

1/28/57

IN THE COURT OF COMMON PLEAS OF DELAWARE COUNTY, PENNSYLVANIA

BRINTON L. LIDDELL and ELEANOR : No. 1812
 L. LIDDELL, his wife, WESLEY J.
 SIMON, and PATRICIA A. SIMON, :
 his wife, ROBERT M. LACHMAN and
 LEATHA R. LACHMAN, his wife, :
 WILBUR NORMAN ANDERSON and MARIAN
 ORR ANDERSON, his wife, DONALD A. :
 HICKEY and DOROTHY E. HICKEY, his
 wife, VINCENT P. CARROLL and :
 ELEANOR K. CARROLL, his wife, and
 S. HERMAN COOPER and BESSIE S. :
 COOPER, his wife, :
 Plaintiffs :
 vs. : March Term, 1954
 SWARTHMORE SWIM CLUB, a Corporation, :
 Defendant : In Equity

P E T I T I O N

TO THE HONORABLE, THE JUDGES OF THE SAID COURT:

Swarthmore Swim Club, a Nonprofit Corporation, and the named Defendant in the above entitled case, presents this its Petition:

1. The Plaintiffs brought this equity proceeding in 1954 to attempt to prevent Defendant from operating a nonprofit and non-commercial Swim Club on premises at the lower or railroad end of Riverview Avenue in the Borough of Swarthmore, basing their complaint largely upon alleged prospective violation of Borough Ordinances.

2. After hearing, your Honorable Court entered an Order on December 9, 1954 and an Amended Order on December 29, 1954 of which copies are attached, being marked Exhibits A and B respectively.

3. Following said Orders, the Swim Club consummated

the purchase of the land in question and built and installed a swimming pool, with parking area, and dressing rooms, and was able to open the same on July 4, 1955.

4. The Swim Club has continued in operation through the Summers of 1955 and 1956 with a full 400 family membership and a continued waiting list.

5. The members of the Swarthmore Swim Club, all residents of the Borough of Swarthmore, represent a substantial proportion of the population of that Borough.

6. The Swarthmore Swim Club, in operation, has been a substantial benefit to the Borough of Swarthmore and its residents.

7. The operation of the Swarthmore Swim Club throughout the 1955 and 1956 seasons has been in accord with the Orders of your Honorable Court and without substantial interference with any rights of any other persons, be they the Plaintiffs or others whosoever.

8. The Swarthmore Swim Club has presently a waiting list of more than 50 families resident in the Borough from whom it feels the benefits of membership should not be denied.

9. Fifty additional family memberships will permit the Swarthmore Swim Club to pay off the balance of the \$20,000. it had to borrow, and to make certain further improvements.

10. Fifty additional family memberships will not adversely affect the health, safety, morals or general welfare of the Plaintiffs, and would best serve the ends of justice.

WHEREFORE, showing the above, Petitioner prays your Honorable Court to amend its Orders to permit 450 family memberships and such other relief as to the Court may seem proper.

BUTLER, BEATTY, GREER & JOHNSON

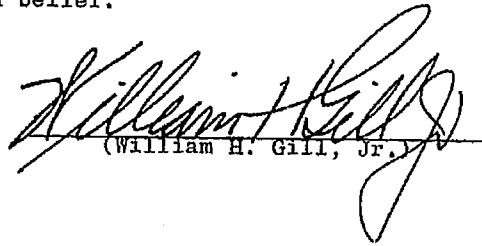
By: A. H. Johnson
Attorneys for Swarthmore Swim Club

COMMONWEALTH OF PENNSYLVANIA

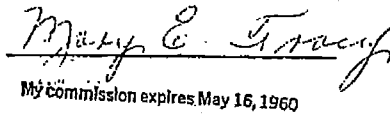
SS:

COUNTY OF DELAWARE

WILLIAM H. GILL, JR., being duly sworn according to law, deposes and says that the facts set forth in the foregoing Petition are true and correct to the best of his knowledge information and belief.


(William H. Gill, Jr.)

