EXPANDING PROTECTION AGAINST BLOCKBUSTERS THROUGH THE FIRST AMENDMENT

Margaret Wagner was indicted in the Criminal Court of Baltimore, charged with violating the Maryland blockbusting statute.[1] Despite the language of the statute, which provided for prosecution "whether or not acting for monetary gain,"[2] the court dismissed the indictment as fatally defective on the basis of *State v. Mason*,[3] which held that any indictment under the statute *must* allege monetary gain.[4]

The State of Maryland appealed to the Court of Special Appeals of Maryland, claiming that the indictment without the allegation of monetary gain was proper. The State argued that the statute was at least partially constitutional, that it was effective to the extent that it prohibited actions for monetary gain. The State contended that any indictment returned under a statute was constitutional only to the same degree as the statute upon which it was based, and that this indictment was within the constitutional interpretation of the blockbusting statute. Alternatively, the State argued the entire statute was constitutional—that it did not violate the first amendment[5] be-

---

1. MD. ANN. CODE art. 56, § 230A (1972). Subsection (a) states:

It is unlawful for any person, firm, corporation or association, whether or not acting for monetary gain, knowingly to induce or attempt to induce another person to transfer an interest in real property, or to discourage another person from purchasing real property, by representations regarding the existing or potential proximity of real property owned, used, or occupied by persons of any particular race, color, religion, or national origin, or to represent that such existing or potential proximity will or may result in: 1. the lowering of property values; 2. a change in the racial, religious, or ethnic character of the block, neighborhood or area in which the property is located; 3. an increase in criminal or antisocial behavior in the area; or 4. a decline in quality of the schools serving the area.

2. *Id.*

3. Criminal No. 35899 (Cir. Ct. for Baltimore County, July 1, 1969), *aff'd*, Mason v. State, 9 Md. App. 90, 262 A.2d 576 (1970).

4. *Mason* involved an indictment similar to that in *Wagner* for violation of the same statute. The court concluded that the statute only prohibited representations made by persons acting for monetary gain because, without that element, the statute violated first amendment rights of freedom of speech. Therefore, any indictment under this statute failing to allege monetary gain was fatally defective.

5. U.S. CONST. amend. I states: "Congress shall make no law respecting an

cause the language was narrowly drawn to include only speech related to the evil of blockbusting. With this construction of the statute, a prosecution for blockbusting activities without financial profit could be proper, and the allegation of monetary gain in the indictment was unnecessary.

Plaintiff challenged the statute on the first amendment freedom of speech ground that the legislature here dealt with a non-commercial area where government had no concern, alleging that the statute's effect was to unconstitutionally prohibit statements of advice or opinion about neighborhood situations. The Court of Appeals of Maryland was given the opportunity to judge the constitutionality of the Maryland blockbusting statute in *State v. Wagner*.[6]

The court evaluated the statute "on its face" and determined that the exact prohibition of the statute was unclear because there was no mention of the word "blockbusting" in the text of the statute. To connect the description of criminal activity in the statute with the practice of blockbusting, the court looked to the title and preamble of the Act for legislative intent.[7] The title of the Act[8] clearly showed that blockbusting was the object of the legislation. The preamble gave evidence of the elements of the crime[9] and the policy reasons which made the Act necessary.[10]

---

establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances."

6. 15 Md. App. 413, 291 A.2d 161 (1972).

7. "[I]t is well settled that the title of the Act can be used in conjunction with the body of the statute to ascertain its intent, purpose and the effect." *Id.* at 422, 291 A.2d at 165. *See, e.g.,* Unsatisfied Claim & Judgment Fund Bd. v. Bowman, 249 Md. 705, 241 A.2d 714 (1968); Truitt v. Board of Pub. Works, 243 Md. 375, 221 A.2d 370 (1966); Eisler v. Eastern States Corp., 186 Md. 251, 46 A.2d 630 (1946); Mayor & City Council v. Deegan, 163 Md. 234, 161 A. 282 (1932). Also, the preamble "may, like the title of the Act, be resorted to as an aid in construing the meaning and intent of a statute where its meaning is doubtful." 15 Md. App. at 422, 291 A.2d at 166. *See, e.g.,* National Can Corp. v. State Tax Comm'n, 220 Md. 418, 153 A.2d 287 (1959); Hammond v. Lancaster, 194 Md. 462, 71 A.2d 474 (1950).

