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Lincoln Home Preservation Lawsuits

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August 2025

Abraham Lincoln's home at the northeast corner of Eighth and Jackson Streets is an iconic historic site. In 1887, Robert Lincoln, Abraham Lincoln's eldest and only surviving son, donated the house to the State of Illinois with the stipulation that it be well maintained and free for visitors. What seemed like a simple request later clashed with complex questions involving zoning laws and historic preservation.

In the 1960s, the Illinois General Assembly amended the Illinois Municipal Code to authorize municipalities to enact regulations to protect historic sites. Springfield's City Council responded by passing one of Illinois's first historic preservation ordinances to protect and preserve the four-block area containing the Lincoln Home historic site. Bounded by Capitol, Ninth, Edwards, and Seventh Streets, the new classification for historic zoning restricted general business development, allowing only residences, offices, churches, publicly owned information centers, and historical museums.

In 1966, property owners within the Lincoln Home area along Ninth Street petitioned the city of Springfield to build a Top's Big Boy drive-in restaurant, a hotel, and a wax museum. The city council denied the request because of the new H-1 historic zoning ordinance. The owners sued the city in the Sangamon County Circuit Court in two separate lawsuits, arguing that their property should be zoned for business use (B-2) because they could not expect a reasonable return for their property under historic zoning restrictions, especially given that Ninth Street was a commercial corridor. The city countered that it had an obligation to preserve the historic character of the Lincoln Home neighborhood.

The Sangamon County Circuit Court ruled for the property owners. The judges in both cases claimed to be sympathetic with the historic nature of the neighborhood but reasoned that the properties in question take their character from the commercial nature of Ninth Street and that limited zoning options amounted to confiscation of their property for public use without proper compensation.

The City of Springfield appealed directly to the Illinois Supreme Court, arguing that the lower court had declared parts of the Illinois Municipal Code unconstitutional. The Illinois State Historical Society and the Abraham Lincoln Association filed amicus briefs in support of maintaining the historical integrity of the Lincoln Home area. However, the Illinois Supreme Court denied the appeal and transferred the case to the 4th district appellate court, noting that the issue at hand "is no different than that in the typical zoning dispute and no substantial constitutional question is presented."

In *Rebman v. City of Springfield*, 111 Ill. App. 2d 430 (1969) and *M & N Enterprises, Inc. v. City of Springfield*, 111 Ill. App. 2d 444 (1969), the appellate court reversed the circuit court decisions. It ruled that the legislature's "passage of the historical sites legislation essentially created a new concept of public welfare and permitted the exercise of the police powers of the municipality for purposes of preservation and enhancement of historical areas." A decade later, the U.S. Supreme Court supported the Illinois decision in *Penn Central Transportation Company v. New York City*, 438 US 104 (1978), when it declared that historic preservation laws do not constitute taking property without just compensation, provided all reasonable use of the property was not denied.

The Lincoln Home historic site was transferred from the state to the National Park Service in 1972. It remains open and free of charge to visitors, as Robert Lincoln stipulated. Today, there are more than 80 Illinois communities with historic preservation commissions and programs.