Sworn to and subscribed
before me this 28th day
of January, A. D. 1957.


My commission expires May 16, 1960

IN THE COURT OF COMMON PLEAS OF DELAWARE COUNTY, PENNSYLVANIA

BRINTON L. LIDDELL, et ux, : No. 1812
et al,

Plaintiffs :

-vs-

: March Term, 1954

THOMAS W. HOPPER, et al, :

Defendants : In Equity

DECREE NISI

AND NOW, December 9th, 1954, it is ordered and decreed
that:

1. The bill herein filed is dismissed as to the defendants,
Thomas W. Hopper, Birney K. Morse, Henry Wood, J. Roy Carroll,
Jr., Frank H. McCowan, Walter H. Nason and Amborse H. Van Allen,
Members of Council of the Borough of Swarthmore, Elliott Richard-
son, Secretary and Building Inspector of the Borough of Swarth-
more.

2. The bill herein filed is maintained as to the defendant,
Swarthmore Swim Club; the prayer for an injunction is refused;
the said Swarthmore Swim Club may erect, construct, maintain
and operate a swimming club, with pools, buildings, parking lot
and "play" or "sunning" area upon the tract of land situate on
the east side of Riverview Avenue, in the Borough of Swarthmore
aforesaid, adjacent to and adjoining the Pennsylvania Railroad
Company on the South and The Township of Springfield on the east,
under and subject to the following conditions, regulations and
requirements:

(a) Said property, with its appurtenances, shall not be
disposed of, sold, or otherwise alienated for any other recre-
ational or business purpose than a private swimming pool.

"EXHIBIT A"

X

(b) The membership of the Swarthmore Swim Club shall consist of no more than four hundred families; Swarthmore families shall be given preference in such memberships.

(c) The entire premises shall be enclosed with a cyclone fence, with appropriate safeguards, to prevent the entrance of persons, particularly children, when the pool is not in operation.

(d) In winter, when the pool is not in use, it shall be drained of all water.

(e) There shall be no parking on the public streets by users of said pool; adequate parking facilities for automobiles shall be provided by the Club upon its own property.

(f) A Public address system shall not be used upon the club premises; radios, television and other sound machinery shall be controlled in volume so that the sound thereof shall be confined to the Club property.

(g) Flood lights, if used, shall be so erected that the light therefrom shall not shine upon the properties of the neighbors.

(h) The Swim Club shall close each night not later than 10 o'clock P. M.

(i) When said premises is closed, all outside gates and doors shall be securely locked.

(3) The parties hereto shall each pay their own costs.

And the Prothonotary of Delaware County is directed to notify all parties hereto or their counsel of record of the filing of the foregoing findings of fact, conclusions of law and decree nisi, and, unless exceptions are filed thereto within twenty (20) days after receipt of such notice, the decree nisi shall be entered as the final decree in this case.

BY THE COURT:

Henry G. Sweney
President Judge

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et al, :
Plaintiffs :
-vs- : March Term, 1954
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Defendants : In Equity

O R D E R

AND NOW, December 29, 1954, the Decree Nisi entered December 9, 1954, be and the same is hereby amended in the following respects only:


1. There shall be erected around the pool, a cyclone fence, with appropriate safeguards, to prevent the entrance of persons, particularly children, when the pool is not in operation. The exact location of this cyclone fence, and the area to be enclosed thereby, shall be determined by this Court after recommendations by counsel for the Plaintiffs and for the Swarthmore Swim Club.

2. The Swarthmore Swim Club may initially have as family memberships the present 414 subscribers who are residents of the Borough of Swarthmore, provided that no vacancies shall be filled until by resignation or otherwise the membership shall have been reduced to less than the limitation of 400 families contained in the said Decree.

3. The bill herein filed is retained as to the Swarthmore Swim Club for the purposes of enforcing and reviewing the conditions, regulations, requirements and restrictions contained and provided in the Decree as amended.

By the Court:

Henry G. Sweney


President Judge

"EXHIBIT B"