8. "'Blockbusting' prohibited; penalty." MD. ANN. CODE art. 56, § 230A (1972).

9. In describing the purpose of the Act (Chapter 285 of the Acts of 1966), the title [preamble] specified that it was "to prohibit the practice of inducing the transfer of real property or discouraging the purchase of real property by knowingly representing the existing or potential proximity of property owned or occupied by persons of any particular race, color, religion or national origin or that this proximity of persons will result in certain happen-

The court looked to previous judicial definitions of blockbusting in order to justify the legislature's definition.[11] The thrust here was to show that despite the variance in written descriptions, everyone knew generally what constituted the practice of blockbusting. Also, the court acknowledged the undesirable effects of blockbusting on the community and stressed that blockbusting is an "evil" practice.[12] Finally, the court interpreted the language of the preamble stating that blockbusting occurs "usually for purposes of financial profit"[13] to mean that the legislature did not intend to restrict the crime only to activity for monetary gain.

The first amendment challenge was resolved in favor of the State. It is well settled that first amendment freedom of speech enjoys the protection of having a "preferred position" under law.[14] Government, however, retains a legitimate concern in preserving the public peace and safety of society.[15] Since freedom of speech is not absolute,[16] the legislature may properly limit the exercise of speech when it is part of conduct prohibited by reasonable legislation.[17]

---

ings affecting the use or enjoyment of the property, *this practice being generally known as 'blockbusting.'* "

15 Md. App. at 420, 291 A.2d at 164. The court saw this passage as the critical link tying together the language of the statute and its purpose.

10. The court quoted the preamble of the Act: "the practice known as 'blockbusting' is disruptive to the peace, tranquility, and general good order of the State of Maryland . . . . This practice cheats homeowners, increases intergroup tensions, promotes neighborhood instability, and creates ghettos which do harm to the citizens of Maryland . . . ." *Id.* at 420, 291 A.2d at 165.

11. The court quoted definitions of "blockbusting" from Summer v. Township of Teaneck, 53 N.J. 548, 251 A.2d 761 (1969), and from Brief for Appellee at 2, State v. Wagner, 15 Md. App. 413, 291 A.2d 161 (1972).

12. 15 Md. App. at 422, 291 A.2d at 166. "The legislature further characterized 'blockbusting' in the preamble as 'this unscrupulous practice, which utilizes and promotes panic, fear, and hate . . . .' " *Id.* at 420, 291 A.2d at 165.

13. *Id.* at 423, 291 A.2d at 166.

14. Terminiello v. City of Chicago, 337 U.S. 1 (1949); Thomas v. Collins, 323 U.S. 516 (1945); Murdock v. Pennsylvania, 319 U.S. 105 (1943).

15. United States v. O'Brien, 391 U.S. 367 (1968); Cox v. Louisiana, 379 U.S. 536 (1965); Prince v. Massachusetts, 321 U.S. 158 (1944).

16. Kovacs v. Cooper, 336 U.S. 77 (1949); Jones v. Opelika, 316 U.S. 584 (1942); Chaplinsky v. New Hampshire, 315 U.S. 568 (1942).

17. *See, e.g.*, Beauharnais v. Illinois, 343 U.S. 250 (1952). This case involved an Illinois law prohibiting racial and religious propaganda that tended to incite breaches of the peace. Plaintiff challenged the law on first amendment freedom of speech grounds. The Court held that if the legislation was reasonable, it was not necessary to consider the "clear and present danger" test usually used in free

The court in *Wagner* held that the Maryland blockbusting statute *was* reasonable because the speech prohibited by the statute was not mere conversations between neighbors, but rather, speech which formed part of a course of conduct known as "blockbusting."[18] The court cited *Giboney v. Empire Storage & Ice Co.*[19] to support the position that it "has long been fundamental that where speech is an integral part of unlawful conduct, it has no constitutional protection."[20] It may be difficult in some cases to decide whether speech should be viewed in isolation or as part of a course of conduct.[21] In *Wagner,* however, the court took great pains to characterize blockbusting as a "practice" and to stress the evil of blockbusting as unlawful conduct, thus bringing the Maryland statute within the *Giboney* rule and thereby withstanding the first amendment challenge.

