

FINDINGS AND DECISION

OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

CHARLES MARKHAM

FILE NO. M-78-004

from a decision of the Pike Place
Market Historical Commission

The appeal is GRANTED and the decision of the
Commission is REVERSED.

Introduction

The appellant, Charles Markham, filed an appeal from a denial by the Pike Place Historical Commission, hereinafter Commission, of a certificate of approval for an application for the location of a wine shop in the J.P. Jones Building Arcade.

The appellant exercised his right to appeal pursuant to Section 6 of Ordinance 100475, as amended.

This matter was heard before the Hearing Examiner on September 13, 1978.

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

Findings of Fact

1. The applicant, Charles Markham, filed an application with the Commission to locate a wine shop in the J.P. Jones Building Arcade. The building is located in Zone 3 which permits all uses in priority which are set forth in the guidelines of the Commission. This includes both food and non-food uses.

2. In a letter dated August 14, 1978, the applicant was notified by the Commission that at its August 9, 1978 meeting his application was denied. The reasons stated for the denial were: over concentration of wine shops, a preference for more diversity in the types of shops entering the Market, a lower priority for wine as opposed to more food-related items, and the undesirability of the location of the subject shop as being too close to other wine vendors such as Pike and Western and the State Liquor Store. In addition the letter stated the application was denied in the context of the most desirable mix and harmony of uses throughout the Market.

3. In a letter received on August 18, 1978, Charles Markham filed an appeal from the decision of the Commission.

4. The minutes of the Commission in considering Mr. Markham's application were entered into the record and showed that one of the primary basis for its decision was an effort to protect the existing businesses from further competition.

5. The guidelines of the Commission provide in part:

- a. In order to achieve distribution, quantity and mix of uses, to provide the variety of shopping opportunities essential to the character and economic success of the Market, the Commission may depart from the priorities or deny applications for uses listed.

6. Section 6 of Ordinance 100475, as amended, provides as follows:

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

Such action of the Commission violates the terms of this Ordinance or rules, regulations or guidelines, adopted pursuant to the authority of this Ordinance.

Conclusions

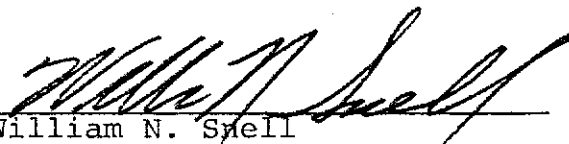
1. After a review of the record in this matter, it is the conclusion of the Examiner that the action of the Commission violates the terms of the guidelines. The record presented for review shows that the Commission acted on the basis of preventing undue competition for other wine merchants in the Market. Neither the guidelines nor the Ordinance provides any grounds for basing a decision on such a policy consideration.

2. The area in which the applicant proposes to locate his wine shop is Zone 3 in which any priority item is permitted. A wine shop clearly would come within the third priority. The Commission has not shown why the location of a wine shop in Zone 3 would be inconsistent with the criteria of the Ordinance or the guidelines.

Decision

The appeal is GRANTED and the decision of the Commission is REVERSED. A certificate of approval shall be issued for the location of a wine shop in the J.P. Jones Building to Charles Markham.

Entered this 20th day of September 1978.


William N. Spell
Hearing Examiner