod (found) for the south corner of the above referenced 4.84 acre tract, same being the west corner of a called 4.70 acre tract, described in a deed to William D. Reese, dated October 6, 2001, recorded under Clerk File No. 2001171175 in the Real Property Records of Travis County, Texas, and in a northeast line of a 50 feet wide strip of land (San Garza Lane) dedicated to the public for use as a street and road way, described in a Dedication Document from Rosa Garza to the Public, dated July 29, 1988, recorded in Volume 3513 on Page 459 in said Deed Records;

THENCE North 60 deg. 01 min. 01 sec. West with the southwest line of said 4.84 acre tract and with a northeast line of said 50 feet wide strip of land, a distance of 408.87 feet to a 1/2" iron rod (found) for the west corner of said 4.84 acre tract, same being the south corner of another called 4.84 acre tract, described in a deed to Marcia Rose White, Trustee, dated July 25, 1988, recorded in Volume 10738 on Page 17 in said Real Property Records;

THENCE North 30 deg. 00 min. 22 sec. East with the northwest line of said 4.84 acre tract (Volume 1449 on Page 487) and with the southeast line of said 4.84 acre tract (Volume 10738 on Page 17), a distance of 517.05 feet to a 1/2" iron rod (found) for the north corner of said 4.84 acre tract (Volume 1449 on Page 487) and the east corner of said 4.84 acre tract (Volume 10738 on Page 17) and being in the southwest line of Lot 1 of the Offer Subdivision, as recorded in Book 42 on Page 03 in the Plat Records of Travis County, Texas;

THENCE South 59 deg. 41 min. 32 sec. East with the northeast line of said 4.84 acre tract (Volume 1449 on Page 487) and with the southwest line of Lot 1 and Lot 2 of said Offer Subdivision, and the with the southwest line of Lot 3 of the Rayford Subdivision No. 2, as recorded in Book 53 on Page 64 in said Plat Record, a distance of 408.00 feet to a 1/2" iron pipe (found) for the east corner of said 4.84 acre tract (Volume 1449 on Page 487), same being the north corner of the aforementioned 4.70 acre tract;

THENCE South 29 deg. 54 min. 31 sec. West with the southeast line of said 4.84 acre tract (Volume 1449 on Page 487) and the northwest line of the 4.70 acre tract, a distance of 514.74 feet to the PLACE OF BEGINNING, containing 4.837 acres (210,709 sq. ft.) of land.

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Joe W. Clark 08/10/03
Joe W. Clark Date
Registered Professional Land Surveyor No. 4366



Exhibit 'A' P 3

Legal Description
4.838 Acres

State of Texas
County of Travis

All that certain tract or parcel of land situated in the Thomas Anderson League No. 17, Abstract No. 2, Travis County, Texas, being all of a called 4.84 acre tract, described in a deed to Marco Jose White, Trustee, dated July 26, 1988, recorded in Volume 10738 on Page 17 in the Real Property Records of Travis County, Texas and being more particularly described as follows:

BEGINNING at a 1/2" iron rod (found) for the south corner of the above referenced 4.84 acre tract, same being the west corner of a called 4.84 acre tract, described in a deed to Edmund J. Flemming, et ux, dated January 21, 1954, recorded in Volume 1449 on Page 487 in the Deed Records of Travis County, Texas, and in a northeast line of a 50 feet wide strip of land (Ben Garza Land) dedicated to the public for use as a street and road way, described in a Dedication Document from Rosa Garza to the Public, dated July 29, 1968, recorded in Volume 3513 on Page 458 in said Deed Records;

THENCE North 60 deg. 01 min. 01 sec. West with the southwest line of said 4.84 acre tract (Volume 10738 on Page 17) and with a northeast line of said 50 feet wide strip of land, a distance of 329.03 feet to a 1/2" iron rod (found) for the west corner of said 4.84 acre tract;

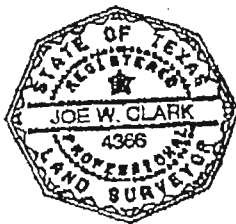
THENCE North 13 deg. 22 min. 07 sec. East with the northeast line of said 4.84 acre tract (Volume 10738 on Page 17), a distance of 642.52 feet to a 1/2" iron rod (found) for north corner of same and being in the southwest line of a called 6.61 acre tract, described in a deed to Harold G. Kennedy and B. Joy Kennedy, dated March 29, 1971, recorded in Volume 4025 on Page 1507 in said Deed Records;