To realize the impact of holding the Maryland blockbusting statute constitutional, it is necessary to compare the language of the Maryland statute with the federal blockbusting statute. *Wagner* held constitutional a blockbusting statute which allows prosecution of violators "whether or not acting for monetary gain."[22] In contrast, the federal blockbusting statute is restricted to activities done "for profit."[23] The courts have had some difficulty in justifying congres-

---

speech cases. The Court determined that this statute was reasonable because of a history of racial violence in the State; therefore, the statute withstood the first amendment challenge.

18. 15 Md. App. at 432, 291 A.2d at 166.

19. 336 U.S. 490 (1949). In *Giboney,* the picketing activities of an ice peddler's union were enjoined because the sole purpose of the picketing was to induce a company to agree not to sell ice to non-union peddlers. The Supreme Court held that picketing for this purpose was speech used as an integral part of unlawful conduct, and the picketing here was used in violation of a state statute forbidding agreements in restraint of trade.

20. 15 Md. App. at 423, 291 A.2d at 166.

21. *See* Joyce v. United States, 454 F.2d 971 (D.C. Cir. 1971); Sill v. Pennsylvania State Univ., 318 F. Supp. 608 (M.D. Pa. 1970); Speake v. Grantham, 317 F. Supp. 1253 (S.D. Miss. 1970), *aff'd,* 440 F.2d 1351 (5th Cir. 1971).

22. MD. ANN. CODE art. 56, § 230A (1972).

23. 42 U.S.C. § 3604(e) (1970) states that it shall be unlawful:

"For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, or national origin."

sional authority to pass the federal statute,[24] but it has been held constitutional under the enabling clause of the thirteenth amendment[25] as a rational means "to provide, within constitutional limitations, for fair housing throughout the United States."[26]

The federal blockbusting statute was passed to meet a "need for Federal action to compensate for the lack of effective protection and prosecution on the local level,"[27] and the words "for profit" were added due to concern that, without such limitation, serious first amendment problems would arise.[28] The federal statute was challenged on the first amendment ground that it made mere speech unlawful.[29] Several federal district courts have rejected this argument, holding that the "for profit" requirement under the statute made the activity "commercial,"[30] thereby putting the speech involved within the commercial exception to the first amendment.[31]

---

24. The federal blockbusting statute, 42 U.S.C. § 3604(e) (1970), was part of the Fair Housing Title of the Civil Rights Act of 1968. The Supreme Court found general congressional authority for that legislation in the thirteenth amendment by holding that housing discrimination against blacks constituted a "badge of slavery." Jones v. Alfred H. Mayer Co., 392 U.S. 409 (1968). The *Jones* case excluded the blockbusting provision from its inquiry, however, which left the lower courts to decide whether there was a "badge of slavery" involved in blockbusting. The real problem was that whites could bring suit under § 3604(e), and courts would be hard pressed to construe a blockbuster's activities against a white person as a "badge of slavery." The courts first confronted this problem in Brown v. State Realty Co., 304 F. Supp. 1236 (N.D. Ga. 1969). Instead of discussing "badges of slavery," the court in *Brown* focused on the stated legislative policy behind passage of the Act: "to provide, within constitutional limitations, for fair housing throughout the United States." *Id.* at 1240. The court then held that § 3604(e) was constitutional because the enabling clause of the thirteenth amendment justified congressional attempts to achieve this goal.

25. U.S. CONST. amend. XIII, § 2 states: "Congress shall have power to enforce this article by appropriate legislation." As expressed in the Civil Rights Cases, 109 U.S. 3 (1883), the enabling clause of the thirteenth amendment clothed "Congress with power to pass all laws necessary and proper for abolishing all badges and incidents of slavery in the United States." *Id.* at 20.

26. Brown v. State Realty Co., 304 F. Supp. 1236, 1240 (N.D. Ga. 1969); United States v. Mintzes, 304 F. Supp. 1305, 1313 (D. Md. 1969).

27. Legislative history of 42 U.S.C. § 3604(e) in U.S. CODE CONG. & ADM. NEWS, 90th Cong., 2d Sess. 1840 (1968).

28. United States v. Mintzes, 304 F. Supp. 1305, 1312 (D. Md. 1969).

29. United States v. Hunter, 324 F. Supp. 529 (D. Md. 1971), *aff'd,* 459 F.2d 205 (4th Cir. 1972), *cert. denied,* 409 U.S. 1104 (1973); United States v. Bob Lawrence Realty, Inc., 313 F. Supp. 870 (N.D. Ga. 1970), *aff'd,* 474 F.2d 115 (5th Cir. 1973).

