

Message clear in high court ruling

By TIM RICHARD

Three lessons for suburbanites stand out with brilliant clarity in the wake of the U.S. Supreme Court's recent decision in the Arlington Heights (Ill.) racial zoning controversy:

• If you are a homeowner fighting a proposed rezoning for low-cost or racially integrated housing, never let your friends say out loud that they oppose blacks in their town. If one of your neighbors starts to make a racial remark in a public hearing, strangle him on the spot.

• If your community expects to have the courts uphold its low density, single-family zoning, it had better have its legal house in order. Local government officials must follow their own rules of procedure if they expect their zoning decisions to stand.

• Arlington Heights hasn't really won yet. The supreme court remanded the case back to lower courts to decide if that village had violated a federal fair housing act—an issue that wasn't clearly decided in the lower courts.

ARLINGTON HEIGHTS is a village in northwest Cook County, about 26 miles from Chicago's loop. Like suburbs everywhere, it had tremendous population growth in the 1960s. Like suburbs everywhere, it had only 27 black residents in a population of 64,000 as of the 1970 census.

The Clerics of St. Viator, a religious order, decided in 1970 to devote some of its land to low and moderate income housing. The Viatorians struck a deal to sell a 15-acre parcel in Arlington Heights to a non-profit developer experienced in dealing with federal housing subsidies—Metropolitan Housing Development Corp. (MHDC).

MHDC came up with a plan called Lincoln Green, for 20 two-story buildings with a total of 190 units. The idea was that 100 units would be single-bedroom, likely to attract senior citizens. The remaining 90 would have two to four bedrooms.

Under the federal subsidy plan, MHDC made it clear that its marketing plan would be an "affirmative plan"—which is federal jargon for trying hard to achieve racial integration.

THE PROPERTY was, and always had been, zoned R-3, a single-family classification. MHDC asked for a rezoning to R-5.

The public hearings of the planning commission drew, in the dry verbiage of the Supreme Court decision, "large crowds." . . . Some of the comments, both from opponents and supporters, addressed the undesirability of introducing at the location in Arlington Heights low and moderate income housing, housing that would probably be racially integrated. That clearly was a mistake from the village government's point of view.

The planning commission, with only two dissenting votes, recommended against rezoning for Lincoln Green. The village board denied rezoning, 6-1.

MHDC and some black persons—including one who worked in Arlington Heights but lived 20 miles away—filed suit in federal district court to force rezoning.

THE SUPREME COURT noted that many opponents of rezoning focused on the zoning questions rather than the racial ones.

"First, the area always had been zoned single-family, and the neighboring citizens had built or purchased there in reliance on that classification," said the high court.

"Second, the village's apartment policy, adopted by the village board in 1962 and amended in 1970, called for R-5 zoning primarily to serve as a buffer between single-family development and land uses thought incompatible, such as commercial or manufacturing districts. Lincoln Green did not meet this requirement, as it adjoined no commercial or manufacturing district."

Hurting the village's case, however, was the fact that it "had no other current plans for building low and moderate income housing, and no other R-5 parcels in the village were available to MHDC at an economically feasible price."

THE VILLAGE WON in district court but lost before a divided Court of Appeals. The appeals court observed that refusal to rezone "would have a disproportionate impact on blacks. Based upon family income, blacks constituted 40 per cent of those Chicago area residents who were eligible to become tenants of Lincoln Green."

In short, the appeals court said the "ultimate effect" argument was controlling. It didn't matter what the village's intentions were; the effect of rezoning was sufficient to prompt the appeals court to rule against the village.

The village appealed to the U.S. Supreme Court and won—sort of.

THE HIGH COURT took cognizance of the political facts of life—"legislators and administrators are properly concerned with balancing numerous competing considerations" when they make zoning decisions.

Therefore, courts generally refrain from reviewing the merits of local government decisions—"absent a showing of arbitrariness or irrationality. But racial discrimination is not just another competing consideration."

"When there is a proof that a discriminatory purpose has been a motivating factor in the decision, this judicial deference is no longer justified."

