

FINDINGS AND DECISION

OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

THE ARCHEY-PARKSIDE CORPORATION

FILE NO. S-79-006

from a ruling of the Superintendent
of Buildings

Introduction

The appellant, Archey-Parkside Corporation, filed an appeal from the decision of the Superintendent of Buildings to issue a demolition permit for the Grand Union or Roberts Hotel at 108-4th Avenue South.

The appellant exercised its right to appeal pursuant to Section 25.40, Ordinance 86300, as amended by Ordinance 104795.

Parties to the proceeding were: Archey-Parkside Corporation, Thomas D. Archey, President, represented by Charles W. Mertel, Stafford, Frey and Mertel, attorneys at law and the Superintendent of Buildings represented by Andre Wooten, assistant city attorney.

This matter was heard before the Hearing Examiner on April 4, 18 and 26, 1979.

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. The Superintendent of Buildings published notice of intent to issue a demolition permit for the structure known as the Roberts or Grand Union Hotel located at 108-4th Avenue South on March 6, 1979.

2. Notice of appeal was filed by Thomas D. Archey, president, on behalf of Archey-Parkside Corporation March 20, 1979.

3. The issuance of a demolition permit is the enforcement action taken by the Superintendent of Buildings following his 1971 order to the then owner to repair or demolish a building unfit for human habitation or other use under the Housing Code.

4. The appellant has owned the subject building since December, 1978, and has secured the services of a team of consultants including an architect, structural engineer and others to study and plan the preservation and rehabilitation of the building.

5. An environmental impact statement (EIS) was prepared to address the environmental impacts of either repairing or demolishing the subject property pursuant to the Superintendent's 1971 order. The final EIS was filed November 15, 1978.

6. The Roberts or Grand Union Hotel is a building of historic significance recognized by its inclusion in the International Special Review District, Pioneer Square Historic District and National Register of Historic Places as a Category I Building.

7. According to the EIS the demolition action would be inconsistent with the Seattle 2000 Commission's historic preservation objectives, the International District Plan, the Pioneer Square Historic District Plan and with at least part of the stated purposes of the International Special Review District and the Pioneer Square Historic District.

8. The EIS showed that unavoidable adverse impacts would be caused by the demolition of the building in the elements of the environment of land use, aesthetics and archaeological/historical.

9. The Superintendent necessarily chose to satisfy public safety considerations over land use, aesthetics and historic where it appeared that both could not be satisfied because of lack of financial resources.

10. The appellant presented conceptual plans for renovation and a proposed schedule and is seeking financing and tenants.

11. Certain precautions and protections have been instituted by the appellant including endorsement of the City as an additional insured on \$1,000,000 of premises liability insurance, a barricade of the elevated 4th Avenue sidewalk and covering of the Yesler sidewalk, security patrol of the building and closing of points of possible entry. An agreement providing for indemnification of the City by the appellant is close to completion.

12. Certain building conditions present imminent hazard to passers-by or persons entering the building. The Superintendent's representative, Dave Walton, and appellant's structural engineer agree that certain conditions must be corrected immediately. The Superintendent's representative believes that one additional condition may exist, the bowing of the west wall, which may pose a hazard to persons on the lower 4th Avenue South sidewalk and in the bus (east) lane of traffic and recommends that the sidewalk and lane be closed. The agreed upon conditions will be corrected as soon as the contractor is available to do the work.

Conclusions

1. It is the Superintendent's duty to enforce the Housing Code for the protection of the public. He is given discretion by Chapter 5 as to the means by which the enforcement shall be carried out. Even were there no discretion, the public policy expressed in the State Environmental Policy Act requires that he consider and evaluate the significant environmental impacts of his decision. The EIS disclosed a number of unavoidable adverse impacts from demolition that could be avoided by preservation. The basis for the Superintendent's decision had to have been the seeming lack of an economically viable alternative.

2. The evidence adduced in the hearing of the appellant's actions in assembling a design team and initiating certain public safety steps show that there is a potentially viable alternative. If the further steps proposed to protect the public safety are carried out, the Superintendent's decision should be reversed.

