

FINDINGS AND DECISION

OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

Godefroy Realty, agent
for UNAM Investment Company

H-83-003

from a decision of the Director of the
Department of Construction and Land Use
Pursuant to Title 22, Subtitle II, Seattle
Municipal Code (Housing Code, Ordinance
106319)

Introduction

Appellant, Godefroy Realty, agent for UNAM Investment Company, appeals the order of the Director, Department of Construction and Land Use, on a Housing Code Violation at 1521-7th Avenue.

The appellant exercised his right to appeal pursuant to Section 22.206.230, Seattle, Municipal Code (Section 4.23, Ordinance 106319).

This matter was heard before the Hearing Examiner on July 8, 1983.

Parties to the proceedings were: Appellant represented by Olson Godefroy and the Director represented by W.M. Woodward, manager, housing and zoning enforcement.

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 of this appeal.

Findings of Fact

1. A Notice of Violation was issued by the Director April 5, 1983. After a departmental hearing the date of compliance was extended. Appellant agreed to comply with all but two items which it appeals.
2. The subject property at 1521-7th Avenue is a brick and stone, 45 unit apartment building which is over 70 years old. There are 8 one bedroom units and 31 studio units. They are occupied mostly by extremely low income older single men and retired couples.
3. The corrections required in the order which appellant appeals are (1a) "... provide an approved system of mechanical ventilation" and (4a) "provide the kitchen with not less than three (3) convenience and/or appliance outlets...."
4. The building has eight metal-lined ventilation shafts which extend from the ground to the roof. Each bathroom has a window on a shaft which can be opened by the residents of the apartments.
5. Section 22.206.120(H), relating to minimum fire safety standards, is interpreted by the Director to require the permanent closure of all window openings to the shafts with one-hour fire-resistive construction or fixed wire glass.

6. Section 22.206.040 requires a window in bathrooms or mechanical ventilation. Under the Director's order the bathroom windows would be closed and mechanical ventilation would be required.

7. Section 22.206.110 requires not less than three convenience and/or appliance outlets in each kitchen. The kitchens at the subject property have two outlets.

8. The kitchens are not tiny, nor are they large. Each has an apartment size gas range and apartment size refrigerator.

9. The low income persons residing in the apartment have few appliances.

10. The additional outlet is a safety feature if it reduces the use of extension cords.

11. Windows opening onto the ventilation shaft are a serious fire safety hazard.

12. The cost of compliance will cause the owners to raise the rent or close the building.

13. The wiring in the building is very old. Whether it can support additional electrical outlets will have to be determined before a permit is issued.

Conclusions

1. The order of the Director is to be deemed prima facie correct. Section 22.206.230.

2. Appellant has not shown that the order of the Director as to closure of openings to the shafts and provision of mechanical ventilation is not supported by the law or evidence. The testimony that the openings represent a serious fire safety hazard was not disputed. That order should be affirmed.

3. Appellant does not disagree that the Code requires an additional convenience or appliance outlet. Appellant maintains, however, that a variance from that requirement should be granted.

4. The occupancy of the building and the appliances provided were shown to be such that the third convenience outlet is not likely to be utilized so the danger associated with extension cords is also not likely to be experienced if the third outlet is not provided.


5. The interest of the building's tenants in the continued availability of this low cost housing is likely to be jeopardized by the strict application of the standard requiring three convenience outlets.

6. A variance may be authorized from the requirement if the strict application would cause unnecessary hardship and adversely affect enjoyment of a substantial property right of the owner or tenant and, because of special circumstances, the variance would not be materially detrimental or injurious to the safety, health, or general welfare of the occupants or other property or its occupants or of the public. Section 22.206.220B. The situation herein satisfies these standards for variance relief which should be granted.

Decision

The final order of the Director is affirmed as to No. 1, Inadequate Light and Ventilation and Inadequate Fire Safety; as to No. 4, Inadequate Electrical System, the order is modified and a variance from the requirement of three convenience outlets is granted.

Entered this 12th day of August, 1983.


M. Margaret Klockars
Deputy Hearing Examiner

Notice of Right to Appeal

The decision of the Hearing Examiner in this case is the final administrative determination by the City. Any further appeal must be filed with the Superior Court within 14 days of the date of this decision. Vance v. Seattle, 18 Wn.App. 418 (1977); JCR 73 (1981). Should an appeal 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.