



January 30, 1956

Re: Property of Charles H. Doll and Ethel Doll for raising of dogs 1800 Belmont Avenue, 1st Dist.

Mr. Willis H. Adams, Zoning Commissioner of Baltimore County
Mr. Commissioners:

Please enter an appeal to the Board of Zoning Appeals of Baltimore County from the decision rendered in the above and transmit all records to said Board.

James M. Bell
1907 Federal Road
Baltimore, Md.
Attorney for Petitioners

De. 9-3327

CHARLES H. DOLL and
ETHEL DOLL
1800 Belmont Avenue
Baltimore 7, Maryland
Appellants
vs.
BOARD OF ZONING APPEALS
OF BALTIMORE COUNTY
Appellee

IN THE
CIRCUIT COURT
FOR
BALTIMORE COUNTY
(Law)
Misc. 6 folio 3

ORDER

The above entitled cause of action having come on for hearing on the 18th day of November, 1957, the records and proceedings having been read and reviewed and argument of counsel having been heard by the Court, it is, this 20th day of November, 1957, by the Circuit Court for Baltimore County, ORDERED, that the decision of the Board of Zoning Appeals of Baltimore County, dated March 15, 1956, be and is hereby affirmed, and the appeal is dismissed.

John F. Reine
Judge

3795

RE: COMPLAINT SUBMITTED WITH THE ZONING DEPARTMENT CONCERNING USE OF PROPERTY OF Charles Doll and Ethel Doll for the Raising of Dogs - 1800 Belmont Avenue - First District of Baltimore County

Upon complaint having been registered with the Zoning Department of Baltimore County concerning the use of property, in the above entitled matter, a hearing was held by the Deputy Zoning Commissioner to determine whether or not Mr. Charles Doll, and wife, had a lawful nonconforming use to raise dogs on property at 1800 Belmont Avenue.

In my opinion the decision in this case should come from the Civil Court, but as it was brought before me I shall state my conclusion in hopes of settling this controversy only after having given much consideration to the alleged violation.

The problem concerning Mr. and Mrs. Charles Doll, Mr. and Mrs. Charles H. Collins and Mr. and Mrs. Russell P. Frixell, is not one of a recent nature but one of long standing with respect to time as well as accusations. In my opinion the complainants for some time have tried unsuccessfully to charge with a fault, offense or blame the Dolls with various neighborhood problems. Through my decision and recommendations I hope to bring this case to a successful conclusion.

From the testimony presented before me I am of the opinion that Mr. Doll did have a kennel license prior to 1945 and did have every intent to raise and to train dogs for show purposes as well as for monetary gain.

Mr. Doll was sold his first kennel license prior to 1945 at the suggestion of a County representative because he, Mr. Doll, had at that time three (3) dogs and was planning to raise and to train other dogs.

It is also my hope and recommendation that Mr. Doll will fence in the remaining portion of his property with a suitable and recognized type of fencing such as the Anchor Fence and place this fence at least one or two feet back onto his property. It is also my recommendation that all parties concerned since they intend to live there make every effort to live peacefully.

It is this 20th day of January, 1956, that I do hereby pass my decision stating that Mr. and Mrs. Doll have a nonconforming use with respect to a dog kennel, and so forth.

Charles H. Frixell
Deputy Zoning Commissioner
of Baltimore County

1800 Belmont Avenue - 1st District

3795

Ethel Doll
Charles Doll
January 25, 1957

\$6.00
RECEIVED of Messrs. Greenfield & Velle, Attorneys for Charles Doll, and wife, the sum of \$6.00 being cost of certified copies of papers filed in the matter of a nonconforming use of property at 1800 Belmont Avenue, 1st District.

Zoning Commissioner

01.623 Jm. de. Charze

RECEIVED
FEB 5 1957
COMPUTERIZED OFFICE
370

Charles H. Frixell
February 7, 1956

\$30.00
RECEIVED of Russell Frixell, the sum of Thirty (\$30.00) Dollars, being cost of appeal to the Board of Zoning Appeals from the decision of the Deputy Zoning Commissioner rendered in the matter of zoning violation on the property of Charles Doll and wife, 1800 Belmont Avenue, 1st District.

Zoning Commissioner

RECEIVED
FEB 7 1956
COMPUTERIZED OFFICE
11762

BALTIMORE COUNTY, MARIETTA
A Municipal Corporation
vs
CHARLES H. DOLL et al.