3. Therefore, the matter should be continued to ascertain if measures have been fully implemented to remove the conditions which the Superintendent's and appellant's representatives agreed exist, as follows:

South side

1) Loose bricks, particularly at the top of the wall, be removed or grouted solid.

2) The vertical cracks under windows be grouted and tuckpointed.

East side

3) Loose bricks enclosing the attic space be removed or secured.

4) The stones at the northeast corner be secured to the building.

5) The chimneys be checked and secured or removed if necessary.

North side

6) The roof overhang be tied back and rotting members be replaced.

7) The tin fascia be secured.

8) The wall adjacent to the "failed" interior bearing wall be tied into the building and the beam at the second floor be shored to eliminate risk of collapse.

West side

9) The bricks at the location of the street lintel be removed and the consequences of the beam's condition be evaluated with a report to the Superintendent's representative of the results and proposed action.

10) The roof overhangs be secured and any rotting members be replaced.

11) Straps with anchor bolts added at the vertical crack in the masonry walls in the southwest stairwell.

General

12) Secure against further deterioration of the structure, which includes roof covering; covering windows, doors, and miscellaneous openings in walls; covering opening into basement at exterior stair (southwest corner); and tuck pointing particularly bad areas which include about 10-15% of the south wall, 5-10% of the east wall, and the sill area of the "bay window" on the west wall.

13) Continue City as additional insured on \$1,000,000 insurance policy.

14) Remove combustible debris.

15) Take necessary measures to close Yesler Way sidewalk in front of building.

16) Continue security patrol.

17) Take action necessary (survey or other measurement) to determine the extent, if any, of bulge in the west wall. Provide results of measurement to the Superintendent's representative (Walton) and confer as to necessity for closing 4th Avenue sidewalk and/or bus lane. Obtain assistance of Building Department in securing permits from Engineering Department or the appropriate responsible department as deemed advisable.

Decision

This matter is continued to 9:00 a.m. June 20, 1979, for review of compliance with the above listed measures. In the event of new public safety considerations or lack of consensus as to actions needed, at the request of either party the hearing will be reconvened prior to that date.

Entered this 1st day of May 1979.

M. Margaret Klockars
M. Margaret Klockars
Deputy Hearing Examiner

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Following hearings and a decision continuing the matter for review to June 20, 1979, additional hearings were held June 20 and July 12, 1979.

After due consideration of the additional evidence elicited during these public hearings, the following additional findings of fact and conclusions shall, with those previously entered, except as modified, constitute the decision of the Hearing Examiner.

Findings of Fact

1. All items specifically set forth in Conclusion No. 3 of the previous decision have been complied with or continue to be satisfied.

2. The abatement order underlying the decision to issue the demolition permit entered March 31, 1971, has been substantially complied with.

3. Appellant stipulates that the structure is not presently fit for human habitation. Since the owner has no intention of making it available for occupancy until it is completely renovated the items in the abatement order regarding sanitation, light, heat and ventilation are inapplicable. Furthermore, unapproved stoves and hot plates and accumulated debris creating a fire hazard have been removed.

4. Deflected flooring, roof, window and door conditions will be corrected during the renovation process. The roof covering has been repaired sufficiently to decrease the rate of deterioration of the building.

5. Completion of the renovation process was initially contemplated for late 1980. Subsequent delays may have made that infeasible.

6. The appellant is in the process of negotiating a lease of the building to King County and others.

Conclusions

1. Items cited in the order of abatement and by the Building Department's representative as high hazard items in their danger to the public and the preservation of the building have been repaired and the order substantially complied with. Therefore, the decision to issue a demolition permit for the building should be reversed.

2. So long as a good faith effort to move ahead with renovation of the building is continued and the building's condition, with respect to hazards to the public or its preservation, does not materially worsen no demolition permit should be issued.

Decision

The appeal is GRANTED and the Superintendent's decision is reversed.

Entered this 25th day of August, 1979.

M. Margaret Klockars
M. Margaret Klockars
Deputy Hearing Examiner