

## FINDINGS AND DECISION

### OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

GLENN SAFADAGO

FILE NO. S-84-002

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

#### Introduction

Appellant, Glenn Safadago, appeals the interpretation of the Land Use Code by the Director, Department of Construction and Land Use, as it applies to property at 1229 - 10th Avenue West.

Parties to the proceedings were: appellant, pro se; the Director represented by Ann Martin and intervenors, Gerald A. Peterson and Harold W. Mather, Sr., represented by John E. Keegan, Cohen, Andrews, Keegan and Goeltz, P.S.

This matter was heard before the Hearing Examiner on January 28, 1985.

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

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

#### Findings of Fact

1. Appellant requested a formal interpretation of the Land Use Code as it applies to his property at 1229 - 10th Avenue West to determine whether the property is a legal building site. He appealed the Director's decision that it does not qualify as a legal building site.

2. The property in question is the East 76 feet of Lot 3, Block 10, Northern Addition. The area of the property is approximately 2,280 sq. ft.

3. The site is within an SF 5000 zone with a minimum lot size of 5,000 sq. ft.

4. Lots 1, 2 and 3, Block 10, Northern Addition were in common ownership in 1892. A residence was constructed at approximately that time at 1235 - 10th Avenue West on the eastern portion of Lots 1 and 2.

5. After 1910 but before 1914, the west 40 ft. was segregated from the east 80 ft. on the three lots. Then in 1914, there was a further segregation to add 4 ft. of the eastern parcel to the western parcel leaving the east 76 ft. of Lots 1, 2 and 3 as one lot and the west 44 ft. as one lot.

6. City building permit records for an alteration of the residence in 1910, to enclose a porch in 1911 and to work on a roof in 1924 do not show a legal description.

7. City records show a building permit to demolish the garage accessory to the residence on the property in 1979. The lot was described as the east 76 ft. of Lots 1 to 3.

8. The dimensions of the existing house are shown as 37 by 37 in Director's Exhibit number 7 from the assessor's records and 40 by 42 in Director's Exhibit number 4, an attachment to appellant's letter to the department. With either dimension the

house would be situated on the eastern portion of both Lots 1 and 2.

9. Over the years there has been a number of transfers of ownership. All transfers have been of the east 76 ft. of the 3 lots together. There has been no transfer of Lot 3 independent of the others.

10. The east 76 ft. of the 3 lots was treated as a unit for assessed value according to property tax records maintained in the state archives for the years 1938 through 1973.

11. Appellant's Exhibit 1, obtained from the archives at the University of Washington, which is titled Real Property Assessment and Tax Roll and is for the year 1950 does show a separate listing for the east 76 ft. of each of Lots 1, 2 and 3. The sheet also has a separate listing for the west 44 ft. of each of Lots 1, 2 and 3. The account number for the east 76 ft. of Lots 1, 2 and 3 is the same and it is different from the account number for the west 44 ft. of those lots. On the same record are numerous entries under the same name or ownership but with different account numbers within that ownership. The receipt number for the payments of tax on the east 76 ft. of the 3 lots is the same. Because of these factors it appears more likely that the record is a method of assessment record keeping than tax segregations.

#### Conclusions

1. Section 23.88.20E4 provides that the interpretation by the Director be given substantial weight by the Hearing Examiner and review on that the burden of establishing the contrary be upon the appellant. Appellant attempted to prove that the property in question satisfies the provision of Section 23.44.10 B, which would permit a single family dwelling unit to be established on a lot that does not satisfy the minimum lot area if:

1. The lot was established as a separate building site in public records of the County or City prior to July 24, 1957 by deed, contract of sale, mortgage, property tax segregation, platting or building permit.

Appellant relied on a property tax segregation prior to 1957 to establish that requirement. There is no competent evidence even of an informal segregation. Therefore, it is unnecessary to determine whether the formal process need have been followed. As appellant has not sustained his burden of proof, the Director's decision should be affirmed.

#### Decision

The Director's decision that the subject property does not qualify as a legal building site for a single family residence is affirmed.

Entered this 11th day of February, 1985.

  
M. Margaret Klockars  
Deputy Hearing Examiner

#### CONCERNING FURTHER REVIEW

The decision of the Hearing Examiner in this case is the final administrative determination by the City, and is not subject to reconsideration except to correct errors on the ground of fraud, mistake, or irregularity in vital matters. Any request

for judicial review must be filed with the Superior Court pursuant to Chapter 7.16, RCW, within fourteen days of the date of this decision. Akada v. Park 12-01 Corporation, 37 Wn. App. 221 (1984); JCR 73. Should such request be filed instructions for preparation of a verbatim transcript are available at the Office of Hearing Examiner. The appellant must initially bear the cost of the transcript but will be reimbursed by the City if the appellant is successful in court. Instructions for preparation of the transcript are available from the Office of Hearing Examiner, 400 Yesler Building, Seattle, Washington 98104.