THENCE South 59 deg. 40 min. 58 sec. East with the northeast line of said 4.84 acre tract (Volume 10738 on Page 17) and the southwest line of said 6.61 acre tract, and then with the southwest line of Lot 1 of the Offer Subdivision, as recorded in Book 42 on Page 03 in the Plat Records of Travis County, Texas, a distance of 484.36 feet to a 1/2" iron rod (found) for east corner of said 4.84 acre tract (Volume 10738 on Page 17), same being the north corner of the aforementioned 4.84 acre tract (Volume 1449 on Page 487);

THENCE South 30 deg. 00 min. 22 sec. West with the southeast line of said 4.84 acre tract (Volume 10738 on Page 17) and the northwest line of the 4.84 acre tract (Volume 1449 on Page 487), a distance of 517.05 feet to the PLACE OF BEGINNING, containing 4.838 acres (210,744 sq. ft.) of land.

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Joe W. Clark - 08/01/03
Joe W. Clark Date
Registered Professional Land Surveyor No. 4366



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E-w-b-t "A" P.4

CAUSE NO. GV400101

CITY OF SUNSET VALLEY, TEXAS,
SAVE BARTON CREEK
ASSOCIATION, INC., and SAVE
OUR SPRINGS ALLIANCE, INC.,
Plaintiffs

v.

CITY OF AUSTIN, TEXAS and LOWE'S
HOME CENTERS, INC.,
Defendants

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IN THE DISTRICT COURT
OF TRAVIS COUNTY, TEXAS
201st JUDICIAL DISTRICT

TEMPORARY INJUNCTION ORDER

On July 1, 2004, came on to be heard Plaintiffs, City of Sunset Valley, Texas, Save Barton Creek Association, Inc., and Save Our Springs Alliance, Inc.'s, Application for Temporary Injunction in the above entitled action. After a hearing on the application for temporary injunction, and having examined Plaintiffs' First Amended Original Petition and Application for Temporary Restraining Order and Temporary and Permanent Injunction (the "Amended Petition") and having considered the applicable authorities, the evidence admitted at hearing, and the argument of counsel for all parties, the Court finds that the application is well taken and should be granted.

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It clearly appears that, unless Defendant Lowe's Home Centers, Inc., ("Lowe's") is temporarily enjoined, it will proceed with construction activities and development of the property (the "Property") described in Plaintiffs' Amended Petition and described in Exhibit A attached hereto, and that if the commission of these acts is not temporarily enjoined, Plaintiffs

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Araceli Rodriguez-Mendoza
DISTRICT CLERK
TRAVIS COUNTY, TEXAS

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will suffer irreparable injury in the form of degradation of the waters in Williamson Creek, Barton Springs, the Edwards Aquifer, and drinking water wells used by the City of Sunset Valley; increased erosion that will affect parklands owned by the City of Sunset Valley along other affected land; and increased volume of storm run-off, as a result of the development of the Property in violation of the City of Austin's SOS Ordinance. The Court further finds an increased risk of water pollution, were construction allowed to continue in violation of the SOS Ordinance, because of the failure risks inherent in man-made pollution-control features.

The Court further finds that such injuries and damage resulting from construction activities that are alleged to be in violation of the City of Austin's SOS Ordinance would constitute immediate and irreparable harm and injury to Plaintiffs, injuries for which there is no adequate remedy at law.

The Court further finds that Plaintiffs have a probable right of recovery on the merits of their claims against Defendant Lowe's whereby Plaintiffs assert a violation of the City of Austin's SOS Ordinance and that all conditions precedent to the granting of such injunctive relief have been satisfied.

The Court further finds that Plaintiffs' are entitled to the relief demanded and all or part of the relief requires the restraint of acts prejudicial to Plaintiffs, and Plaintiffs are entitled to a writ of injunction under the principles of equity and the statutes of the state relating to injunctions.

WL6262PG010

The Court further finds that, if conditions approximating the last peaceable status quo that existed prior to the dispute that is the subject of this litigation are to be realized, certain interim measures will be required of Defendant Lowe's. Specifically, the Court finds it will be necessary that Lowe's ensure storm water runoff from the Property be diverted from flowing into aquifer recharge features at and adjoining the Property, that Lowe's remove fuel tanks from the Property, that Lowe's remove from the Property water contaminated by hydrocarbons and perform reasonable remediation of any hydrocarbon spills at the Property, that Lowe's line any sedimentation or water quality ponds on the Property that are in contact with exposed bedrock, and the Court finds it may be necessary for Lowe's, in Lowe's discretion, to remove structural members of the building under construction to make that incomplete construction more stable.

