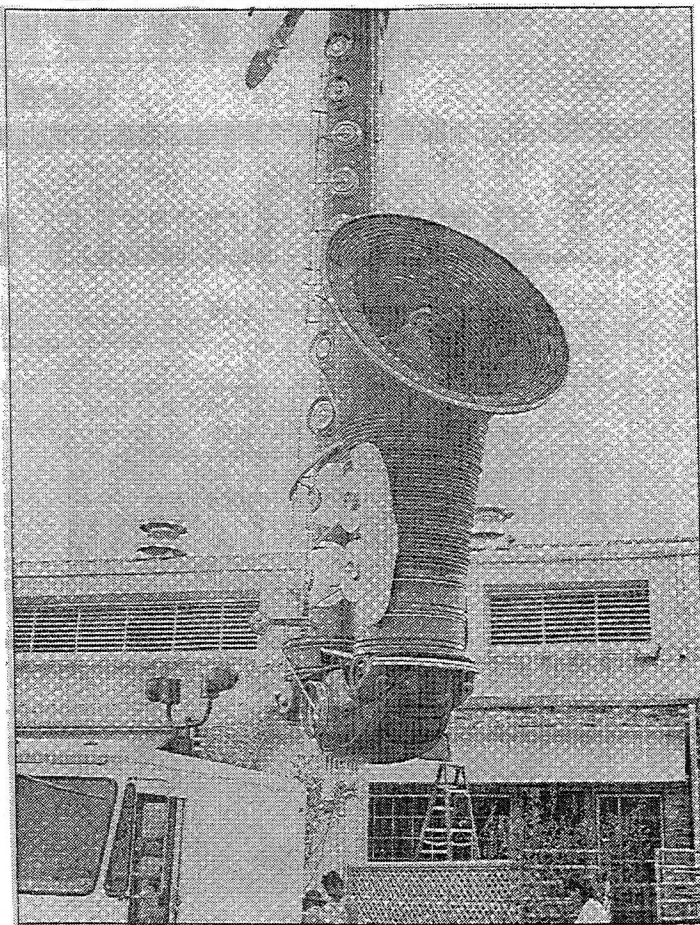


Richard Rothfelder successfully represented Billy Blues, a Houston restaurant and club, in administrative court against the City of Houston. The City had contended that a fifty foot replica of a saxophone constructed by famed Texas artist Bob "Daddy-O" Wade constituted a sign, and since it exceeded the height and size restrictions of the Houston Sign Code, the saxophone was illegal and must be removed. By producing the testimony of experts on both art and signs, Mr. Rothfelder succeeded in obtaining a unanimous ruling that the saxophone was a piece of art and not subject to the City's sign regulations, thereby "saving the sax."



Ben DeSoto / Chronicle

Billy Blues' 63-foot saxophone has been deemed art by the city appeals board. The piece will stay mounted in front of the nightclub/restaurant at 6025 Richmond.

City appeals board rules giant saxophone is art, not a sign

By STEFANIE ASIN
Houston Chronicle

The 63-foot blue saxophone outside Houston's Billy Blues club hit a high note Wednesday.

A city appeals board unanimously agreed that the impressive instrument is art, not a sign.

As a result, the saxophone — built from everyday junk — can stay on its perch in front of the nightclub and restaurant at 6025 Richmond.

"This is marvelous. It's absolutely marvelous," said John Coleman, vice president of Billy Blues Food Corp.

The restaurant owners were cited in mid-March for violating Houston's sign ordinance, which prohibits signs taller than 40 feet. The city sign administration said the saxophone drew attention to the rhythm-and-

blues club, making it commercial advertising.

Defenders of the saxophone insisted the towering horn was not being used for advertising, but for cultural enjoyment.

The sign, commissioned by Billy Blues, was created by artist Bob "Daddy-O" Wade — who once said: "I don't make signs."

In the appeals board hearing, Billy Blues' lawyer Richard Rothfelder pointed out that the saxophone bears no arrows, logos or messages.

"I think that the saxophone sculpture is one of the most outlandish and interesting pieces of art in the city of Houston," Rothfelder said.

Ollie Schiller, acting manager of the city's sign administration, did not disagree with that point.

It's unanimous — sax is safe

By DOUGLAS FREELANDER
OF THE HOUSTON POST STAFF

Famed jazz saxophonist Charlie Parker would have approved.

That huge blue saxophone will continue to make its special brand of music on Richmond as a city appeals board ruled in effect Wednesday that it is a work of art and not subject to city sign restrictions.

Fans of the 63-foot Billy Blues Smokesax in front of Billy Blues Barbecue Bar and Grill, 6025 Richmond, sounded a high note after a city appeals board overruled an earlier opinion by the city's sign administration section that it was a sign. The vote was 6-0.

"I'm totally thrilled. We knew all along that, given enough time, common sense would prevail," said

Please see **SAX, A-27**

SAX: Board rules Billy Blues' horn is work of art, not a sign

From A-23

John Coleman, co-owner of the Billy Blues chain.

"Obviously we're elated that the city agreed with our interpretation that the saxophone is not a sign," said Richard Rothfelder, who displayed petitions with signatures of about 4,000 backers of the sculpture, including noted art experts.

"The saxophone is art," he said, noting that the sculpture stands in the heart of the After

Sunset Strip, a newly emerging nightlife district.

"In summary, the sax is good for the city."

Ollie Schiller, spokeswoman for the sign board, told the Houston General Appeals Board her board's position is that the sculpture is a sign because it attracts attention to Billy Blues.

If the sign board's opinion had not been overruled, the matter would have gone before the City Council.