30. *See* cases cited note 29 *supra.*

31. *See generally* Note, *Freedom of Expression in a Commercial Context,* 78 HARV. L. REV. 1191 (1965).

Speech that is involved in a commercial context does not enjoy the same protection of a "preferred position" afforded to expression of racial, religious, or political views.[32] The general rule is that when a person is engaged in "the market place of affairs rather than ideas,"[33] he is subject to valid regulatory legislation affecting ordinary commercial transactions.

Despite the language that activity under the federal blockbusting statute must be done "for profit," the courts have not clearly resolved exactly what activity gives rise to the commercial exception in the blockbusting area.[34] One federal district court held that "an honest answer to a question put by the owner of a dwelling"[35] was outside the commercial exception and thereby protected by the first amend- to mean "for the purpose of obtaining financial gain in any form,"[38] and *Brown v. State Realty Co.*[39] gave injunctive relief to petitioners where the blockbusters had received no actual profit.[40] *United States v. Bob Lawrence Realty, Inc.*[41] was the first case in which a United

32. Breard v. City of Alexandria, 341 U.S. 622 (1951); Jamison v. Texas, 318 U.S. 413 (1943); Valentine v. Chrestensen, 316 U.S. 52 (1942); George R. Whitten, Jr., Inc. v. Paddock Pool Builders, Inc., 424 F.2d 25 (1st Cir. 1970); New York State Broadcasters Ass'n v. United States, 414 F.2d 990 (2d Cir. 1969), *cert. denied,* 396 U.S. 1061 (1970); Halsted v. SEC, 182 F.2d 660 (D.C. Cir.), *cert. denied,* 340 U.S. 834 (1950).

33. Halsted v. SEC, 182 F.2d 660, 669 (D.C. Cir.), *cert. denied,* 340 U.S. 834 (1950).

34. Note, *Blockbusting,* 59 GEO. L.J. 170, 186 (1970); Note, *Legal Control of Blockbusting,* 1972 URBAN L. ANN. 145.

35. United States v. Mintzes, 304 F. Supp. 1305, 1312 (D. Md. 1969).

36. *Id.* Another case dealing with this problem was Abel v. Lomenzo, 25 App. Div. 2d 104, 267 N.Y.S.2d 265, *aff'd,* 18 N.Y.2d 619, 219 N.E.2d 287, 272 N.Y.S.2d 771 (1966), which involved a New York rule prohibiting blockbusting very similar to the federal statute. The case did not discuss a constitutional question but held that mere advice to prospective purchasers about the racial composition of the neighborhood did not violate the New York rule. The court said as long as the information was accurate and did not promote racial bias, it was permissible.

37. 304 F. Supp. 1305 (D. Md. 1969).

38. *Id.* at 1311.

39. 304 F. Supp. 1236 (N.D. Ga. 1969).

40. The conviction in the *Brown* case was for an *attempt* to blockbust. The blockbusters (real estate agents) did not succeed in causing the people they approached to sell their homes. The court held the failure to realize an actual profit because of no sale did not prevent conviction under the statute, because the prospect of commissions was inherent in every real estate listing. *Id.* at 1241.

41. 474 F.2d 115 (5th Cir. 1973).

States court of appeals decided the constitutionality of the federal statute. The federal district court ignored the commercial exception in upholding the federal statute against a first amendment challenge. That court held the statute regulated conduct, and any inhibiting effect it may have on speech was justified by the governmental interest in preventing housing discrimination.[42] The Court of Appeals for the Fifth Circuit relied on the commercial exception argument as well as the reasoning used by the district court in upholding the federal statute. Judicial treatment of the federal blockbusting statute indicates that courts are unsure of the limits of the commercial exception in the blockbusting area. The *Bob Lawrence* case suggests that courts, when dealing with first amendment challenges, may be willing to look beyond the commercial exception and strict interpretation of the words "for profit" to evaluate the *effect* of the conduct involved in blockbusting infringements.