The court found Arlington Heights had made a good, solid case for its refusal to rezone. The village had always, in the past and in the current case, stuck to its zoning policies.

So the supreme court found no evidence of racial discrimination as a motive in the village's decision.

It could have come out differently. Said the court: "For example, if the property involved here always had been zoned R-5 but suddenly was changed to R-3 when the town learned of MHDC's plans to erect integrated housing, we would have a far different case. Departures from the normal procedural sequence also might afford evidence that improper purposes are playing a role."

BUT THE VILLAGE hasn't won final victory.

The high court noted that MHDC and the black plaintiffs charged the village had violated two sections of the federal Fair Housing Act. Because the appeals court had proceeded "in a somewhat unorthodox fashion" and failed to decide that question, the Supreme Court sent the case back for further consideration.

There are theoretically no partisan politics on the U.S. Supreme Court. But a newspaper would be telling less than the full truth if it failed to point out:

• The five justices who ruled that proof of racially discriminatory intent was necessary were all appointees of Republican Presidents Eisenhower and Nixon: Lewis Powell, Warren Burger, Potter Stewart, Harry Blackmun and William Rehnquist.

• The justices who dissented in whole or in part were Thurgood Marshall, Byron White and William Brennan, all either appointed by Democratic presidents or, in Brennan's case, a known Democrat appointed by a Republican president.

• John P. Stevens, President Ford's lone appointee on the high court, did not participate because he had been a member of the appeals court when the Arlington Heights case was decided.

There's an old saying that "the Supreme Court watches the election returns." Thus, the court is probably aware that Democrat Jimmy Carter won the presidency and will be making his own appointments to the Supreme Court as the occasion arises.

Thursday, January 27, 1977

(SF-13A-R-8A) (T, Wb15A)

BUDGET YOUR SHOPPING! WATCH FOR GROCERY SPECIALS!

Mothers:
YOUR CHILD'S PRECIOUS FEET ARE YOUR RESPONSIBILITY

- There are no substitutes for quality and carefully fitted shoes
- Doctors' shoe prescriptions correctly fitted

GABE SHOES
FARMINGTON RD. AT 12 MILE RD.
KENDALLWOOD CENTER
GR 6-3401

Tech Hifi.

Here's how we guarantee your satisfaction.

Tech Hifi is the safest place to buy stereo because we guarantee your satisfaction, in writing.

We will give you an entire week at home with your new equipment to decide if it sounds as good as you expected. If you're not totally pleased, you can bring it back for a full refund.

We'll guarantee that you'll be satisfied with the price you pay at Tech Hifi. Within 30 days, if any store offering similar services advertises a lower price for the same components, we'll refund the difference (we're pretty confident of our low prices).

And our return policy also protects you against defects. If anything goes wrong with any component within 60 days, we'll either repair it for free in three working days or give you a new unit.

All of this we put in writing, right on your sales slip.

So why risk buying stereo somewhere else?

One reason we're so willing to guarantee your satisfaction at Tech Hifi, is because we're so confident about the music systems we sell. Take this great \$599 system with components from Nikko, Ohm and



\$599

Philips for example. It'll play all kinds of music with exceptional clarity and accuracy. The Nikko 6065 stereo receiver offers plenty of power, excellent FM and all the control facilities you'll ever need. Innovative scientific design means the Ohm D2 optimally-tuned loudspeakers provide unprecedented accuracy over the entire range of audible sounds. And the high performance Philips GA 427 belt-drive turntable will reproduce your records flawlessly.

tech hifi

- | | | |
|---------------------------------------|--|--|
| Livonia
35555 Plymouth Rd. | Dearborn
430 N. Telegraph | Southgate
12755 Eureka |
| Rochester
125 Main Street | East Detroit
20715 Kelly Road | Ann Arbor
605 E. William St. |
| Detroit
14615 West 8 Mile | East Lansing
519 E. Grand River Ave. | |
| Royal Oak
4526 No. Woodward | Mt. Clemens
35927 Grotto Ave. | |
- TECH HIFI STORES are also in Ohio, Pennsylvania, New Jersey, New York, Connecticut, Rhode Island, Massachusetts, Vermont, and N.H.

