

Case study 1



Legal suits and business A large warehouse, built in residential/light industrial zone in Anytown, USA, is proposed to be divided into studios and rented out. Prospective tenants include an artist sculptor, a commercial welder, a topless dance club, Alcoholics Anonymous, an outpatient treatment centre for AIDS patients and set of small storage units located outside are to be used as small county healthcare facility, as per the contract entered with the Anycounty. Meanwhile, the access road to the warehouse, maintained and operated by city owned housing development for low income group, has developed surface problem due to which my Mercedes Benz was damaged. My project is delayed mainly because of issues related to two suits are filed by against me.

1. The main issue is under neighbourhood covenant by neighbourhood association

2. Second one under the ‘ violation of municipal zone ordinance’ by the city. Looking from the business point of view, I think that my proposed use of the warehouse is a sound idea as the activities that are intended to start are for the benefit of the public. An artist sculptor would be an individual who would be quietly pursuing his artistic interests whereas the commercial welder would be providing services to neighbourhood, saving them time and effort. The topless dance club would again be a service provider in the area of entertainment. The other three activities of the tenants would be in the nature of services for the sick and the needy which again constitute a very vital part of the social setup.

From the legal angle, the suits filed against myself, seem to stand on flimsy ground. Since the warehouse is built on residential/ light industrial zone, it has the advantages of residential as well as light industrial covenants.

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Neighbourhood covenant states that only single family residences are allowed. No outside storage or activity is allowed. No treatment homes or treatment activities allowed. Citing the case of Hill v. Community of Damien of Molokai, N. M., 1996, No. 21715 (internet) where the case under neighbourhood covenant citing the clause of single family residence was filed against the community running a group home for AIDS patients. The case was awarded in favour of the community as it was held they did not violate either the restrictive covenant or under the Fair Housing Act. Hence, running treatment centre for AIDS patients and anonymous alcoholic in different studios of the warehouse is legal.

Case of High Ridge Hinkle joint Venture v. City of Albuquerque, N. M, 1998, No. 24, 297(internet) held that non storage activities outdoors were allowed under zoning ordinance permitting ' outside storage or activity'. It therefore follows that the County healthcare facility run from the small units constructed outside the main warehouse, is also legal.

The City zone ordinance states '...within an area zoned light industrial, the purpose is to create a wholesome environment for the developing areas adjacent to residential areas for the conduct of selective enterprises which do not create a hazard or are not offensive de to appearance or to the emission of noxious odours, smoke or noise. Permitted users are: manufacturing, fabrication, offices, service facilities and similar uses which creates benefit to local commerce and the development of additional employment'. This, therefore, by default makes commercial welding unit and dance club legitimate and which can operate as legal commercial ventures within the city zones.

We can therefore conclude that the suits filed by the neighbourhood

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association and the City are null and void.

Reference

Available: [8 September, 2007].