The federal government is not alone in recognizing the need for blockbusting statutes; some states and municipalities have acknowledged the blockbusting problem and have enacted civil legislation to combat it.[43] Significant among municipal legislation is the Chicago ordinance held constitutional in *Chicago Real Estate Board v. City of Chicago.*[44] This ordinance was similar to the federal statute in

---

42. United States v. Bob Lawrence Realty, Inc., 313 F. Supp. 870 (N.D. Ga. 1970). The argument used in the lower court to sustain the federal statute was the same argument used to sustain the Maryland statute in *Wagner.* The *Bob Lawrence* decision was cited in *Wagner* in the court's first amendment discussion to support the constitutionality of the Maryland statute. 15 Md. App. at 423, 291 A.2d at 166. The Fifth Circuit decision in the *Bob Lawrence* case had not yet been rendered at the time *Wagner* was heard.

43. Some states have used civil rather than criminal statutes to prohibit blockbusting. *See, e.g.,* CONN. GEN. STAT. REV. §§ 20-320 (11), 20-328 (1969) and N.Y. EXEC. LAW § 296(3) (McKinney 1972). (These states have given state licensing agencies the power to revoke or suspend real estate brokers' licenses for blockbusting.) *See also* MASS. GEN. LAWS ANN. ch. 112, § 87AAA (Supp. 1972) and VT. STAT. ANN. ch. 26, § 2295 (Supp. 1973) (these states have prohibited only representations inducing sales which were falsely and fraudulently made).

44. 36 Ill. 2d 530, 224 N.E.2d 793 (1967). Another important blockbusting ordinance was the Teaneck, New Jersey ordinance upheld in Summer v. Township of Teaneck, 53 N.J. 548, 251 A.2d 761 (1969). The ordinance forbade a canvass or listing for sale of real property unless a prescribed form was filed with the township clerk prior to the date on which the canvass was to take place. There was no mention of the first amendment in upholding the ordinance, and the main issue in that case was whether the municipality had the authority to enact the ordinance.

prohibiting real estate brokers from soliciting sales of realty from white persons on the ground that loss of value would ensue because blacks had moved or were moving into a neighborhood. Free speech objections to this ordinance were rejected, despite its application only to real estate brokers necessarily operating for profit, on the ground that "[w]here speech is an integral part of unlawful conduct, it has no constitutional protection."[45] The court held blockbusting could be prohibited because it was part of the unlawful conduct of racial discrimination in housing.

There are striking similarities among the provisions of the Maryland statute and other state statutes which have dealt with the blockbusting problem by direct criminal statute.[46] For example: (1) The statutes are not restricted to real estate agents. The extent of coverage is against "persons," "corporations," "firms," or "associations."[47] (2) The statutes provide for prosecution of attempts as well as successful inducements.[48] (3) There is no mention of the word blockbusting in the statutes.[49] (4) The same language is used in the statutes to specify the types of prohibited representations which may constitute blockbusting.[50] There is, however, an important difference

45. Chicago Real Estate Bd. v. City of Chicago, 36 Ill. 2d 530, 552-53, 224 N.E.2d 793, 807 (1967). The court was able to ignore any requirement that the activity be done for profit by characterizing the practice of blockbusting as "a handmaiden of the other discriminatory practices declared unlawful in this ordinance." *Id.* at 553, 224 N.E.2d at 807. This is another example of blockbusting legislation which ostensibly requires monetary gain being upheld against first amendment challenge with the same argument used in *Wagner.*

46. ILL. ANN. STAT. ch. 38, § 70-51 (Smith-Hurd 1970); OHIO REV. CODE ANN. § 4112.02 (H) (9) (Page Supp. 1972); WIS. STAT. ANN. §§ 101.22 (2), (2m) (1973).

47. The Ohio and Wisconsin blockbusting statutes apply to "persons" only. OHIO REV. CODE ANN. § 4112.02 (H)(9) (Page Supp. 1972); WIS. STAT. ANN. §§ 101.22 (2), (2m) (1973). The Illinois blockbusting statute applies to "any person or corporation." ILL. ANN. STAT. ch. 38, § 70-51 (Smith-Hurd 1970). The Maryland blockbusting statute applies to "any person, firm, corporation, or association." MD. ANN. CODE art. 56, § 230A (a) (1972).

48. ILL. ANN. STAT. ch. 38, § 70-51 (Smith-Hurd 1970); OHIO REV. CODE ANN. § 4112.02 (H)(9) (Page Supp. 1972); MD. ANN. CODE art. 56, § 230A (1972); WIS. STAT. ANN. §§ 101.22 (2), (2m) (1973).

