

# WESTSIDE NEWS

Volume 2, Number 4

April 2011

Official Newsletter of the Westside at Buttercup Creek HOA

## MESSAGE FROM THE BOARD

Every Memorial Day and Labor Day there is a triathlon in downtown Austin. On May 30th I will be competing in my 5th triathlon. Let me define competing. I don't get anywhere close to the podium, but I've beat my previous times 3 times in a row. I do what is called the "Sprint" triathlon, which is a half mile swim in Town Lake, about an 18 mile bike ride and then a 3 mile run. I've decided to compete in these two triathlons for the rest of my life. This goal has given me a reason and desire to get out and exercise. I know that even if I take a little break, the next triathlon is coming up, so I am forced to get out there get training.

We have a great neighborhood for triathlon training and exercise in general. The pool is open May 1 – September 30 from 5am -10pm. When I go at 6am there is plenty of room. There will also be room to swim laps late at night. A half mile is only 28 lengths of the pool. Swimming is great for your body. I feel great when I swim regularly. I mapped out a great bike ride that twists around our HOA streets for about 8 miles. I love to bike because I can either take it slow and relax, or really press it and work my legs. Either way I have a great time.

Fall Creek Loop and Nelson Ranch loop are great for running because you always come back to where you started. Actually, let me correct myself. In my opinion, nothing is great for running. In fact, I despise running. This is my least favorite part of the triathlon, but I tell myself that if I can do the run, I can do anything. OK, back to the Loops. When I run, I typically run once or twice around Nelson Ranch Loop. Usually once! One time around is about 1 1/3 miles. I try not to beat myself up with training. My goal is 3-4 days each week, and I only do half the distances of the triathlon. So far it has made me feel great, except for the bruise to the ball of my foot last year. I was getting to a point in my life where I just wasn't feeling good. The triathlons have made me feel better.

So, will I see you at the pool? Will you get that old bike out and go for a ride? Will you pass me up out on Nelson Ranch Loop? Enjoy this Texas weather and get out there. Use this great neighborhood that we have to make yourself feel better.

***Choose now to be healthy and happy.***  
*Darrell Park - HOA President*

## WHAT ARE THE RIGHTS & OBLIGATIONS OF AN EASEMENT HOLDER?

*by Rand E. Zumwalt, Esquire*

Easements play an important role in our everyday lives, yet many of us are totally unaware of their existence. The roads we drive on to get to work or pick up the groceries are open to our use thanks to easements. The gas used to heat our homes or cook our food, as well the electricity that allows us to read to our children in bed each night, are transmitted via utility easements. It is easy to see how crucial easements are to our modern lifestyles.

An easement is defined as a right, privilege or advantage in real property, existing distinct from the ownership of the land. In other words, an easement gives a person, company, or the public in general the right to use the land of another in a certain manner. Easements are divided into one of two categories - public or private - with each having different manners of creation and allowed uses.

Private easements are those in which the enjoyment and use are restricted to one or a few individuals. Public easements are those in which the rights of enjoyment and use are given to the public generally or at least a community. Regardless of whether an easement is public or private, it generally must be in writing to be effective against the current property owner and recorded in the deed records to be enforceable against future owners. Exceptions to this rule do exist, however, as described below.

### Private Easements

**Private easements can be created by any of the following ways:**

- Expressly, through a written document;
- Implication, via reservation or grant;
- Way of necessity, based on lack of access to a public road;
- Estoppel, due to the acts or statements made the property owner; and
- Prescription, through extended use without complaint by the property owner.

*(Continued on Page 3)*

# Westside at Buttercup Creek

## BOARD OF DIRECTORS

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## ADVERTISING INFO

Please support the businesses that advertise in the Westside News. Their advertising dollars make it possible for all Westside at Buttercup Creek residents to receive the monthly newsletter at no charge. No homeowners association funds are used to produce or mail the newsletters. If you would like to support the newsletter by advertising, please contact our sales office at 512-263-9181 or advertising@PEELinc.com. The advertising deadline is the 8th of each month for the following month's newsletter.

### CLASSIFIED ADS

Personal classifieds (one time sell items, such as a used bike...) run at no charge to Weside at Buttercup Creek residents, limit 30 words, please e-mail westsidenewseditor@yahoo.com

Business classifieds (offering a service or product line for profit) are \$50, limit 40 words, please contact Peel, Inc. Sales Office @ 512-263-9181 or advertising@PEELinc.com.

## COMMITTEES

Do you want to help out in the community but don't have a lot of time? Join one of the following Committees and help out as much or as little as you want.

Cave Preserve..... Darrell Park..... darrelljpark@yahoo.com  
Communications..... Darrell Park..... darrelljpark@yahoo.com  
Fence ..... Ross Burns..... rburns@texas.net  
Landscaping..... Tab Fowler .... roadrunner.10@sbcglobal.net  
Lighting..... Rand Zumwalt .....  
..... zumwalt@zumwaltlawgroup.com  
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Pool ..... Jay Clover ..... jay.clover@yahoo.com  
Social..... Terra Thomas ..... terrac13@yahoo.com

## DID YOU KNOW.....

Your car should be parked in your garage or in your driveway. Cars should only be parked in the street temporarily, and then put back in the garage or in the driveway. The only cars that should be parked in the street are those belonging to a visitor, or someone who doesn't live in the HOA. Even those cars should not be there for more than a total of 48 hours in a 7 day period. Commercial vehicles should never be parked in the HOA overnight. This is a rule that everyone agreed to when moving into this HOA. It's safer and makes the neighborhood look less cluttered.

