

# McLean Group Sues to Upset Zoning Change

By Everard Munsey  
Staff Reporter

CPYRGHT

Fourteen McLean residents asked the Fairfax Circuit Court yesterday to overturn the rezoning of the Merrywood estate for tower apartment buildings and to oust McLean Supervisor A. Claiborne Leigh from the County Board.

Citizens who are fighting hard to keep apartments out of McLean and off the Potomac Palisades have been preparing to sue ever since the Board of Supervisors granted the rezoning by a 5 to 2 vote April 18.

The rezoning of the estate that was Mrs. John F. Kennedy's girlhood home, and the charges of impropriety that followed also are to be investigated by a County grand jury on May 18.

The suit, which was filed against the Board and Merrywood owner Hugh D. Auchincloss, contends that Leigh's unexpected motion for approval of the apartments was "a nullity" because he had vacated his seat by moving from the Dranesville municipal district.

### State Code Cited

It asks the Court to declare Leigh's seat vacant.

The Virginia Code states that a person required to be a resident of a district to be elected to a certain office automatically vacates that office by moving to another area.

The suit lists Leigh's address as 1111 Washington

the Court to declare that the zoning for 1-acre residential lots, which had been in effect at Merrywood, continue to be the legal zoning.

However, Commonwealth's Attorney Robert C. Fitzgerald said that although a four-fifths vote is required under Title 3 of the code, the Fairfax County zoning ordinance was adopted under Title 2 which does not contain that provision.

The second reason says the rezoning was "arbitrary" in that it did not follow the County's apartment zoning criteria.

Thirdly, the zoning was "arbitrary, capricious, unreasonable, illegal and void because the action bore no substantial relation to the public health, safety, morals or welfare of the community or the neighborhood," the suit said.

Leigh said, however, that previous Court decisions, including one upholding the Board's rejection of apartment zoning on another McLean tract, had given the Board broad discretion in establishing zoning.

The suit was filed by Attorney E. A. Richard for Mr. and Mrs. Edward P. Morgan, Mr. and Mrs. John A. Brown, Mr. and Mrs. T. Ridder, Mr. and Mrs. George Southall, Mr. and Mrs. Robert W. Jenkins, Mr. and Mrs. Michael L. Bejerling, Mr. and Mrs. James F. Hoyle and Mr. and Mrs. James Miscampbell Jr.

Patton, Gilman, attorney, said Frederick Gray, former Virginia Attorney General, was expected to defend the rezoning.

Vertical stamp: RECEIVED  
Circular stamp: MAY 18 1964  
Rectangular stamp: MAY 18 1964  
Rectangular stamp: MAY 18 1964