49. ILL. ANN. STAT. ch. 38, § 70-51 (Smith-Hurd 1970); OHIO REV. CODE ANN. § 4112.02 (H)(9) (Page Supp. 1972); MD. ANN. CODE art. 56, § 230A (1972); WIS. STAT. ANN. §§ 101.22 (2), (2m) (1973).

50. The Maryland, Ohio and Wisconsin blockbusting statutes all list these four descriptions which blockbusting representations may take in order to be prosecuted under the statute: 1. the lowering of property values; 2. a change in the racial, religious, or ethnic composition of the block, neighborhood, or area

in that nowhere in these other state statutes is there mention of monetary gain. In the absence of this language, each of these statutes may be construed to include non-monetary gain activities, as was the Maryland statute. Because there have been no cases construing these statutes to date, one can only speculate as to how they will be interpreted.[51]

Courts that have evaluated blockbusting statutes seem anxious to uphold the statutes whenever possible because of the widely recognized undesirable effects of blockbusting. Some courts have used the commercial exception to the first amendment to uphold blockbusting statutes against free speech objections when the statute required activity done "for profit."[52] Other courts, even when limited by profit activity language, have gone beyond the commercial exception to uphold blockbusting statutes. These courts have used the argument that any speech involved in blockbusting was part of unlawful conduct.[53] Because these decisions view prevention of the unlawful conduct of discrimination through blockbusting as more important than

---

in which the property is located; 3. an increase in criminal or antisocial behavior in the area; and 4. a decline in the quality of the schools serving the area. MD. ANN. CODE art. 56, § 230A (1972); OHIO REV. CODE ANN. § 4112.02 (H) (9) (Page Supp. 1972); WIS. STAT. ANN. §§ 101.22 (2), (2m) (1973).

51. There are several reasons why there have been no cases litigated under these statutes to date. The procedures under the statutes may inhibit many people from filing complaints because of the bureaucratic lag in time before securing relief. The Wisconsin statute provides for a Department of Industry, Labor, and Human Relations which must make an investigation before judicial review of a complaint. WIS. STAT. ANN. §§ 101.22 (2), (2m) (1973). The Ohio statute provides for an Ohio Civil Rights Commission which investigates blockbusting complaints. OHIO REV. CODE ANN. § 4112.02 (H)(9) (Page Supp. 1972). *See also* Lakewood Homes, Inc. v. Board of Adjustment, 23 Ohio Misc. 211, 52 Ohio Op. 2d 213, 258 N.E.2d 470 (C.P. of Allen County 1970), where the court, commenting on the Ohio blockbusting statute, said that the procedure for violations was so cumbersome that many victims thought it was not worth making a complaint.

Even prosecutions under statutes with no elaborate procedure may be difficult to obtain because of the requirement that the offense be proved beyond a reasonable doubt. *Legal Control of Blockbusting, supra* note 34, at 162. An additional reason for lack of prosecutions is the hesitancy of local prosecutors to prosecute white collar criminals. *Blockbusting, supra* note 34, at 174.

52. *See* Brown v. State Realty Co., 304 F. Supp. 1236 (N.D. Ga. 1969); United States v. Mintzes, 304 F. Supp. 1305 (D. Md. 1969).

53. *See* United States v. Bob Lawrence Realty, Inc., 313 F. Supp. 870 (N.D. Ga. 1970), *aff'd*, 474 F.2d 115 (5th Cir. 1973); Chicago Real Estate Bd. v. City of Chicago, 36 Ill. 2d 530, 224 N.E.2d 793 (1967).

adhering to the strict limitation of "for profit" language, it is possible to read these cases as an indirect recognition that blockbusting need not necessarily involve monetary gain.

The Maryland statute takes the next logical step and includes the language "whether or not acting for monetary gain"[54] in its blockbusting statute. *State v. Wagner* is important because it held the Maryland statute, with its unique language, constitutional. The decision held that the statute was to be construed to include non-monetary gain activity, and also recognized that blockbusting statutes no longer need include restrictive profit language to withstand first amendment challenges. *State v. Wagner* is the latest step in combating blockbusting and insuring enforcement against blockbusters who seek ways to evade the laws.[55]

M. Deborah Benoit

---

54. MD. ANN. CODE art. 56, § 230A (1972).

55. *Legal Control of Blockbusting, supra* note 34, at 170.