IN THE CIRCUIT COURT
FOR BALTIMORE COUNTY
SUITY 39702

MEMORANDUM OPINION

In this case the County seeks to enjoin the Respondent from maintaining a kennel in an area zoned R-6. The County contends that a kennel cannot be maintained in an R-6 area unless there has been a special exception. Nowhere in the existing regulations is the term kennel defined. The term kennel does not have an accepted or settled common law meaning or a commonly understood meaning which would leave a person of ordinary intelligence in no doubt as to its purport. Webster defines a kennel as the place or house for the keeping of a dog or dogs. The County contends that this definition of kennel is not the meaning intended by the framers of the Zoning Regulations. In the old Zoning Regulations a kennel was defined as a place where more than three dogs were kept but it is difficult to believe that a farmer who had four hound dogs on his property was thought to be maintaining a kennel. In any event, the old regulation was repealed and cannot serve as a limitation on or definition of the word "kennel" used in the present regulations. The regulations provide that a violation of the regulation shall be a misdemeanor. The Court has concluded that the regulation is so vague and uncertain that it is unconstitutional in that it fails to fix a reasonably ascertainable standard of guilt. See *State vs. Muehle*, 182 Md. page 122. "A statute which either commands or forbids the doing of an act in terms so vague that persons of ordinary intelligence must necessarily guess at its meaning or differ as to its appli-

cation violates the constitutional guarantee of due process of law". Since the regulation prohibiting kennels is unconstitutional and invalid the County is not entitled to injunctive relief. It is therefore this 27th day of October, 1958 ORDERED that the bill of Complaint be and the same is hereby DISMISSED.

JUDGE

IN THE MATTER OF
COMPLAINANT REGISTERED WITH THE
ZONING DEPARTMENT CONCERNING
THE PROPERTY OF CHARLES DOLL AND
ETHEL DOLL FOR THE RAISING OF DOGS,
1800 BELMONT AVENUE, 1ST DISTRICT,
BALTIMORE COUNTY

BEFORE THE
BOARD OF ZONING APPEALS
OF BALTIMORE COUNTY

OPINION

This is an Appeal by the Protestants from a decision of the Zoning Commissioner holding that Charles Doll and Ethel Doll, his wife, have a valid non-conforming use for the operation of a dog kennel at 1800 Belmont Avenue in Woodlawn.

The original Zoning Regulations prohibited a dog kennel in a Residence Zone and a dog kennel was defined as the keeping of more than three dogs. Mr. and Mrs. Doll are and have been, for a number of years, engaged in the raising and training of dogs. It is their contention that on January 2, 1945, they were maintaining a dog kennel, with more than three dogs, at the 1800 Belmont Avenue address and that they are therefore entitled to continue this use as non-conforming in this Residence Zone.

We find as a fact that Mr. and Mrs. Doll made only a casual use of the Belmont Avenue property prior to January 2, 1945. They did not maintain a permanent residence there and did not, in our opinion, establish a dog kennel at that location prior to January 2, 1945.

There was considerable testimony on both sides of the question. Most of it is based largely on memory of events of eleven years ago. Mr. Doll claims to have secured a kennel license from a County authority for the year 1944 but has no documentary proof of this fact. Photographs introduced in evidence have led us to the conclusion that the occupancy of the Belmont Avenue property by Mr. and Mrs. Doll prior to 1945 was, as previously stated, only casual and that they did not establish a kennel on the premises until after the effective date of the original Zoning Regulations.

In this connection it should be recalled that the law generally frowns upon non-conforming uses and one asserting a right to such a use has a

heavy burden of proof.

For these reasons we will sign an Order reversing the decision of the Zoning Commissioner and holding that no non-conforming use exists as claimed.

ORDER

For the reasons set forth in the foregoing Opinion, it is this 15th day of March, 1956, by the Board of Zoning Appeals of Baltimore County,

ORDERED, that the decision of the Deputy Zoning Commissioner dated January 20, 1956, to the effect that Charles Doll and Ethel Doll, his wife, have a non-conforming use for a dog kennel at 1800 Belmont Avenue, be and the same is hereby reversed and it is hereby determined that no such non-conforming use is in existence.

BOARD OF ZONING APPEALS OF BALTIMORE COUNTY

Carl F. Todd
Chairman

BALTIMORE COUNTY, MARYLAND
A Municipal Corporation

VS

IN THE
CIRCUIT COURT FOR BALTIMORE
COUNTY

Charles B. Doll, et al

Equity 39702

MEMORANDUM OPINION

In this case the County seeks to enjoin the Respondent from maintaining a kennel in an area zoned B-6. The County contends that a kennel cannot be maintained in an B-6 area unless there has been a special exception. Nowhere in the existing regulations is the term kennel defined. The term kennel does not have an accepted or settled common law meaning or a commonly understood meaning which would leave a person of ordinary intelligence in no doubt as to its purport. Webster defines a kennel as the place or house for the keeping of a dog or dogs. The County concedes that this definition of kennel is not the meaning intended by the framers of the Zoning Regulations. In the old Zoning Regulations a kennel was defined as a place where more than three dogs were kept but it is difficult to believe that a farmer who had four hound dogs on his property was thought to be maintaining a kennel. In any event, the old regulation was repealed and cannot serve as a limitation on or definition of the work "kennel" used in the present regulations. The regulations provide that a violation of the regulation shall be a misdemeanor. The Court has concluded that the regulation is so vague and uncertain that it is unconstitutional in that it fails to fix a reasonably ascertainable standard of guilt. See State vs. Mays, 182 Md. page 122. "A statute which either commands or forbids the doing of an act in terms so vague that persons of ordinary intelligence must necessarily guess at its meaning or differ as to its

NO PLAT
IN
THIS FOLDER