IT IS THEREFORE, ORDERED that a Temporary Injunction will immediately issue enjoining Defendant Lowe's Home Centers, Inc., its representatives, contractors, subcontractors, and employees from developing the property on Brodie Lane in Southwest Travis County, Texas, described in the attached Exhibit A and/or constructing improvements thereon, including but not limited to land clearing, placing or maintaining heavy equipment, temporary buildings (other than single mobile home trailer for use by Lowe's site-security staff) or fill materials on the site, or proceeding with the construction of any foundations, structures, water, wastewater, or other utility infrastructure or any other improvements, without first obtaining permits or approvals for development as may be required by the City of Austin SOS

W6262PG011

Ordinance and fully complying with the restrictions of such SOS Ordinance, including all provisions of that ordinance relating to maximum impervious cover and limitations on the discharge of water contaminants to levels existing prior to development, unless and until the terms of such SOS Ordinance and its application to the Property is lawfully varied or waived in accordance with the terms of the SOS Ordinance and other applicable law. Notwithstanding the immediately foregoing, Lowe's shall take prompt action to rectify and eliminate to the extent reasonably practicable any condition on the Property which resulted from Lowe's prior construction activity on the property that are causing imminent significant environmental harm including any discharge of storm water into the aquifer recharge features at ~~an~~ ^{and} adjoining property or any contamination of on-site waters with hydrocarbon.

Lowe's may, in its discretion, remove structural members of the building under construction or stabilize them with ~~guide~~ ⁹⁴⁴ wires to make that incomplete construction more stable.

IT IS FURTHER ORDERED that the Temporary Injunction shall expire upon the signing of a final judgment in this case, unless this Order is extended for good cause shown or by agreement of the parties.


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Unofficial copy Travis P. District Clerk Anjali Rodriguez-Memora


This Order shall not be effective unless and until Plaintiffs execute and file with the clerk a bond, in conformity with the law, in the amount of \$ 50,000.00.

Trial on the merits of this cause is set for September 6, 2004.

Signed this 2nd day of July, 2004 at 4:45 o'clock P. M.



Presiding Judge

APPROVED FOR ALL PLAINTIFFS,


VL6262PG013

Unofficial copy
Travis Co. District Clerk
Amalia Rodriguez-Mendoza

Legal Description
4.838 Acres

State of Texas
County of Travis

All that certain tract or parcel of land situated in the Thomas Anderson League No. 17, Abstract No. 2, Travis County, Texas, being all of a called 4.84 acre tract, described in a deed to Marcia Rene White, Trustee, dated July 26, 1988, recorded in Volume 10738 on Page 17 in the Real Property Records of Travis County, Texas and being more particularly described as follows:

BEGINNING at a 1/2" iron rod (found) for the south corner of the above referenced 4.84 acre tract, same being the west corner of a called 4.84 acre tract, described in a deed to Edmund J. Fleming, et ux, dated January 21, 1954, recorded in Volume 1449 on Page 487 in the Deed Records of Travis County, Texas, and in a northeast line of a 50 feet wide strip of land (Ben Garza Lane) dedicated to the public for use as a street and road way, described in a Dedication Document from Rosa Garza to the Public, dated July 29, 1968, recorded in Volume 3513 on Page 458 in said Deed Records;

THENCE North 60 deg. 01 min. 01 sec. West with the southwest line of said 4.84 acre tract (Volume 10738 on Page 17) and with a northeast line of said 50 feet wide strip of land, a distance of 329.03 feet to a 1/2" iron rod (found) for the west corner of said 4.84 acre tract;

THENCE North 13 deg. 22 min. 07 sec. East with the northwest line of said 4.84 acre tract (Volume 10738 on Page 17), a distance of 542.52 feet to a 1/2" Iron rod (found) for north corner of same and being in the southwest line of a called 6.61 acre tract, described in a deed to Harold G. Kennedy and B. Joy Kennedy, dated March 29, 1971, recorded in Volume 4026 on Page 1507 in said Deed Records;

