

FINDINGS AND DECISION
OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

INTERNATIONAL DISTRICT ECONOMIC
ASSOCIATION, ET AL.

FILE NO. S-81-020

from an interpretation of the Director
of Department of Construction and Land Use

Introduction

An interpretation of the zoning code as applied to the use of the American Hotel at 514 King Street by the Union Gospel Mission was requested by the International District Economic Association (IDEA). The Director of the Department of Construction and Land Use (Director) issued an interpretation which was appealed by Union Gospel Mission. The Director withdrew that interpretation and published a second interpretation, the subject of this decision, from which an appeal was filed by IDEA. Union Gospel Mission, International District Improvement Association (Inter*Im), International District Housing Alliance (IDHA), Gerry P. Velasco, Bill Pykonen and Clark Robinett intervened.

The appellant exercised its right to appeal pursuant to Chapter 24.10, Seattle Municipal Code.

Parties to the proceeding were: Appellant, IDEA, represented by George A. Kresovich, Hillis, Phillips, Cairncross, Clark & Martin, P.S.; the Director by Elizabeth A. Edmonds, Assistant City Attorney; Intervenor Union Gospel Mission, by A.T. Wendells, Wendells, Freolich, Power & Lakefish; and Intervenor, Inter*Im, IDHA, Velasco, Pykonen and Robinett by Rodney L. Kawakami, attorney at law.

This matter was heard before the Hearing Examiner on August 31, 1981. Post hearing briefs were submitted extending the time for decision.

For purposes of this decision, all section numbers, unless otherwise indicated, refer to the Seattle Municipal Code.

After due consideration of the evidence elicited during the public hearing, the following findings of fact and conclusions shall constitute the decision of the Hearing Examiner on this appeal.

Findings of Fact

1. Union Gospel Mission, a Christian, non-profit organization, purchased the American Hotel located at 514 King Street.

2. The authorized use of that facility, established by permit is as a hotel.

3. The actual use of the facility, for at least the past 13 years, has been as a facility providing month-to-month residence and transient accommodations. Approximately 85-90% of the occupancy has been month-to-month and the remainder transient. Many of the month-to-month tenants have resided at the American Hotel for many years.

4. The Union Gospel Mission purchased the property intending to provide short term housing for women, women with children and families. The current tenants would be permitted to remain and the occupancy would be changed as vacancies occurred.

5. Daily fees would be charged for room rentals based on the cost of operating the hotel. Union Gospel Mission would seek contributions from others to provide free room when people could not pay the set fee.

6. No services other than shelter would be regularly provided. Those needing clothing or food would be referred, either to another Union Gospel Mission facility or elsewhere. While the staff would attempt to provide a supportive environment, no counselling or other rehabilitative social service would be available.

7. Likely users of the short term housing are expected to be those who have arrived in town looking for work but without sufficient resources to use private hotels.

8. The Articles of Incorporation of the Union Gospel Mission include as an object and purpose "the preaching of the gospel of Jesus Christ by conducting rescue mission work in the City of Seattle, and to carry on such work as may be necessary or convenient for the spiritual, moral and physical welfare of any of those with whom it may work...."

Providing short term or emergency shelter is believed by the director to be consistent with this purpose and with the Biblical commandment to "love they neighbor" by providing for his or her physical needs.

9. The Director issued an interpretation, at the request of IDEA, determining that the proposed use would constitute a change of use from hotel to halfway house. Union Gospel Mission appealed that interpretation.

10. After hearing evidence from Union Gospel Mission about the proposed use, which the Director had not had available when his interpretation was made, he withdrew that interpretation and issued the Reconsideration of the Director. In the Reconsideration the Director determined that the proposed use does not fit within the definition of a halfway house and more appropriately falls within the definition of hotel.

11. "'Use' means the purpose for which land or a building is designed, arranged or intended, or for which it is occupied or maintained, let or leased." Section 24.08.220(1.)

12. "'Hotel' means a building in which at least fifty percent of the gross habitable floor area is used for sleeping." Section 24.08.090(7.)

13. "'Halfway house' means an establishment operated with full-time supervision for housing resident persons who, by reason of their mental or physical disability, addiction to drugs or alcohol, or family and social adjustment problems, require a transitional nonmedical treatment program for rehabilitation and social adjustment. For purposes of this subtitle, a nonmedical treatment program consists of counseling, vocational guidance, training, group therapy and other similar rehabilitative social services. These services shall not include drug and/or alcohol detoxification. Monitoring the taking of prescription medication shall be permitted. Programs providing alternatives to imprisonment, including prerelease, work-release and probationary programs which are under the supervision of a court, state or local agency, are included within this definition." Section 24.08.090(1.)

14. "'Boarding, lodging, or rooming house' means a building, other than a hotel, where meals and/or room or lodging are provided for compensation for seven or more nontransient persons." Section 24.08.030(6.)

15. The Morrison Hotel, owned by the Seattle Housing Authority, is classified as a hotel for zoning purposes.

Conclusions

1. The proposed use and the building fit within the code's definition of "hotel" so that is the appropriate use classification unless it fits within some other more specific use classification as defined in the code. See Parnell v. Thompson, 91 Wn.2d 591, 589 P.2d 1235(1979).

2. Appellant urges that the essential character of the proposed use is most closely related to a halfway house. The evidence shows the proposed use to have no attributes of a halfway house as defined by Section 24.08.090. Appellant suggests that the use proposed is an institutional social service as opposed to a private use. The code definitions do not take into consideration whether a use is privately owned or "institutional." The record shows, in fact, that at least one other short term housing facility classified as a hotel is publicly owned.

3. Intervenors contend that in determining whether a change of use has occurred the Director should look at the last actual use rather than the use established through permits.

4. Section 24.10.070 requires the Hearing Examiner to accord substantial weight to the interpretation of the Director. The case cited, State ex rel. Meany Hotel v. Seattle, 66 Wn.2d 329 402 P.2d 486 (1965), is in apposite. Since no clear error is shown, the Director's determination that the authorized use is the use from which to measure change must stand.

5. Even were the former actual use appropriately utilized a change has not occurred. Intervenors argue that the former, actual use more nearly conformed to the classification of "boarding house." Section 24.08.030(6.) excludes a hotel from that definition. Since the building's use was clearly within the "hotel" definition even before the change of ownership, it may not be a boarding house. Further, the housing was provided to transient persons which also makes the boarding house definition inapplicable.

6. In response to appellant's invitation to consider the purpose of the special review district, it should be noted that those regulations only overlay the regular provisions leaving the underlying provisions intact unless specifically changed. Appellant cited no change in the definitions and classifications of uses.

Decision

The determination by the Director of the Department of Construction and Land Use is affirmed.

Entered this 25th day of September, 1981.

M. Margaret Klockars
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Deputy Hearing Examiner

Notice of Right to Appeal

The decision of the Hearing Examiner in this case is the final administrative determination by the City. Any further appeal must be filed with the Superior Court within 14 days of the date of this decision. Vance v. Seattle, 18 Wn.App. 418 (1977); JCR 73 (1981).