

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

In the Matter of the Appeal of

CATERING ADVISORS, INC.,

FILE NO. M-84-002

from a decision of the Pike Place
Market Historical Commission

Introduction

Appellant, Catering Advisors, Inc., d/b/a Athenian Inn, appeals the decision of the Pike Place Market Historical Commission to deny a certificate of approval for a sign for the Athenian Inn.

The appellant exercised its right to appeal pursuant to Chapter 25.24, Seattle Municipal Code.

Parties to proceedings were: appellant, represented by Louise and Robert Cromwell, officers and owners, and the Pike Place Market Historical Commission by James Fearn, assistant city attorney.

This matter was heard before the Hearing Examiner on September 13, 1984.

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 shall constitute the findings of fact, conclusions and decision of the Hearing Examiner on this appeal.

Findings of Fact

1. The Cromwells have planned since 1967 to paint the front of the Athenian Inn which is located in the main arcade of the Pike Place Public Market. In February or March, 1984, they applied for a certificate of approval for a design depicted in a drawing prepared by the sign company. The drawing was shown to the Pike Place Market Historical Commission (Commission) which rejected the readerboard style with old time lettering for the upper border. The remainder of the new signing consisting of new signs on the windows, door, and further menu information on the panels, though extensive, was deemed not inappropriate for the part of the Market where it is located and for the Athenian Inn's character and history.

2. A certificate of approval was issued April 24, 1984, for the proposed signage from the top of the door down. The document noted "(t)he upper signage border is not approved."

3. The issue of the upper border was referred to the Commission's design committee which met with Mr. Cromwell to work out acceptable lettering. Mr. Cromwell understood, from comments made by committee members, that agreement was reached that the acceptable character of lettering would be that used in an advertisement and on menus. Therefore, he had the sign painted.

4. The sign as painted has Athenian Inn painted three times across the top border without capitals.

5. On August 11, 1984, the Commission issued its recommendation that the certificate of approval be denied. It found that the applicant did not meet the requirements of Section III, G in the Pike Place Market Historical Commission Guidelines, to wit:

1. Signs shall be simple, clear and of modest size.
2. Signs shall relate physically and visually to their location.

6. Appellant filed its appeal on August 10, 1984.

7. Kenneth MacInnes, Commission chairman, explains that it is the repetition of the title that violates the Guidelines. When the whole facade is considered, the sign is not simple and clear.

8. The Commission has denied five other applications for certificates of approval for signs on the basis that the name appeared more than once.

9. The Cromwells want the name three times to clearly identify their restaurant and separate it from the place next door and because the placement of one title is difficult to do given the limited height of the letters and the location of the neon sign.

Conclusions

1. The Hearing Examiner has jurisdiction over this matter.
2. Section 25.24.080 provides the standard of review to be used by the Hearing Examiner.

The Hearing Examiner may reverse or modify an action of the Commission only if he finds that:

- A. Such action of the Commission violates the terms of this chapter or rules, regulations or adopted pursuant to the authority of this chapter; or
- B. Such action of the Commission is based upon a recommendation made in violation of the procedures set forth in this chapter or procedures established by rules, regulations or guidelines adopted pursuant to the authority of this chapter and such procedural violation operates unfairly against the applicant.


3. Appellant does not allege any violation of procedural requirements or of the Seattle Municipal Code or Guideline terms. The Cromwells simply urge that confusion led to the premature painting of the border and that the repetition is needed practically and aesthetically.

4. As the Hearing Examiner's authority to reverse or modify the Commission is sharply limited so that aesthetics and individual practicality cannot be considered and, further, appellant produced no facts supporting a violation of procedural or other rules or regulations, the Commission's decision must be affirmed.

Decision

The decision of the Commission is affirmed.

Entered this 27th day of September, 1984.


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.