THENCE South 59 deg. 40 min. 58 sec. East with the northeast line of said 4.84 acre tract (Volume 10738 on Page 17) and the southwest line of said 6.61 acre tract, and then with the southwest line of Lot 1 of the Offer Subdivision, as recorded in Book 43 on Page 03 in the Plat Records of Travis County, Texas, a distance of 484.36 feet to a 1/2" iron rod (found) for east corner of said 4.84 acre tract (Volume 10738 on Page 17), same being the north corner of the aforementioned 4.84 acre tract (Volume 1449 on Page 487);

THENCE South 30 deg. 00 min. 22 sec. West with the southeast line of said 4.84 acre tract (Volume 10738 on Page 17) and the northwest line of the 4.84 acre tract (Volume 1449 on Page 487), a distance of 517.05 feet to the PLACE OF BEGINNING, containing 4.838 acres (210,744 sq. ft.) of land.

Joe W. Clark 08/01/03
Joe W. Clark Date
Registered Professional Land Surveyor No. 4366



VL 6262PG014

Legal Description
4.837 Acres

State of Texas
County of Travis

All that certain tract or parcel of land situated in the Thomas Anderson League No. 17, Abstract No. 2, Travis County, Texas, being all of a called 4.84, described in a deed to Edmund J. Fleming, et al., dated January 21, 1954, recorded in Volume 1449 on Page 487 in the Deed Records of Travis County, Texas, and being more particularly described as follows:

BEGINNING at a 1/2" iron rod (found) for the south corner of the above referenced 4.84 acre tract, same being the west corner of a called 4.70 acre tract, described in a deed to William D. Rouse, dated October 6, 2001, recorded under Clark File No. 2001171175 in the Real Property Records of Travis County, Texas, and in a northeast line of a 50 feet wide strip of land (Ben Garza Lane) dedicated to the public for use as a street and road way, described in a Dedication Document from Rosa Garza to the Public, dated July 29, 1968, recorded in Volume 3513 on Page 459 in said Deed Records;

THENCE North 60 deg. 01 min. 01 sec. West with the southwest line of said 4.84 acre tract and with a northeast line of said 50 feet wide strip of land, a distance of 408.87 feet to a 1/2" iron rod (found) for the west corner of said 4.84 acre tract, same being the south corner of another called 4.84 acre tract, described in a deed to Marcia Rose White, Trustee, dated July 25, 1958, recorded in Volume 10738 on Page 17 in said Real Property Records;

THENCE North 30 deg. 00 min. 22 sec. East with the northwest line of said 4.84 acre tract (Volume 1449 on Page 487) and with the southeast line of said 4.84 acre tract (Volume 10738 on Page 17), a distance of 517.05 feet to a 1/2" Iron rod (found) for the north corner of said 4.84 acre tract (Volume 1449 on Page 487) and the east corner of said 4.84 acre tract (Volume 10738 on Page 17) and being in the southwest line of Lot 1 of the Offer Subdivision, as recorded in Book 42 on Page 03 in the Plat Records of Travis County, Texas;

THENCE South 59 deg. 41 min. 32 sec. East with the northeast line of said 4.84 acre tract (Volume 1449 on Page 487) and with the southwest line of Lot 1 and Lot 2 of said Offer Subdivision, and the with the southwest line of Lot 3 of the Rayford Subdivision No. 2, as recorded in Book 53 on Page 64 in said Plat Record, a distance of 408.00 feet to a 1/2" iron pipe (found) for the east corner of said 4.84 acre tract (Volume 1449 on Page 487), same being the north corner of the aforementioned 4.70 acre tract;

THENCE South 29 deg. 54 min. 31 sec. West with the southeast line of said 4.84 acre tract (Volume 1449 on Page 487) and the northwest line of the 4.70 acre tract, a distance of 514.74 feet to the PLACE OF BEGINNING, containing 4.837 acres (210,709 sq. ft.) of land.

Joe W. Clark 08/10/03
Joe W. Clark Date
Registered Professional Land Surveyor No. 4365



WL6262P5015

Legal Description
3.869 Acres

State of Texas
County of Travis

All that certain tract or parcel of land situated in the Thomas Anderson League No. 17, Abstract No. 2, Travis County, Texas, being part of a called 4.70 acre tract, described in a deed to William J. Reese, dated October 6, 2001, recorded under Clerk File No. 2001171175 in the Real Property Records of Travis County, Texas, and being more particularly described as follows:

