

Lawsuit to Challenge Suburban Zoning as Discriminatory Against the Poor

By DAVID K. SHIPLER
A lawsuit is being prepared by two city planners to challenge the constitutionality of suburban zoning laws that allegedly prevent the workingmen and the poor from living in hundreds of communities around major cities such as New York.

The planners argue that, by excluding apartment houses and requiring single-family homes to be built on large lots, suburban zoning has made housing too expensive for millions locked in the central cities, away from regions where jobs are growing at a rapid rate.

The suit is being prepared by Paul Davidoff and Neil Newton Gold, who have recently established the Suburban Action Institute in White Plains with grants from the Stern Family Fund and the Taconic Foundation.

Their efforts are the latest in a series of pressures on a style of suburban life that urban experts are increasingly viewing as a cause of the cities' woes.

Zoning Laws Cited

Edward J. Logue, head of the New York State Urban Development Corporation, has said that his powerful agency might move "quietly and carefully" in selected cases to override zoning laws and build housing for middle-income and low-income families on vacant suburban land.

The Regional Plan Association, in a report last November, blamed suburban zoning laws for contributing to the critical housing problems of New York and other cities in the area. It recommended that the power to zone be shared by counties and states as well as individual towns.

The President's Commission on Urban Problems, the President's Committee on Urban Housing and the National Advisory Commission on Civil Disorders all stressed in 1968 the need to build more low-income and middle-income housing around the cities to allow blacks to move out of the slums.

"To use the police power of the state to restrict access to jobs and housing," Mr. Gold said recently, "denies equal protection of the law."

On the other hand, the zoning techniques also preserve an attractive style of life in the suburbs, characterized by single-family homes with spacious lawns. The style is being jealously defended by suburbanites who are digging in and making the matter a major issue.

Observers in some suburban towns around New York say there is no quicker way to political oblivion than for a candidate to advocate relaxed zoning.

Mr. Gold and Mr. Davidoff are now choosing two or three towns as targets for their suit. The intention is to get a builder to file plans that would be rejected, and then go directly to the state and Federal courts.

Rule of Wealthy Noted

On the Federal level, the attack would be based on the 14th Amendment's guarantee of equal protection under the law. "The wealthy are using government to reserve a domain for themselves," Mr. Davidoff says.

On the state level, the two planners will attack the state legislation enabling municipalities to zone.

They believe there are precedents for their case. Mr. Davidoff, who has a law degree as well as one in planning, said that a 1926 Supreme Court decision in the case of *Euclid, Ohio, v. Ambler Realty Corporation* upheld the town's right to exclude industry, but noted that there might be occasions where the interest of a larger region must prevail.

In 1965, the Supreme Court of Pennsylvania struck down the zoning ordinance of Easttown, Mr. Davidoff said, on the ground that it inhibited the mobility of the area's population.

Ideally, according to Mr. Gold, towns will be selected

that have recently allowed new industry to enter, but have continued to exclude housing within the means of the industry's employees.

Job Centers Reported

The planners contend that 80 per cent of the jobs created during the last 20 years in the large metropolitan areas of the country have grown up in the suburban rings, not the central cities.

From 1952 to 1966, they say, 888,000 jobs were gained in the entire New York region, and only 111,000 of those were in

the city. Employment dropped by 50,000 in St. Louis and rose by 193,500 in its suburbs. The same pattern existed in Philadelphia, according to Mr. Gold and Mr. Davidoff.

They have just completed a study that found that 68 per cent of the land in Westchester County was zoned for lots of at least one acre each. This land accommodated only 4 per cent of the county's nonwhite population, while 80 per cent of the blacks lived on 9 per cent of the county's land.

There are sound fiscal reasons for the resistance of many

towns to zoning changes, as Mr. Davidoff noted recently when he observed that "every new family that comes in that doesn't have a high income and an expensive house is a burden to the community."

School System Strained

Large families place a stress on the school system that is not compensated by the tax revenue their housing earns. This is especially true if the housing is publicly financed and therefore entitled to partial or full tax abatement.

However, Mr. Gold and Mr.

Davidoff believe that opening up large quantities of vacant land in the suburbs would drive down the prices so that blue-collar workers could afford housing that is built without government aid.

And they stress that they are not proposing to do away with zoning, which they consider a useful tool, but just with what they consider its excessively restrictive aspects.

