

FINDINGS AND DECISION

OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

SEATTLE GARDEN CENTER

FILE NO. M-85-002

from a decision by the Pike
Place Market Historical
Commission

Introduction

Seattle Garden Center appealed a decision by the Pike Place Market Historical Commission to deny the Garden Center's request to add the sale of loose and arranged cut flowers to the existing use.

The matter was heard before the Hearing Examiner on April 22, 1985.

Parties to the proceedings were as follows: appellant by Kenneth Plante, manager; and the Pike Place Market Historical Commission by Tom Fawthrop, pike place market coordinator.

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

Findings of Fact

1. The Seattle Garden Center operates a business at 1600 Pike Place. The use, approved in April 1983, includes the wholesale and retail sale of (a) garden products such as seed, bulbs, soil; (b) gardening tools and equipment; (c) supplies associated with the feeding of wild birds, and (d) live and cut Christmas trees, natural boughs and crafted holiday decorations.

2. March 13, 1985, the Garden Center presented a request that the Pike Place Market Historical Commission approve expansion of the use to include the sale of arranged and loose cut flowers. On the same day, the Commission denied the request. The Certificate of Denial, dated March 26, 1985, stated that "the specialties of the Garden Center should be maintained as is and there is no compelling reason to change them..." The Garden Center submitted this appeal.

3. Appellant urged that the sale of cut flowers would be financially beneficial to the Garden Center, as for example, by offsetting seasonal lulls. According to the Commission representative, the Commission decided that the proposal change would adversely affect the farmers in the area and the general character of the Garden Center. By way of particular illustration the Commission representative estimated that approximately 60 percent of a neighboring farming concern's winter income came from the sale of cut flowers.

Conclusions

1. The Hearing Examiner has jurisdiction of this appeal pursuant to Chapter 25.24, as amended, Seattle Municipal Code.

2. Section 25.24.080 provides that the Hearing Examiner may reverse or modify a Pike Place Market Historical Commission action only if the action:

...violates the terms of this chapter
or rules, regulations or guidelines
adopted pursuant to this chapter; or
...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...this chapter and such procedural violation operates unfairly against the applicant...


3. According to Pike Place Market Historical Commission Guidelines (Guidelines) the Commission's major goal is to preserve the Market as a place for farmers to sell their own produce. Guidelines, Section I.A. The Guidelines continue by stating that the first priority is the "sale of locally grown food products and the sale of meat,...fruit...produce, flowers and plants by owner-operators."

4. Seattle Garden Center urges in this appeal that approved sale of cut flowers is in keeping with the Guideline priorities, and is economically viable. However, the Garden Center did not show that the Commission's denial of the application violated the Chapter 25.24, Seattle Municipal Code terms, guidelines or procedures. The Examiner is satisfied from a review of the Guidelines' statements of priorities that the appropriate emphasis in this case is on owner produced items, which emphasis militates against appellant's case.

Decision

The Commission's decision is AFFIRMED.

Entered this 2nd day of May, 1985.


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 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.