BEGINNING at a 1/2" iron rod (found) for corner in the southwest line of the above referenced 4.70 acre tract, same being in a northeast line of a 50 feet wide strip of land (Ben Garza Lane) dedicated to the public for use as a street and road way, described in a Dedication Document from Rosa Garza to the Public, dated July 29, 1988, recorded in Volume 3513 on Page 459 in said Deed Records, and in the northwest right of way line of Brodie Lane;

THENCE North 80 deg. 01 min. 01 sec. West with the southwest line of said 4.70 acre tract and with a northeast line of said 50 feet wide strip of land, a distance of 330.94 feet to a 1/2" iron rod (found) for the west corner of said 4.70 acre tract, same being the south corner of a called 4.84 acre tract, described in a deed to Edmund J. Flemming, et ux, dated January 21, 1954, recorded in Volume 1448 on Page 487 in the Deed Records of Travis County, Texas;

THENCE North 29 deg. 54 min. 31 sec. East with the northwest line of said 4.70 acre tract and with the southeast line of said 4.84 acre tract, a distance of 514.74 feet to a 1/2" iron pipe (found) for the north corner of said 4.70 acre tract and the east corner of said 4.84 acre tract and being in the southwest line of Lot 3 of the Rayford Subdivision No. 2, as recorded in Book 53 on Page 54 in the Plat Records of Travis County, Texas;

THENCE South 59 deg. 39 min. 31 sec. East with the northeast line of said 4.70 acre tract and with the southwest line of Lot 3 and Lot 2 of said Rayford Subdivision No. 2, a distance of 325.28 feet to a 1/2" iron rod (found) for corner in the northwest right of way line of said Brodie Lane;

THENCE South 29 deg. 16 min. 28 sec. West with the northwest right of way line of said Brodie Lane, a distance of 512.74 feet to the PLACE OF BEGINNING, containing 3.869 acres (168,551 sq. ft.) of land.

Joe W. Clark 08/21/03
Joe W. Clark Date
Registered Professional Land Surveyor No. 4366



VL6262PG016

Legal Description
16.445 Acres

State of Texas
County of Travis

All that certain tract or parcel of land situated in the Thomas Anderson League No. 17, Abstract No. 2, Travis County, Texas, being part of a called 17.516 acre tract described in a deed to Eli James Garza, dated February 9, 1982, recorded in Volume 7684 on Page 700 in the Deed Records of Travis County, Texas and being more particularly described as follows:

BEGINNING at a 1/2" iron rod (found) in the northwest right of way line of Brodie Lane and in the southwest line of the above referenced 17.516 acre tract, same being the northeast line of Lot 1, Block A of the H.E.B./Austin # 23 Addition as recorded in Book 100, on Page 237 in the Plat Records of Travis County Texas;

THENCE North 60 deg. 00 min. 00 sec. West with the northeast line of said Lot 1, Block A and the southwest line of the 17.516 acre tract, at a distance of 1127.89 feet pass a 1/2" iron rod (set) for the east corner of a called 0.192 acre tract, described in a deed to Eli James Garza, dated January 24, 1975, recorded in Volume 5097 on Page 194 in the said Deed Records, continuing with the southwest line of the 17.516 acre tract and with the northeast line of said 0.192 acre tract for a total distance of 1228.16 feet to a 1/2" iron rod (found) for the westernmost corner of said 17.516 acre tract;

THENCE North 29 deg. 22 min. 36 sec. East with the westernmost northwest line of said 17.516 acre tract, a distance of 340.32 feet to a 1/2" iron rod (found) for the westernmost north corner of same, and being an ell corner in the southwest line of Ben Garza Lane (unimproved in this area) recorded in Volume 3513 on Page 469 in the said Deed Records;

THENCE South 60 deg. 01 min. 41 sec. East with the southwest line of said Ben Garza Lane and a northeast line of said 17.516 acre tract, a distance of 269.83 feet to a 1/2" iron rod (found) for corner;

THENCE North 13 deg. 22 min. 07 sec. East continuing with a common line of said Ben Garza Lane and said 17.516 acre tract, a distance of 307.46 feet to a 1/2" iron rod (found) for the easternmost north corner of said 17.516 acre tract;

THENCE South 60 deg. 01 min. 01 sec. East continuing with a common line of said Ben Garza Lane and northeast line of said 17.516 acre tract, a distance of 1053.42 feet to a 1/2" iron rod (found) for the east corner of the 17.516 acre tract and in the northwest right of way line of the aforementioned Brodie Lane;

THENCE South 30 deg. 18 min. 21 sec. West with the northwest right of way line of Brodie Lane, a distance of 635.35 feet to the PLACE OF BEGINNING, containing 16.445 acres (716,326 sq. ft.) of land.