To report a parking violation, simply go to the new HOA website, www.westsidehoa.org, and click on "Report a Violation". Please include details like what the situation is, the address and the dates of the violations or how long it has been going on.



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# Westside at Buttercup Creek

## Rights and Obligations of Easement Holders -

(Continued from Cover Page)

Each of the above methods of private easement formation require that specific steps be taken for the easements to become enforceable and may depend ultimately on a Court Order for their effectiveness. Those details are beyond the scope of this article. Regardless of how it is created, a private easement can only be used for the purpose to which it was created and the duty to maintain it falls with the easement holder.

Any unauthorized use of the easement can result in money damages and possible termination of the easement. That said, an easement holder has such rights that are incidental or necessary to its reasonable enjoyment and the property owner can not unreasonably interfere with those rights. Reasonable use is a term of art that is ultimately determined using an objective standard. Your neighbor's unnatural fear of black cats does not prevent your kitten from using the sidewalk in front of your neighbor's house.

### Public Easements

**Aside from purchasing, the following are ways that public easements can arise:**

- Dedication, through a private owner's grant of easement to a public entity;
- Prescription, via extended, uncontested use by the public; and
- Condemnation, based on public need and adequate compensation.

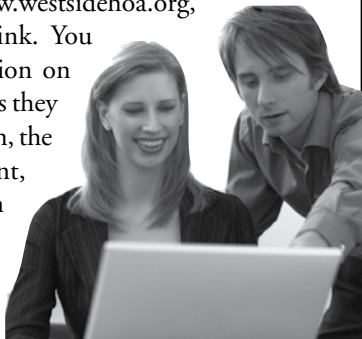
In general, the allowed usage of public easements is similar to that of private easements. The main difference is the additional difficulty for the property owner in protecting his rights against users of the easement.

### Conclusion

Hopefully, this article provided you with a brief overview of the different types of easements and the rights of related parties. For specific questions about easements related to you or your property, please speak with a real estate attorney in your area.

## THE NEW HOA WEBSITE

We have two pools and some parks here in our HOA. If you're wondering where they are, or what the rules or hours are, just go to the website, [www.westsidehoa.org](http://www.westsidehoa.org), and click on the "Amenities" link. You will be able to find information on both pools, including the hours they are open, the dates they are open, the hours that lifeguards are present, the pool rules, instructions on how to reserve the cabana and how to request a key.



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# Westside at Buttercup Creek

## ARTICLE X OF THE DECLARATION OF *Covenants, Conditions and Restrictions for Westside at Buttercup Creek*

Each month a section of this Article will be reviewed to help homeowners be better informed. The complete set of Bylaws and CCR's were given to you when you closed on your house, but can also be found at the HOA website which is

[www.westsidehoa.org](http://www.westsidehoa.org).

### Section 6. Prohibited Uses.

Industrial use of the Properties is prohibited. No use shall be permitted which is offensive by reason of odor, fumes, dust, smoke, noise or pollution, or which is hazardous by reason of excessive danger of fire or explosion. No activity or use shall be permitted on or with respect to the Property which is determined by the Board to be obnoxious to or out of harmony with a distinctive residential community, including, but not limited to, any trailer houses and parks, junk or scrap

metal yard, waste material business, any dumping disposal, incineration or reduction of garbage or refuse, and any fire, bankruptcy or auction sale or operation. No excavations shall be made and no sand, gravel or soil shall be removed from the Properties except in connection with a grading and/or building plan approved as provided by the New Construction Committee. No burning of rubbish or trash shall be permitted at any time. No storage area shall be permitted between any building and the front Property line of such Property. No activity, whether for profit or not, which is not related to single-family residential purposes, shall be carried on upon any Lot, except on those Lots which may be designated by Declarant for use as sales offices, construction offices, and storage facilities for a period of time

commensurate with home construction and sales within the Property. Except for this temporary use of selected Lots, no noxious or offensive activity of any sort shall be permitted, nor shall anything be done, on any portion of the Properties which may be or become an annoyance or nuisance to the neighborhood.

### Comment:

The main thing to remember here is that the property in our HOA is for single-family residential use, and anything other than that is a problem. I think the last sentence really sums it all up when it says "no noxious or offensive activity of any sort shall be permitted, nor shall anything be done, on any portion of the Properties which may be or become an annoyance or nuisance to the neighborhood". *-Be a good neighbor.*

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# Westside at Buttercup Creek

## Autism Robs You Of Your Child!

By Connie Ripley



Light It Up Blue in April. April is Autism Awareness Month. Autism Speaks is asking buildings around the world to turn their lights blue and people to wear blue on April 1 & 2.

One out of 110 children is diagnosed with autism (1 out of 70 boys). More children will be diagnosed with autism this year than with AIDS, diabetes and cancer combined.

