

**Fort Worth Weekly  
Metropolis  
Wednesday, October 22, 2008**

## **House-Proud**

**The TCC chancellor owned a home near Houston and swore he'd live there. Hmmm.**

**By BETTY BRINK**

It would have been a long commute.

Four years ago, Tarrant County College District Chancellor Leonardo de la Garza and his wife Virginia bought a four-bedroom, three-bath house with a brick and rock façade on the shore of a lake in Sugar Land, about 280 miles from his college office. The couple, who still owned a home in Arlington, did not declare the new house a “second home” on the loan agreement. They promised in the deed of trust to live in it as their “principal residence” beginning within 60 days following the filing of the deed and for a year thereafter.



*The de la Garzas bought the house near Houston and said they'd make it their residence.*

Lying about occupancy to a lender underwriting a home loan is a federal crime, though one often winked at by authorities, according to experts in real estate law. There is no evidence to show that de la Garza ever made that 560-mile roundtrip commute from the Sugar Land house to the college in the two years that he and his wife owned the house. In fact, county tax records and interviews with those who were in contact with the chancellor on campus during that time provide strong evidence that he never moved out of Tarrant County.

“I believe him to have been completely committed to his responsibilities [during that time] without interruption,” long-time TCC trustee Bobby McGee wrote in an e-mail to Fort Worth Weekly. A couple of former high-level administrators, who worked closely with him and asked not to be named, said that de la Garza never mentioned the Sugar Land home and continued to work regularly at the college during that time. “As far as I recall, he never missed a day unless he was out of town on school business,” one said. Others pointed out that de la Garza was deeply involved in the highly controversial downtown campus project during that time, which broke ground in 2003 and soon ran into cost overruns and federal permitting problems that required the chancellor’s almost daily oversight.

Then there are the property tax records from two counties. Although de la Garza swore in his loan documents that the Sugar Land house would be his principal residence, he never sought a homestead exemption for it. Instead he kept the homestead exemption for his house on Waterview Drive in Arlington throughout the two years he owned the second house. A clerk in the Fort Bend county tax office said that each year the de la Garzas owned the Sugar Land house, they listed their Arlington residence, which they have owned since 1997, as the mailing address for tax statements.

False statements made in the process of acquiring property could become a federal crime when federal housing agencies are involved, said Jim Root of Spokane, Wash., a real estate specialist with 35 years' experience, who now conducts training seminars for real estate salespersons. "It is considered mortgage fraud and carries penalties up to 10 years in prison and fines as high as \$250,000," he said.

According to the FBI's web page, "Mortgage fraud is one of the fastest growing white collar crimes in the United States ... [It] is defined as a material misstatement, misrepresentation, or omission relied upon by a ... lender to fund, purchase or insure a loan." According to the agency, one type of housing fraud involves a borrower who states that he will use the property for occupancy when he intends to use it as an investment or is buying it for someone else. This type of fraud accounts for 20 percent of all housing fraud and has caused the FBI to increase its housing fraud staff to more vigorously investigate complaints, the agency said on its web site.

Two real estate attorneys said that an owner-occupancy covenant usually gets a better deal for the buyer and more protection for the lender. Fort Worth title company attorney Charles Newman and Jon Goodman, a Colorado lawyer who specializes in real estate fraud, both said that loans for owner-occupants are safer for the lender because the default rates are much lower. They also benefit the buyer, because lender guidelines are less stringent for owner-occupied properties, often giving the buyer a lower interest rate and little or no down payment. Also, a requirement that the buyer live in the house for a specified period ensures against investors buying low and then immediately "flipping" the property by selling at a higher price.

Even though making a false statement to get a favorable loan can be both a criminal and a civil violation, Goodman said, "civil prosecution for fraud requires damages, and if the loan is repaid [as the de la Garza transaction was when the house subsequently sold], there is no damage [to the lender.]" Criminal fraud, however, can be pursued regardless of damages, he said.

Owner-occupancy loans are usually made for first-time homebuyers and were designed to make it easier to own a home, Newman said. The covenant is "perfectly enforceable" by the loan company making sure the person who signs the occupancy clause is "actually living there," he said.

But that doesn't always happen, Goodman said. Occupancy fraud for the purpose of making an investment with no intention of ever living in the house is "culturally the easiest; it is sort of a wink-wink ... kind of lie that a lot of people have been making and the lending industry has been turning a blind eye to."

De la Garza did not return any of numerous telephone calls and e-mails from Fort Worth Weekly asking for his response, although the nature of this story was explained in the e-mails and to his secretary. Calls and e-mails to Charlie Moore, head of Home USA Mortgage in Sugar Land, the lender of record to the de la Garzas, also were not returned.

Fort Bend County records show that the Sugar Land house is located in an upscale development known as the Gardens of Avalon, with amenities that include tennis courts, a lagoon-style swimming pool, and a golf course. Records from the county show that the de la Garzas paid \$215,000 for the home, which may have been a bargain: The appraised value on the county's tax rolls that year was \$359,200. Two years after they bought it, the couple sold the house for \$316,000.

The documents signed by the de la Garzas were Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation, (Freddie Mac) "uniform instruments," even though USA Mortgage is a private lender. That probably indicated that Fannie Mae and Freddie Mac were to be the secondary mortgage holders on the loan, said Root, meaning that the covenants would have been enforceable under federal law. In fact, the document says that the provisions of a federal law called the Real Estate Settlement Procedures Act apply to the loan. Root, whose comments were limited to the laws governing federally backed loans and not to the specifics of the de la Garza transaction, said that when a loan falls under RESPA, it becomes subject to federal laws and regulations governing violations such as mortgage fraud.

TCC trustee Joe Hudson, who has been in office less than a year, said he had never heard of the chancellor's home away from home. "If the facts around this transaction are true, then Dr. de la Garza's actions certainly constitute an 'embarrassment' to the college district in my estimation," Hudson said. In the chancellor's contract, bringing embarrassment to the college is one reason for his dismissal, he said. "I certainly intend to raise this with the board, and if necessary, I'll take it to the Texas Ethics Commission to start an investigation."

McGee said that the issue "sounds like a personal matter for the chancellor." He added that while he and the chancellor had had their differences over the years, "I sincerely hope [what is being reported about the Sugar Land transaction] isn't so." No other board member responded to the Weekly's request for comment.