27% OFF ALL WALLPAPER

CALL IN ANY PATTERN FROM ANY BOOK.

Post Wallcovering Distributors

TROY 524-2200	ANN ARBOR 662-1140	SOUTHFIELD 353-7007
BLOOMFIELD 851-7110	ROCHESTER 651-2600	LIVONIA 522-7500
GROSSE PTE. 886-4050	FARMINGTON 474-1780	MT. CLEMENS 792-0800

PHONE ORDERS ACCEPTED • NO DEPOSIT
NO FREIGHT CHARGE • NO DELIVERY CHARGE • PAY WHEN DELIVERED TO YOUR HOME • ALL WALLPAPER AT FULL DECORATOR'S DISCOUNT • TO EVERYONE . . . 365 DAYS A YEAR

JANUARY CLEARANCE
10 to 40% OFF

Rattan Furniture

Reg. \$400
\$298.00 Set

Durable, genuine Philippine Rattan in natural or chrome finish. Upholstered foam-filled cushions. Choice of colors. Set includes Sofa, Lounge Chair, Sleepy Hollow Chair.

Bar & Bar Stools

Large selection available in Windsor, Rattan, Maple, and Plywood. Upholstered with handsome styling for comfort and durability. Perfect for kitchen, snack counters and family room.

Place Accessories

Big savings on the complete accessories at Jimmie's Rustics . . . your headquarters for fireplace needs. Tremendous selections . . . Come see for yourself!

Jimmie's Rustics

BIRMINGHAM
(N. 1171) Westline
(East W. of Midway)
522-7200
664-1919
DAILY 9:30-5:30
Thurs. & Fri. 10-7 P.M.

LIVONIA
2920 W. Six Mile
(East W. of Midway)
522-7200
664-1919
DAILY 9:30-5:30
Mon.-Fri. 10-7 P.M.

LITTLE GALLERY by Hartmark
GIFTS THAT SAY YOU CARE

A Thoughtful Gift for one you Love for Valentine's Day

Faceted Lead Crystal Pendants
Precision-cut faceted edges highlight the elegant full lead pendants. Each pendant hangs from a delicate 22-inch rhodium plated chain with barrel clasp. \$17.50

Ben Tom Shoppe

FARMINGTON CENTER Grand River at Farmington Road	NEWBURGH PLAZA Six Mile at Newburgh Livonia	WESTLAND CENTER Warren at Wayne	BRIGHTON MALL Grand River at I-96
--	---	---	---

DeRoy's
AFTER 27 YEARS ON BUCHANAN AVE. NOW AT FAIRLANE TOWN CENTER
593-3088
deroy ringsmiths
Sale through January 31!

Comprehensive HEALTH COUNSELING

FREE PREGNANCY TESTS

- Problem Pregnancy
- Birth Control
- Male & Female Sterilization
- Counseling

SPECIAL RATES

DETROIT
862-7222

EAST DETROIT
939-5260

Northville Downs
POST TIME NIGHTLY 8 p.m. (except Sunday)

JANUARY 1 THRU SAT. APRIL 8

DAILY DOUBLE AND 3 PERFECTAS

For Clubhouse, Dining Reservations
Call 349-1000

VILLAGE GREEN GOSSIP

DATE:
Friday Jan. 28th
Saturday Jan. 29th
Sunday Jan. 30th

VILLAGE GREEN CAUGHT WITH PANTS HALF DOWN

FRIDAY - SATURDAY - SUNDAY

ALL BLUE DENIM

Buy one pair and get the second pair FREE. All the brands.

SAVE 25% ON PAINTER PANTS

All the fashion colors

Painter cords and denim not included

SAVE 25% TO 50%

**SHIRTS • TOPS
BLOUSES • SWEATERS
JEWELRY ETC.**

Everything in the store at least 10% off including spring merchandise.

**Friday 9:30 a.m. - 9 p.m.
Saturday 9:30 a.m. - 5:30 p.m.
Sunday 12 Noon - 5 p.m.**

VILLAGE GREEN TIMES TO SAVE