

94 years ago last week, on January 26th 1926, the Ambler Realty Company first argued against the village of Euclid, Ohio, that they and the city were being deprived of potential income by the existing zoning ordinances. Ambler Realty owned a slice of land outside of Euclid between the road and the railroad tracks that had been zoned as residential - a much less lucrative zoning than industrial. While it would have been logical to simply ask the zoning board for a variance, Ambler Realty took to the courts to say that the city was violating the 14th Amendment of the US Constitution by "depriv[ing] any person of life, liberty, or property, without due process of law."

History Lesson : Zoning laws, at the time of the case, were barely 50 years old but it was recognized that they were permitting development that would have been unthinkable even 25 years. Many of the changes permitted would have been seen as arbitrary and capricious at that time. The scope of current laws (and historic laws like the US Constitution) must change with the times, but if a new law is shown to not be within the scope of those currently-standing laws, the new one must be struck down.

Ambler Realty had owned the land "for years for the purpose of selling and developing it for industrial uses, for which it is especially adapted, being immediately in the path of progressive industrial development."<sup>1</sup> To make the argument less about their own financial loss, Ambler Realty made the point that this zoning ordinance would also deter "prospective buyers of land for industrial, commercial, and residential uses"<sup>2</sup> - meaning that the village of Euclid would lose out on any and all coming changes. "The ordinance constitutes a cloud upon the land, reduc[ing] and destroy[ing] its value."<sup>3</sup>

Initially, Euclid had asked to have the case dismissed entirely "on the ground that, because [Ambler Realty] had made no effort to obtain a building permit or apply to the zoning board of appeals for relief."<sup>4</sup> The District Court of Northern Ohio decided not to, on the basis that what was being argued was the legality of the zoning ordinance in the first place. This court determined that Ambler Realty was

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<sup>1</sup> Village of Euclid, Ohio v. Ambler Realty Co., 272 U.S. 365 (1926) 4

<sup>2</sup> *ibid*

<sup>3</sup> *ibid*

<sup>4</sup> Euclid v. Ambler, 5

correct in their assessment that Euclid's zoning ordinance being specifically written to exclude certain parties and activities from the town.

Euclid appealed this decision to the Supreme Court, who heard it just a few months later in October. This court did rule in favor of the village, but for other reasons. They invoked Euclid's police power to preserve the village atmosphere in their rapidly-urbanizing Cleveland suburb. Seeing the coming of further industrialization Euclid was exercising their police power through their zoning ordinances to maintain the character of the town, as well as ensure public welfare by limiting the amount of industry within the limits of the town. Based on previous decisions by other courts, the Supreme Court ruled in favor of Euclid's zoning ordinance as a legitimate exercise of police power, stating that "the exclusion of buildings devoted to business, trade, etc., from residential districts, bears a rational relation to the health and safety of the community."<sup>5</sup>

*"The industrial development of [Cleveland] has now reached and in some degree extended into the village, and in the obvious course of things will soon absorb the entire area for industrial enterprises; that the effect of the ordinance is to divert this natural development elsewhere... [T]he village... is a politically separate municipality, with powers of its own and authority to govern itself as it sees fit."<sup>6</sup>*

This Supreme Court decision, that zoning ordinances are an exercise of a municipality's police power, demonstrates the extent of both police power and the ability of a municipality to control the local economic development through zoning.

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<sup>5</sup> Euclid v. Ambler, 7

<sup>6</sup> Euclid v. Ambler, 6