



Appeals of Baltimore City, and William A. Parr, Zoning Commissioner and Buildings Engineer, will move and make application to the Chief

Judge of the supreme court of the State of Maryland, and the supreme court of the State of Maryland to vacate, annul, recall and quash said purported allowance of an appeal granted April 17, 1933. Said application and motion will be made upon the following grounds, and each of them, to wit:

1. The judgment of the Court of Appeals of the State of Maryland is based on a non-federal ground, that is, the decision affirmed the decision in the lower Court to exclude from a residential use district a funeral home which was excluded by the provisions of an Ordinance No. 1247 of the City of Baltimore, approved March 30, 1931, and commonly known as the Zoning Ordinance. The Appellant, Jack Lewis, Inc., recognized the validity of said Zoning Ordinance by following the procedure provided for in said Ordinance, instead of refusing to recognize the validity of said Zoning Ordinance and applying for a mandamus to compel the issuance of a permit on the ground that the said Ordinance was unconstitutional.

2. No question of a federal nature was presented to the supreme court of the State of Maryland for consideration, as shown by the assignment of errors filed with the petition for appeal.

3. The supreme court of the State of Maryland was without jurisdiction in deciding this case, in that the supreme court of the State of Maryland in a subsequent case (Sugar v. The North Baltimore M. P. Church, et al) decided that it was without jurisdiction in appeals from the Baltimore City Court, even though it had rendered a decision in the instant case when the question of jurisdiction had not been considered.

Upon hearing of said motion, the Mayor and City Council of Baltimore, Wallace MacWilliams, Chairman, George W. Bahlke, William W. Cator, Albert L. Fankhanel and C. M. Zacharski, Constituting the Board of Zoning Appeals of Baltimore City, and William A. Parr, Zoning

Commissioner and Buildings Engineer, will rely upon all the records and papers on file in the above entitled action, the records and minutes of the supreme court of the State of Maryland, the purported allowance of an appeal to the United States Supreme Court, the petition for said appeal, and the assignment of errors filed in support thereof, and also on oral and documentary evidence to be adduced on the hearing of said motion.

R. E. Lee Marshall,  
City Solicitor  
~~Ernest D. Radwan~~  
Counsel for Appellees. Asst. City Solicitor

Service of copy admitted this  
1st day of May, 1933.

W. Frank Every  
~~A. Funderburg~~  
Counsel for Appellant.

SUPREME COURT OF THE  
UNITED STATES

TERM 1933

No. 98

JACK LEWIS, INC., a body corporate,

vs.

MAYOR AND CITY COUNCIL OF BALTI-  
MORE, WALLACE MacWILLIAMS, CHAIR-  
MAN, GEORGE W. BAHIKE, WILLIAM W.  
CATOR, ALBERT L. FANKHANEL and  
C. N. ZACHARSKI, Constituting The  
BOARD OF ZONING APPEALS OF  
BALTIMORE CITY, and WILLIAM A.  
PARR, ZONING COMMISSIONER AND  
BUILDING ENGINEER

A MOTION TO QUASH ALLOWANCE OF  
APPEAL.

Mr. Clerk:

*Please refer to  
R. S. Rice City Solicitor  
General D. D. Blodgett  
Counsel for Appellees.*

Service of copy admitted this 1st  
day of May, 1933.

*Wm. B. Smith*  
Counsel for Appellant.

*Filed May 2, 1933*

OFFICE OF THE CLERK,  
Supreme Court of the United States,  
Washington, D. C.

June 12, 1933.

R. Lee Waller, Esq.,  
Annapolis, Md.,

Dear Sir:

I write to advise you that the case of Jack Lewis, Inc. v. Mayor and City Council of Baltimore was docketed on June 9th as No. 138, October Term, 1933.

I have received from Mr. J. Purdon Wright, counsel for the appellants, forty copies of their brief opposing the motion to dismiss the appeal.

Under paragraph 3 of Rule 12 of the rules of this Court, the motion to dismiss the appeal should have been filed in your court. If this is so, I suggest that you immediately forward a certified copy of this paper to me, in order that it may be printed in accordance with the provisions of Paragraph 5 of Rule 12.

Yours truly,

CHARLES ELMORE CROPLEY, Clerk.

By

  
Assistant.

EPC-W

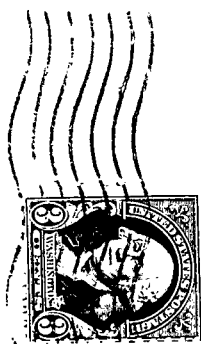
No. 98 At Term 1932

Office of the Clerk,  
Supreme Court of the United States,  
Washington, D. C.

James A. Young, Esq.,  
Clerk, Court of Appeals,

Letter reproduced  
from U. S. Supreme  
Court

ANNAPOLIS,  
Maryland.



OFFICE OF THE CLERK,  
Supreme Court of the United States,  
Washington, D. C.

June 14, 1933.

James A. Young, Esq.,  
Annapolis, Md.

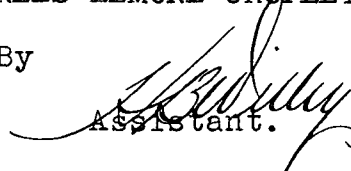
Dear Sir:

I acknowledge receipt of your letter of the 13th instant, enclosing a copy of "Motion to Quash Allowance" of Appeal in the case of Jack Lewis, Inc. v. Mayor and City Council of Baltimore, et.al., No. 138, October Term, 1933.

Yours truly,

CHARLES ELMORE CROPLEY, Clerk.

By

  
Assistant.

HBW-W

Law Offices  
**LOUIS S. ASHMAN**  
725-728 MUNSEY BUILDING  
Baltimore, Maryland

October 31, 1932

Hon. Carroll T. Bond  
Chief Judge, Court of Appeals of Maryland  
Annapolis, Maryland

Re: No. 98 and No. 112  
October Term, 1932

Dear Judge Bond:

I represent the appellant and the City Solicitor's Office of Baltimore City represents the appellees in case No. 112. J. Purdum Wright, Esquire, represents the appellants and the City Solicitor's Office of Baltimore City represents the appellee in case No. 98.

In both of these cases, the constitutionality of the last Zoning Ordinance of Baltimore City is in issue for the first time. I do not know what other issues are involved in Mr. Wright's case, but my case also involves the question of the application of a particular "use" restriction, the doctrines of estoppel in pais and laches, rulings on the evidence, and the scope and propriety of the decree appealed from.

I present these facts to the attention of your Honor with the statement that it is agreeable to Mr. Wright and me to have these cases assigned for argument in consecutive order, if it is agreeable to the Court of Appeals. However, Assistant City Solicitor Ernest Fadum to-day advised me that his preference is to the contrary.

Respectfully,

*Louis S. Ashman*  
Louis S. Ashman

*File in 98*

LSA:K



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**LOUIS S. ASHMAN**  
725-726 MUNSEY BUILDING  
*Baltimore, Maryland*

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*File in 98*

LSA:K

No. 98 Oct. Term, 1933

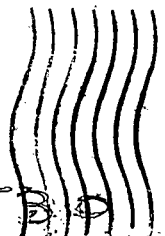
Letter from Clerk

U. S. Supreme Court

Office of the Clerk,  
Supreme Court of the United States,  
Washington, D. C.

R. Lee Waller, Esq.,  
Deputy Clerk, Court of Appeals,

ANNAPOLIS, Md.



Filed June 13, 1933