Joe W. Clark
Joe W. Clark Date
Registered Professional Land Surveyor No. 4386



WL6262PG017

8/5/04

CAUSE NO. GV400101

CITY OF SUNSET VALLEY, TEXAS,
SAVE BARTON CREEK ASSOCIATION,
INC., and SAVE OUR SPRINGS
ALLIANCE, INC.

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IN THE DISTRICT COURT OF

VS.

TRAVIS COUNTY, TEXAS

CITY OF AUSTIN, TEXAS; ELI J. GARZA;
GERALDINE FLEMING; MARCIA ROSE
WHITE (TRUSTEE); WILLIAM REESE;
and LOWE'S HOME CENTERS, INC.

201ST JUDICIAL DISTRICT

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Rodriguez-Mendoza
Ulterior
TRAVIS

**ORDER GRANTING PLAINTIFFS' MOTION FOR PARTIAL
SUMMARY JUDGMENT AND DENYING DEFENDANT LOWE'S HOME
CENTERS, INC.'S MOTION FOR PARTIAL SUMMARY JUDGMENT**

On April 22, 2004, came on to be heard Plaintiffs' Motion for Partial Summary Judgment; Defendant Lowe's Home Centers, Inc.'s Motion for Partial Summary Judgment; and the Responses thereto. The Court, having considered the same, the summary judgment evidence, and the arguments of counsel, is of the opinion that Plaintiffs' Motion for Partial Summary Judgment should be granted and that Defendant Lowe's Home Centers, Inc.'s Motion for Partial Summary Judgment should be denied.

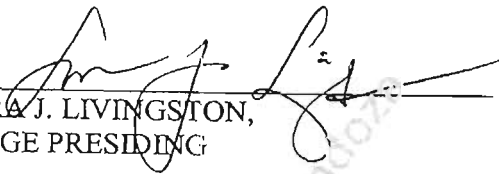
Therefore, it is ORDERED, ADJUDGED and DECREED that Plaintiffs' Motion for Partial Summary Judgment is hereby GRANTED, declaring *ultra vires* the Defendant City of Austin's approval of the Garza Brodie Settlement Agreement by less than a 75% majority vote and without making the adjustment findings required by the SOS Ordinance and, therefore, declaring that the approval is void *ab initio*.

It is further, ORDERED, ADJUDGED and DECREED that Defendant Lowe's Home Centers, Inc.'s Motion for Partial Summary Judgment is hereby DENIED.

W6338PG005

RA

Signed this 21st day of July, 2004.


LORA J. LIVINGSTON,
JUDGE PRESIDING

VL6338PG006

Unofficial copy Travis Co District Clerk Amalia Rodriguez-Mendoza

10-11-04

CAUSE NO. GV400101

CITY OF SUNSET VALLEY, TEXAS,
SAVE BARTON CREEK
ASSOCIATION, INC., and SAVE
OUR SPRINGS ALLIANCE, INC.,
Plaintiffs

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IN THE DISTRICT COURT

OF TRAVIS COUNTY, TEXAS

v.

CITY OF AUSTIN, TEXAS and LOWE'S
HOME CENTERS, INC.,
Defendants

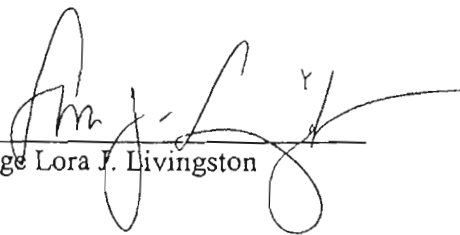
201st JUDICIAL DISTRICT

ORDER ON DEFENDANT LOWE'S HOME CENTERS, INC.'S,
MOTION FOR SUMMARY JUDGMENT

On August 25, 2004, Defendant Lowe's Home Centers, Inc.'s, Motion for Summary Judgment came on for hearing. Having considered the same and argument and briefing of counsel for all parties regarding same, the Court finds that the motion should be denied.

It is, therefore, ORDERED that Defendant Lowe's Home Centers, Inc.'s, motion is DENIED.

Signed this 7th day of OCTOBER, 2004.


Judge Lora J. Livingston

WL6502PG252

FILED #6

2004 OCT 11 AM 9:04

Amelia Rodriguez
DISTRICT CLERK
TRAVIS COUNTY, TEXAS