

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

In the Matter of the Appeal of

MR. & MRS. JACK BRIGGS

FILE NO. S-77-018

from a ruling of the Superintendent  
of Buildings

The appeal is DENIED and the Findings  
and Decision of the Superintendent of  
Buildings are affirmed.

Introduction

The appellants, Mr. & Mrs. Jack Briggs, filed an appeal from the ruling of the Superintendent of Buildings intending to grant a use permit for the demolition of an existing two-story residence and construct a three unit building on property located at 1540 43rd Avenue East.

The appellants exercised their right to appeal pursuant to Section 25.40, Ordinance 86300, as amended by Ordinance 104795 (hereinafter Zoning Ordinance).

Parties to the proceeding were: Mr. & Mrs. Jack Briggs, appellants, represented by Richard R. Wilson of Hillis, Phillips, Cairncross, Clark & Martin, P.S.; Joyce Kling representing the Superintendent of Buildings, Richard Chapin of Inslee, Best, Chapin and Doezie, representing Joseph A. Canavan and Management Sciences, Inc., applicant.

This matter was heard before the Hearing Examiner on November 8, 1977.

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. On October 4, 1977, the applicant filed for a use permit to construct a 3 unit building and demolish an existing residence located at 1540 43rd Avenue East. Notice of the Superintendent's intention to grant the use permit was published on October 6, 1977.

2. The legal description of the subject property is: Lot 14 in Block B of Replat of John J. McGilvra's Third Addition to the City of Seattle and Lot 42 in Block 27 of Lake Washington Shore Lands.

3. Management Sciences, Inc. the applicant, executed a declaration of condominium, pursuant to R.C.W. 64.32, in 1976 creating Lakeview Lanai which was to be developed in two phases. Phase I was to be the existing apartment building and Phase II was to be the development of the single-family residence.

4. Appellants contend that at the time of creation of the condominium, applicants/declarants reserved a 40 x 80 foot parcel resulting in a split of ownership between two entities and requiring compliance with the subdivision ordinance. Because no short subdivision was made pursuant

to the ordinance they contend the granting of a use permit would violate the Seattle Zoning Ordinance.

5. Appellants further contend that the proposed lot coverage of 1,690 square feet violates the bulk requirements of 21A.35 based on a 40 x 80 foot parcel.

### Conclusions

1. Section 25.2(b) of the zoning ordinance provides that a use permit shall issue only if the Department is satisfied that the plans filed conform to the requirements of the zoning ordinance and other pertinent laws and ordinances.

2. The short subdivision requirements must be met when there is "the division of land into four or less lots, tracts, parcels, sites, or subdivisions for the purpose of sale or lease, development, or financing, and shall include all resubdivision of previously platted land, and properties divided for purpose of sale or lease of townhouse units." Section 3.17, Ordinance 105636.

3. The development of the condominium in two phases does not itself result in a division requiring compliance with the subdivision ordinance even though specified property is to be developed under each phase as no new division or configuration of the land took or is to take place. The lots were already platted and no lines were changed. The legal description of the property in phase II which included all of one lot and only a portion of the second was to restrict the placement of any new building resulting from phase II to that specific property not to change the configuration.

4. However, if the declaration of condominium which divided development into two phases did result in a subdivision without compliance with that ordinance a use permit could be issued if it were determined that the public interest will not be adversely affected. Section 32, Ordinance 105636.

5. Article 21A of the zoning ordinance (formerly the Seattle Shoreline Master Program) applies to this application restricting lot coverage to 35%.

6. "Lot", as defined in Section 3.13 of the ordinance, is: "A platted or unplatted parcel of land unoccupied, occupied or to be occupied by a principal use or building and accessory buildings together with such yards and open spaces as are required by this ordinance."

7. Here, the "lot" to be considered is comprised of Lot 14, Block B and Lot 42, Block 27 with dimensions of 40 feet by 319.78 feet, as described on the application, Superintendent's exhibit #1. These two lots together comprise a buildable site so bulk calculations should be based upon the two lots taken together.

8. These two lots were not listed in the plot plans and building and use permits issued in 1958 and 1959, (Superintendent's Exhibits 2a, 2b, 3, 4, 5) for construction of the apartment building now in phase I. Lot size and bulk requirements of the 1923 zoning ordinance for that building were met by Lots 11, 12, and 13 in Block B and Lots 39, 40 and 41 in Block 27. The two lots were listed in the application for a permit to construct a covered walkway and trellis in 1976 but were not necessary to meet lot size or bulk requirements then. Because they were not required areas then they can now be used, in their entirety to meet the requirements for this use. Therefore, the proposed plan meets the bulk requirements of the ordinance.

Decision

The appeal is DENIED and the Findings and Decision of the Superintendent of Buildings are affirmed.

Entered this 16<sup>th</sup> day of November, 1977.

Margaret Klockars  
Margaret Klockars  
Deputy Hearing Examiner

Notice of Appeal

The decision of the Hearing Examiner in this case is the final administrative determination and any further appeal must be made to the courts.