

## FINDINGS AND DECISION

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

In the Matter of the Appeal of

ROBERT R. BRAUN, JR.

FILE NO. H-87-010  
DCLU NO. H865000

from a decision of the Director  
of the Department of Construction  
and Land Use pursuant to Title 22,  
Subtitle II, Seattle Municipal Code

#### Introduction

Robert R. Braun, Jr. appealed a November 16, 1987 Order of the DCLU Director which sustained a Notice of Violation dated November 24, 1986. The Notice alleged housing code violations at premises known as 714 7th Avenue.

The appellant exercised the right to appeal pursuant to Section 22.206.230, Seattle Municipal Code.

This matter was heard before the Hearing Examiner on January 29, 1988.

Parties to the proceedings were: appellants pro se and by Gordon Jacobson, Esq.; and the DCLU Director by Mark Summers, code compliance officer.

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

#### Order

#### Findings

1. This appeal concerns premises known as 714 - 7th Avenue, a 69 - unit apartment building owned by Robert R. Braun, Jr. and Gordon W. Jacobson, Esq.

2. By Notice of Violation dated November 24, 1986, DCLU indicated 11 categories of "observed violations and required corrections" for the subject property. Within the "light and ventilation," "sanitation", "electrical system" and other categories, DCLU listed two or more specific violations.

3. On January 12, 1987, DCLU Director's Representative Swanigan conducted a hearing per property owners' request to reconsider the November 24, 1986 Notice of Violation. By Housing Code Order of the Director dated November 16, 1987, the November 24, 1986 Notice was primarily sustained.

4. The Hearing Examiner finds that during the January to November 1987 interim clarification and conciliation efforts between the parties were underway.

5. By submittal received in the Office of Hearing Examiner December 15, 1987, the property owners submitted this appeal. The Notice of Appeal stated one "general objection" and seven more particularized objections. References were to the November 1986 Notice of Violation.

6. The Hearing Examiner set the matter for public hearing date of January 29, 1988 and issued notice thereof to the parties. At the hearing before the Hearing Examiner, appellant owners appeared pro se and the DCLU Director by Mark Summers, code compliance officer.

7. At said hearing, the following resolutions were obtained regarding allegations in the Notice of Violation:

- A. Regarding appellant's general objection, all Notice of Violation references to unit 1 or 3 should be revised to refer to single unit 1-3.
- B. Appellant's particularized objections were resolved as follows:

i. Appeal Item 2(c) regarding the lack of impervious surface for splashbacks and countertops was withdrawn by appellant.

ii. Appeal Item 3(c)(29) regarding broken exterior siding on the east side of the building was resolved by DCLU's withdrawal of the item. DCLU indicated that a subsequent inspection had revealed repair of the item.

iii. Appeal Item 5(a) questioned whether the use of the term "throughout meter room" included the raceway wiring. DCLU assured appellant that notice of meter room violations was not directed at the raceway wiring, whereupon appellant withdrew this item of appeal.

iv. Appeal Item 5(a)(5), regarding "improperly installed drier outlet in laundry," was withdrawn by appellant. Appellant indicated that the unused 220 volt outlet will be removed.

v. Regarding Appeal Item 5(a)(6), DCLU explained that in its present coiled configuration the wiring to a gas heater was unsafe whereupon appellant decided to withdraw the appeal of this item.

vi. Appeal Item 5(b)(3), alleging improper electric panel circuit connections, was withdrawn by appellant as a result of the clarification in response to their Appeal Item 5(a), noted in subparagraph B(iii) herein.

8. Appellant maintains Appeal Item 6 (e) related to the category of Inadequate Fire Safety. The Notice of Violation states as the issue:

Protect verticle openings with not less than one-hour fire-resistive construction or by fixed wire glass set in steel frames: kitchen window opens into vent shaft of unit 311.

Appellant's position is that the existing structure meets code conditions in existence at the time that the c.1910 building was constructed. Citing Seattle Municipal Code Section 22.200.030, DCLU indicated that all buildings must comply with the current safety requirements.

#### Conclusions

1. Due to the vintage of this matter, the Hearing Examiner has jurisdiction of this matter pursuant to Seattle Municipal Code Title 22.

2. Former Seattle Municipal Code Section 22.20.230(B) requires that this Hearing Examiner decision be made upon the same basis as the DCLU Director's decision

provided, that the Superintendent's (sic)

correct and the burden of establishing the contrary shall be upon the appellant.

3. Former Seattle Municipal Code Section 22.200.030 provided that the Housing Code

shall apply to all buildings which are used, designed or intended to be used, for human habitation...together with appurtenant structures and premises, now in existence or hereafter constructed.

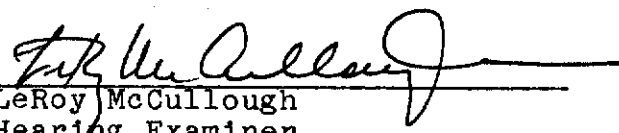
See also present Seattle Municipal Code Section 22.200.030. It is undisputed that the subject building is used or intended for human habitation. Appellant presented no evidence or information contrary to the former or present code section cited by DCLU.

4. The Hearing Examiner further accepts and incorporates into this order by reference the withdrawals and stipulations of Finding 7 above.

Decision

The DCLU decision as to Finding 8, above is AFFIRMED.

Entered this 8th day of February, 1988.

  
LeRoy McCullough  
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. Should such a 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.