Both have written and done research for the President's Committee on Urban Housing and the Commission on Urban

Problems. Mr. Gold, who is 31 years old, was a speech writer for Senator Eugene J. McCarthy and a consultant for the National Committee against Discrimination in Housing.

Mr. Davidoff, 39, was a planner for New Canaan, Conn. ("where we adopted four-acre zoning," he says apologetically), wrote the residential section of New York City's zoning law, taught at the University of Pennsylvania and headed Hunter College's graduate program in planning.

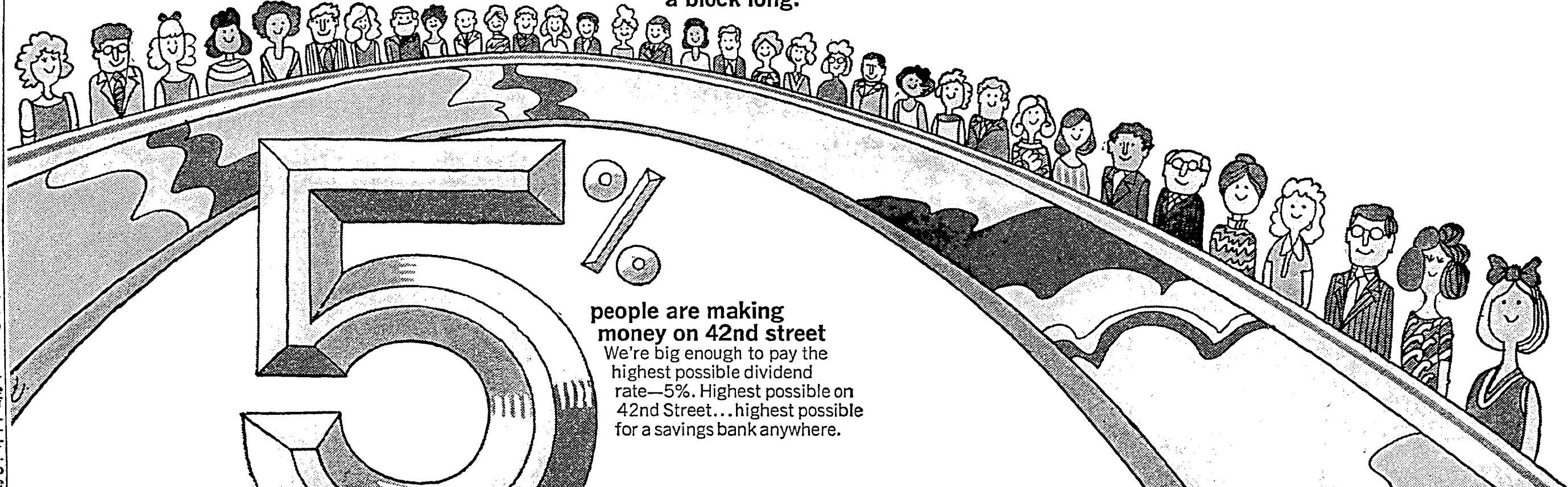
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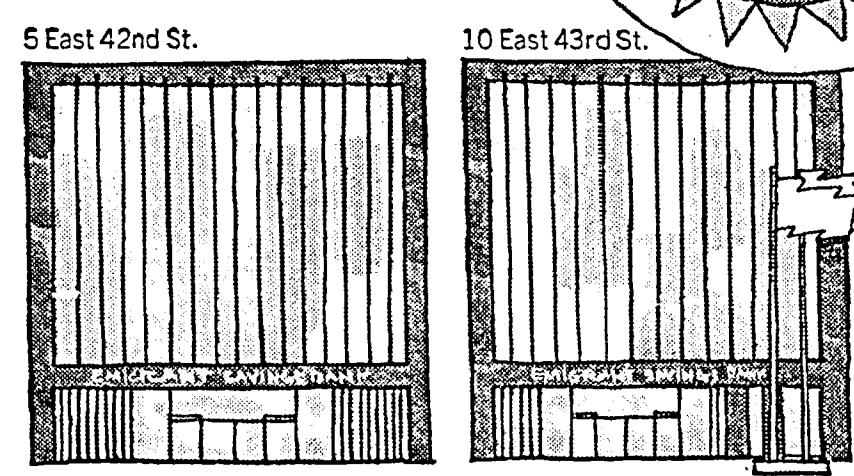


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