

Zahn Vs. Board of Public Works

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Court : US Supreme Court

Decided On : May-16-1927

Appeal No. : 274 U.S. 325

Appellant : Zahn

Respondent : Board of Public Works

Judgement :

Zahn v. Board of Public Works - 274 U.S. 325 (1927)

U.S. Supreme Court Zahn v. Board of Public Works, 274 U.S. 325 (1927)

Zahn v. Board of Public Works

No.196

Argued March 7, 1927

Decided May 16, 1927

274 U.S. 325

ERROR TO THE SUPREME COURT

OF THE STATE OF CALIFORNIA

SYLLABUS

1. A zoning ordinance dividing the City of Los Angeles into five building zones and prescribing the kinds of buildings that may be erected in each zone *held* constitutional in its general scope (*Euclid v. Ambler Realty Co.*, [272 U. S. 365](#)), and not violative of due process or equal protection as applied to this case. P. [274 U. S. 327](#) .

Page 274 U. S. 326

2. The plaintiff's lot was in a zone limited by the ordinance to buildings for residences, churches, private clubs, educational purpose, etc., and excluding buildings for private business other than physicians' offices. The value of the lot would be much enhanced if it could be used for business purposes, for which it was favorably situated. Other property in the zone was largely restricted by covenant to residential uses. The entire neighborhood at the time of the ordinance was largely unimproved, but in course of rapid development. The conclusion of the city council, on these and other facts, that the public welfare would be promoted by establishing the zone cannot be adjudged clearly arbitrary or unreasonable, and this Court cannot in such circumstance substitute its judgment for theirs. P. [274 U. S. 328](#) .

195 Cal. 497 affirmed.

Error to a judgment of the Supreme Court of California, on an original application for a writ of mandate commanding the Board of Public Works of the City of Los Angeles to issue to the petitioners a permit for the construction of a business building, suitable for occupation by stores, upon property of the petitioners in that city. An alternative writ was issued, returnable in the district court of appeal, which found in favor of the petitioners, holding the city zoning ordinances unreasonable and discriminatory. This was reversed, and the ordinances upheld, by the subsequent judgment of the supreme court, here under review.

MR. JUSTICE SUTHERLAND delivered the opinion of the Court.

This is a proceeding in mandamus brought in the state court to compel defendants in error to issue a building permit enabling plaintiffs in error to erect a business

Page 274 U. S. 327

building upon a lot lying within a district of the City of Los Angeles restricted by the zoning ordinance of that city against buildings of that character. The ordinance creates five zones, designated as "A," "B," "C," "D," and "E." respectively, and classifies the kind of buildings, structures, and improvements which may be erected in each. The ordinance is of the now familiar comprehensive type, but in the main regulates only the character of buildings which lawfully may be erected, and does not prescribe height and area limitations. It is assailed as being repugnant to the due process of law and equal protection clauses of the Fourteenth Amendment. The property of plaintiffs in error is in zone "B," in which, generally stated, the use is limited to buildings for residential purposes churches, private clubs, educational, and similar purposes. All buildings for private business are excluded, with the exception of offices of persons practicing medicine. The state supreme court, in a well reasoned opinion, upheld the ordinance and denied the relief sought. 195 Cal. 497. *And see Miller v. Board of Public Works*, 195 Cal. 477.

The constitutional validity of the ordinance in its general scope is settled by the recent decision of this Court in *Euclid v. Ambler Co.*, [272 U. S. 365](#) , and, upon the record here, we find no warrant for saying that the ordinance is unconstitutional as applied to the facts in the present case. The property of plaintiffs in error adjoins Wilshire Avenue, a main artery of travel through and beyond the city, and if such property were available for business purposes, its market value would be greatly enhanced. The lands within the district were, when the ordinance was adopted, sparsely occupied by buildings, those in which business was carried on being limited to a few real estate offices, a grocery store, a market, a fruit stand, and a two-story business block. Much of the land

Page 274 U. S. 328

adjoining the boulevard within the restricted district had already been sold with restrictions against buildings for business purposes, although the property of plaintiffs in error and the adjacent property had not been so restricted. The effect of the evidence is to show that the entire neighborhood, at the time of the passage of the zoning ordinance, was largely unimproved but in course of rapid development. The common council of the city, upon these and other facts, concluded that the public welfare would be promoted by constituting the area, including the property of plaintiffs in error, a zone "B" district, and it is impossible for us to say that their conclusion in that respect was clearly arbitrary and unreasonable. The most that can be said is that whether that determination was an unreasonable, arbitrary, or unequal exercise of power is fairly debatable. In such circumstances, the settled rule of this Court is that it will not substitute its judgment for that of the legislative body charged with the primary duty and responsibility of determining the question. *Euclid v. Ambler Co.*, *supra*, pp. [272 U. S. 388](#) , [272 U. S. 395](#) ; *Radice v. New York*, [264 U. S. 292](#) , [264 U. S. 294](#) ; *Hadacheck v. Los Angeles*, [239 U. S. 394](#) , [239 U. S. 408](#) , [239 U. S. 412](#) , [239 U. S. 413](#) -414; *Cusack Co. v. City of Chicago*, [242 U. S. 526](#) , [242 U. S. 530](#) -531; *Rast v. Van Deman & Lewis*, [240 U. S. 342](#) , [240 U. S. 357](#) ; *Price v. Illinois*, [238 U. S. 446](#) , [238 U. S. 452](#) .

Judgment affirmed.