Autism is a complex neurobiological disorder that impacts communication, behavior and social relationships. Currently no effective means to prevent autism, no fully effective treatments and no cure exists for this disorder that robs families and children of

smiles, eye contact, communication, hugs and even the ability to eat in a restaurant.

**Know the Signs.** These "absolute indicators" or "red flags" indicate your child should be evaluated.

- No big smiles or other warm, joyful expressions by 6 months.
- No back-and-forth sharing of sounds, smiles, or other facial expressions by 9 months.
- No babbling by 12 months.
- No back-and-forth gestures, such as pointing, showing, reaching or waving by 12 months.
- No words by 16 months.
- No two-word meaningful phrases (without imitating or repeating) by 24 months.
- Any loss of speech or babbling or social skills at any age.

Does your child make eye contact with you? Does he/she enter into meaningful exchanges? Does he/she "tantrum" in the grocery store or when transitioning from one thing to another? Instead of "racing" toy cars, does your child flip them over and roll the wheels

*(Continued on Page 6)*



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**Wade Phillips - Owner & Westside Resident**

# Westside at Buttercup Creek

## Autism Robs You of Your Child! - (Continued from Page 5)

or stack them in a line? If any of these things exist, insist on an immediate evaluation. Early intervention may be your child's best hope. Since this disease has accelerated so much recently, many pediatricians just do not recognize the signs.

The prevalence of the disorder rose 57% between 2002 and 2005. In 1975, autism effected 1 in 5,000. Today it affects 1 in 110 children. Autism is the fastest-growing serious development disability in the U.S. It costs the nation \$35 billion a year, and that figure is sure to rise.

In order to raise awareness of this escalating disorder, landmarks, iconic buildings, schools, universities, hospitals, airports, businesses and people in Australia, Bahrain, Belgium, Brazil, Canada, Cypress, Denmark, France, Hungary, Ireland, Kenya, Netherlands, New Zealand, Romania, Sri Lanka and the United States from Los Angeles to Savannah and from Minneapolis to Houston will be changing their light bulbs, clothing themselves, and eating and drinking blue for the month of April.

Texas State Senator Florence Shapiro will read a proclamation of Autism Awareness Month on the Texas State Senate floor on April 4th.

To commemorate the fourth annual United Nations World Autism Awareness Day and Autism Awareness Month, change your light bulbs to blue and wear blue on April 1 and 2.

It's easy! Just change your light bulbs from white to blue! To make things even easier, Home Depot will carry a complete supply of blue blubs for the event.

Toys R Us has a month long Autism Speaks campaign. Pump It Up has scheduled The Great Jump for April 7.

Even as autism escalates at alarming rates, it receives only 0.5% of the National Institutes of Health funding. Autism Speaks is North America's largest autism science and advocacy organization.

Autism Speaks is funded primarily by local walks. The Greater Austin Walk Now for Autism Speaks committees are being formed for the fall walk. Your help is needed! Please contact Walk Manager Traci Whitney at [traci.whitney@autismspeaks.org](mailto:traci.whitney@autismspeaks.org)

*Watch for the 12 diagnostic markers  
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# Westside at Buttercup Creek

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You can write about a current event, local politics, the weather, landscaping or anything else that applies to the HOA. Write about things that you do professionally that might be interesting or even help other people. Remember though that this is not for advertising. However, your area of expertise could be very helpful. If you are a painter, you could write a little article on painting tips. If you are a computer expert, an article on how to fix simple problems would be great. A doctor could write a monthly health article that we could all use.

Articles must be emailed to [westsidenewseditor@yahoo.com](mailto:westsidenewseditor@yahoo.com) by the 8th of the month to be published in the following month's newsletter. So, if you would like to have an article in the May newsletter, it must be submitted by April 8th.

*Let's see some articles!*

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Saturday, April 30th 10AM-3PM**

The whole family can splash into our Water Safety Challenge and Life jacket Swim or try out a Stand Up Paddle Board at The Expedition School Lagoon (On Lady Bird Lake in East Austin next to Fiesta Gardens.) Volunteers are also needed to pick up and distribute water safety packets to homes in zip codes that have high incidences of drowning. This is a great family or group volunteer activity. Email [alissa.magrum@colinshope.org](mailto:alissa.magrum@colinshope.org) to volunteer. Together, we can prevent drowning and save lives.

**Colin's Hope Night at Eastside Movies in the Park  
Tuesday, May 3rd, Doors open at 6PM, Movie at sundown**

Join us at The Expedition School Lagoon (On Lady Bird Lake in East Austin next to Fiesta Gardens) for a screening of Whale Rider. Bring your family and friends to enjoy the movie under the stars.

**Colin's Hope Day at Schlitterbahn-New Braunfels  
Saturday, May 21st**

Join us for a day to promote Water Safety and Drowning Prevention at Schlitterbahn-New Braunfels! Special tickets are available from Colin's Hope. Email [alissa.magrum@colinshope.org](mailto:alissa.magrum@colinshope.org) for more information.

**For more information, visit our website at [www.colinshope.org](http://www.colinshope.org)**