

2. *Municipal Corporations*

Whenever validity of zoning classification is fairly debatable, legislative judgment should be controlling.

3. *Constitutional Law*

There is presumption in favor of validity of legislative enactment.

4. *Municipal Corporations*

Presumption in favor of validity is stronger in original zoning or comprehensive rezoning cases than it is in instances of piecemeal rezoning.

5. *Municipal Corporations*

It is not function of court to zone or rezone but only to determine whether legislative body has properly applied law to facts; but when there is no basis for reasonable debate, or there are no supporting facts in record, court can, and indeed should, declare legislative action to be arbitrary, capricious, discriminatory or illegal.

6. *Municipal Corporations*

There is a presumption that rezoning was reasonable; but in piecemeal rezoning cases there is also a counterpresumption that original zoning was well planned and designed to be reasonably permanent; and such counterpresumption may be overcome only by showing either error in original zoning or change in character of neighborhood; and unless one or the other, or both, is shown, presumption of reasonableness is destroyed.

7. *Injunction Zoning*

Where there was no proof of a basic mistake in original zoning or substantial change in character of neighborhood, question of validity of ordinance rezoning property was not even debatable, and rezoning was properly set aside; and since rezoning ordinance was invalid, injunction to restrain use pursuant thereto was also proper.

8. *Injunction Zoning*

Adjacent property owner had standing to attack validity of rezoning ordinance and to seek injunction against use of property for any purpose other than that permitted immediately prior to enactment of rezoning ordinance.

Marvin Mandel and Stanford H. Franklin, Baltimore (Mandel & Franklin, Harrison L. Winter, City Sol., Ambrose T. Hartman, Deputy City Sol., James B. Murphy, Asst. City Sol., Baltimore, on the brief), for appellants.

Linwood G. Koger, Jr., and Charles J. Josey, Sr., Baltimore (Juanita J. Mitchell, Baltimore, on the brief), for appellees.

Before Brune, C. J., and Henderson, Hammond, Prescott and Horney, JJ.
Horney, Judge.

This is another zoning appeal. In this instance, when the Circuit Court No. 2 of Baltimore City declared Ordinance No. 1612 of the Mayor and City Council of Baltimore (the City)—approved December 19, 1957—null and void and enjoined the Schneider Bedding Company (Schneider) and others from utilizing the property rezoned by the ordinance for any use not permitted immediately prior "to the enactment of the ordinance," the City and Schneider appealed.

Ordinance No. 1612 (the ordinance) purported to amend Sheet No. 45 of the Use District Map [Baltimore City Code (1950), Art. 40, entitled "Zoning," as revised by Ordinance No. 711, approved May 21, 1953], by changing the property known as 511-519 Wilson Street (the rezoned property), from a "Residential Use District" to a "Second Commercial Use District." While it was pending before the City Council, the ordinance, as required by law, was referred to the City Planning Commission (the Commission) and the Board of Municipal and Zoning Appeals (the Board) for their reports and recommendations. The Board recommended passage of the ordinance on the ground that the proposed change of use "could not adversely affect the neighboring properties." On the other hand, the Commission unanimously disapproved the ordinance on the ground that to allow a second commercial use in the residential use district in question "would not be to the best interest of the community and would be to the sole benefit of one property," and urged that "this spot use change" be not adopted. The City Council, after a hearing on the legislation, disregarded the recommendation of the