

## HIGH COURT BACKS A COMMUNES CURB

Upholds L.I. Ban on Sharing  
of a Home by More Than  
Two Unrelated Persons

Special to the New York Times

WASHINGTON, April 1 —

The Supreme Court upheld today the authority of a Long Island village to bar six unrelated college students from sharing a rented one-family house, rejecting claims that their constitutional rights of privacy and freedom of association were being violated.

Dividing 7 to 2, the high court held that Belle Terre, a Suffolk County community of 700 residents, had acted reasonably in zoning out all but one-family houses and forbidding their occupancy by more than two people who were not related by blood or marriage.

As a result of the ruling, similar residential communities elsewhere in the country will presumably be able to prohibit establishing of communes within their limits by enacting zoning restrictions like the one upheld by the Court.

The effect of the Belle Terre ordinance was to permit unmarried couples to live together in the village but to bar larger groups of unrelated tenants, who might or might not constitute a commune with different social standards. The local law also prohibited boarding houses, fraternity houses and apartments.

By its action, the Supreme Court reversed decisions by

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Federal District Court and the United States Court of Appeals for the Second Circuit, both of which had ruled that the village could not compel its residents to conform to a particular approved mode of living.

It was the first time in more than 45 years that the Court had ruled on a zoning issue. Since 1926, when it upheld broad zoning authority for localities, the Justices have generally declined to review decisions by local boards.

Justice William O. Douglas wrote for the majority that the police power exercised by local governments in zoning ordinances "is not confined to elimination of filth, stench and unhealthy places."

That power, Mr. Douglas continued, "is ample to lay out zones where family values, and the blessings of quiet seclusion and clean air make the area a sanctuary for people."

In one dissenting opinion, Justice Thurgood Marshall declared that the village "has, in effect, acted to fence out those individuals whose choice of life-styles differs from that of its current residents."

Justice William J. Brennan Jr. also dissented, but his separate opinion was based on a contention that there was no longer a real controversy involved because the students had moved out of the house and the landlords had not demonstrated that their economic prospects or legal rights had been impaired.

The case involved six students at the State University of New York at Stony Brook who leased a six-bedroom house in Belle Terre in 1971 and 1972 from Mr. and Mrs. Edwin Dickman. When the village ordered the landlords to comply with the ordinance, they and three of their tenants went to court to have it declared unconstitutional.

In response to the argument that three unmarried people can just as well constitute a family as two, Justice Douglas said that "every line drawn by a legislature leaves some out that might well have been included."

But Mr. Marshall maintained in his dissent that the ordinance "reaches beyond control of the use of land or the density of population and undertakes to regulate the way people choose to associate with each other within the privacy of their own homes."

In a relatively unusual decision day, the high court refused to take a single new case of the 1,000 or more pending for a hearing and decision on the merits, disposing of six without further proceedings and refusing to review lower court decisions in 70 others.

# Belle Terre Hails Ruling As Triumph for Privacy

By PRANAY GUPTA

Special to The New York Times

BELLE TERRE, L. I., April 1 — James Philbin, the Mayor of this tiny, tranquil village overlooking Long Island Sound, had just finished lunch today when someone phoned him with the good news.

John Leach, the village police justice, had also just finished lunch when his daughter, Ann, called. She had heard over the radio that the United States Supreme Court had upheld, 7 to 2, a village ordinance that permits no more than two persons unrelated by blood, marriage or adoption to live as tenants in a one-family house.

"We are certainly enormously pleased," Mayor Philbin said. "We see the decision as a vindication of charges that we were violating peoples' civil rights by insisting on the ordinance."

## Service to Country Seen

"Our main concern here is preserving the traditional residential atmosphere of Belle Terre," Mr. Philbin said. "I feel that in pursuing the matter to the Supreme Court we did a service to the nation as a whole because the issue of a community's right to privacy was truly crystalized and resolved."

Mr. Leach said he was relieved that the matter had been decided finally.

"Everybody had resented the issue," he said. There had not been anything like it before. I feel that the Court's decision protects the right of people to privacy. No one should be allowed to move into a nice community and tear down others' privacy."

Belle Terre, just north of Port Jefferson on the North Shore in Suffolk County, has 700 residents in 240 houses, many of which are Tudor-style and have no street numbers. Plenty of trees and lawns separate the houses and there is not one shop or commercial establishment. Indeed, the residents — most of them white and upper middle class — treasure their privacy to the extent that they do not even have home mail delivery. Everyone goes to the quaint old post office to pick up the mail.

Mayor Philbin said that for many years some residents had allowed students from the nearby State University of New York at Stony Brook to

live as paying guests or, in some instances, lease entire houses.

Last year, six Stony Brook graduate students leased a six-bedroom Tudor-style home from Dr. Edwin Dickman, a Port Jefferson dentist, for \$500 a month. Mr. Leach said many more students — friends of the tenants — lived on the premises and parked cars and motorcycles on the street, which was an inconvenience to other residents.

But Belle Terre, which was founded in 1910 as a summer colony, is zoned for one-family living to control population density and to limit parking, traffic and noise problems, Mayor Philbin said, although families are permitted to have guests—who may be unrelated—for comparatively long periods of time.