

FINDINGS AND DECISION

OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

THE CRUMPET SHOP

from a decision by the Market
Historical Commission

FILE NO. M-85-004

COM. FILE NO. MHC 173/85

Introduction

Appellant appeals the decision of the Market Historical Commission to deny approval for a window sign at 1503 First Avenue.

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

This matter was heard before the Hearing Examiner September 19, 1985.

Parties to the proceedings were: appellant, pro se, and the Pike Place Market Historical Commission (hereinafter the Commission) by Tom Fawthrope.

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. On July 12, 1985, appellant submitted a Pike Place Market Historical District Application for Certificate of Approval for work on property addressed as 1503 First Avenue.

2. Appellant had requested permission to have the First Avenue door trim painted pink, yellow and turquoise instead of the traditional District green. Appellant also requested permission to suspend a red lettered "expresso" sign inside his shop against the First Avenue window.

3. The application came on for Pike Place Market Historical Commission review on July 24, 1985. At that time the Commission recommended denial.

4. The Letter of Denial, dated August 5, 1985, reported the Commission's view that the application was violative of Pike Place Market Historical Commission Guidelines, (hereinafter Guidelines) page 10 reading. (sic), "Exterior signs should be flat against the building, painted over entrance doorways, on windows, or hung from marquees."

5. The Crumpet Shop owner submitted this appeal, essentially alleging that his sign is in consonance with the marketing of the expresso product line and with other expresso bars advertisements; is consistent with the pattern of other signs in the District; and that his sign is not prohibited by the Guidelines.

6. In fact, there are other signs within the District that are not in accord with the Guidelines. Some are "grandfathered", i.e., were in the area prior to Guidelines restrictions. The Wonder Freeze sign is one example. Some other signs have simply escaped the attention of enforcement personnel.

7. Appellant has already returned the door color to the traditional green.

Conclusion

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

2. The parameters of Hearing Examiner review are delineated at Seattle Municipal Code Section 25.24.080. There it is stated that the Hearing Examiner may reverse or modify the action of the Commission "only if" the Commission action violates the terms of Chapter 25.24 or adopted rules, regulations or guidelines; or if the Commission action is

(B) ...based upon a recommendation made in violation of the (Chapter 25.24) procedures...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. Further, the Guidelines are to be liberally interpreted, Guidelines, p. 1, and are to help preserve and improve the District. They are to stimulate orderly development, "while allowing gradual adjustment to varying...Market activities". loc. cit.

4. The Pike Place Market Historical Commission Guidelines, adopted 1980, and revised June, 1982, lists as prohibited signs

- a. Unpainted signs on the Main Arcade and street-level spaces.
- b. Internally lit plastic signs.
- c. Signs that blink, flash, revolve, or appear to be in motion.

Guidelines, Section III(G)(7). Since appellant's sign fits neither of the Section III(G)(7) categories, appellant urges, his sign is not prohibited.

5. The list of signs specifically prohibited is not exclusive. In point of fact, Subsections (G)(1)-(6) specify criteria which, if violated, would substantially expand the list of prohibited signs. However, the Hearing Examiner concludes that the proposed sign was not shown to violate Subsection (G)(1)-(6).

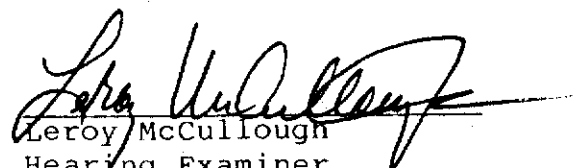
6. The Commission decision rests on Guidelines Subsection (G)(1) which requires that "exterior signs...be flat against...the windows or hung from marquees". The record reflects that the expresso sign is being used on the interior. Although visible from the building's exterior, it does not appear that the purposes of District building preservation and visual harmony is adversely affected by the sign.

7. With the foregoing in view, the Hearing Examiner is persuaded that the Commission denial does not accord with the Guidelines, which, as currently presented fail to prohibit the appellant's sign.

Decision

The Commission's decision is REVERSED.

Entered this 3rd day of October, 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.