

BEFORE THE HEARING EXAMINER
FOR THE CITY OF SEATTLE

In the Matter of the Recommendation
of the Landmarks Preservation Board for

ST. JOSEPH'S CATHOLIC CHURCH,
732-18th Avenue East

FILE NO. LP-80-001

Introduction

The Landmarks Preservation Board filed its recommendation on controls and incentives with the Hearing Examiner pursuant to Sections 8.03 and 9.01, Ordinance 106348, for property at 732-18th Avenue East.

A hearing on the matter was held September 23, 1980. The record was reopened September 30, 1980 for submission and review of additional evidence.

The Landmarks Preservation Board was represented at the hearing by James Fearn, Assistant City Attorney. St. Joseph's Church was represented by attorney Lawrence A.M. Zelenak.

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

Findings of Fact

1. The subject of this cause is the St. Joseph's Church property located at 732-18th Avenue East. The relevant legal description is:

Capitol Hill addition, Block 23, Lots 1, 2, 21, 22, and a portion of vacated alley and a portion of Lot 20.

2. At its meeting of February 6, 1980, the Landmarks Preservation Board, hereinafter Board, voted to approve the nomination of the subject property for further consideration as a Seattle Landmark. The approval of nomination was issued February 8, 1980.

3. On March 19, 1980, the Board voted to approve the designation of the subject property for landmark status. The letter of March 31, 1980 included a March 31, 1980 Report of Designation, which report included specific features for preservation.

4. The designation was based upon Ordinance 106348, Sections 3, 4, 5, and 6.

5. Unsuccessful consultation and negotiation followed Board approval of the nomination.

6. On August 6, 1980 the Board voted to approve staff Recommendations on Proposed Controls and Incentives.

7. The Recommendations were filed with the Hearing Examiner on August 12, 1980.

8. The hearing was held September 12, 1980.

Conclusions

1. The Hearing Examiner has jurisdiction of Landmark Preservation cases pursuant to Ordinance 106348, the Landmarks Preservation Ordinance.

2. Ordinance Section 9.01 provides that in the event of a failure to agree on proposed controls and incentives, the Board shall file with the Hearing Examiner recommendations for proposed controls and incentives not later than 185 days after the approval of the nomination. Reference Section 8.03.

3. Section 14.02, Termination of Proceedings, provides that (b)(2) if the Board fails to file with the Hearing Examiner the statement of proposed controls within the time prescribed in Sections 9.01, the proceedings shall terminate.

4. The approval of nomination was voted February 6, 1980, and issued February 8, 1980. One-hundred-eighty-five days subsequent to February 8 is August 11, 1980.

5. The Recommendation proceeding is therefore terminated pursuant to Section 106348(14.02(b)).

Dated this _____ day of _____,
1980.



Leroy McCullough
Hearing Examiner

Notice of Right to Appeal

Any party of record may appeal the findings and recommendation of the Hearing Examiner to the City Council. An appeal must be in writing and filed with the City Council and served on other parties of record within 30 days after the Hearing Examiner's decision is served on the party appealing.

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ST. JOSEPH'S CATHOLIC CHURCH,
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ORDER
Findings and Conclusions
of Law
FILE NO. LP-80-001

Introduction

The Landmarks Preservation Board, hereinafter LPB, filed its Recommendation on Controls and Incentives with the Hearing Examiner pursuant to Sections 8.03 and 9.01, Ordinance 106348, for property at 732-18th Avenue East.

A hearing was held on the matter September 23, 1980. The record was reopened September 30, 1980 for submission and review of additional evidence.

A decision was entered October 27, 1980, terminating the proceedings pursuant to Section 14.02(b)(1) of Ordinance 106348, which orders dismissal of proceedings where proposed controls are not filed with the Hearing Examiner within the prescribed period of Section 9.01.

On November 3, 1980, the LPB submitted additional evidence, to wit: agreement of requested extension of time for negotiations. The LPB accordingly requested withdrawal of the October 27, 1980 decision.

The request of November 3, 1980, by the LPB was deemed a Motion for Reconsideration. St. Joseph's Church, through counsel Lawrence A.M. Zelenak, and LPB through assistant City Attorney James Fearn, consented to consideration by the undersigned of the November 3 material and all parties waived oral argument on the issue of reconsideration.

It appearing that a significant error of omission has been made,

IT IS ORDERED that the Motion for Reconsideration is GRANTED; that the Findings and Conclusions of October 27, 1980, are VACATED; and that the following Findings of Fact and Conclusions of Law shall constitute the decision of the Hearing Examiner pursuant to Rule 4.3.

Findings of Fact

1. The subject of this cause is the St. Joseph's Church property located at 732-18th Avenue East. The relevant legal description is: Capitol Hill addition, Block 23, Lots 1, 2, 21, 22, and a portion of vacated alley and a portion of Lot 20.

2. The owner is the Corporation of the Catholic Archdiocese of Seattle.

3. At its meeting of February 6, 1980, the LPB voted to approve the nomination of the subject property for further consideration as a Seattle landmark. The approval of nomination was issued February 8, 1980.

4. On March 19, 1980, the LPB voted to approve the designation of the subject property for landmark status. The letter

and mailing of March 31, 1980, from the LPB to the Corporation of the Catholic Archdiocese of Seattle included a March 31, 1980, "Report of Designation."

5. The Report of Designation stated as specific features to be preserved: the entire exterior of the building, including the stained glass, surface painting and decoration.

6. The designation of the subject property was based upon determinations pursuant to Ordinance 106348 that the subject property: a) has made major contributions to the community and city. Section 3.01(3). b) "presents a major, complete and almost unchanged example of the ART DECO style" and as well serves as an important link in the exploration of "new (old) structural materials, i.e., unadorned, reinforced concrete as exemplified in Europe in works by such men as Moser of Switzerland and Perret of France." Section 3.01(4). c) serves as a stellar significant contribution by A.H. Albertson, and is thus "an outstanding work of a designer or builder." Section 3.01(5) d) has been a significant element in the urban scene and skyline of the city. Section 3.01(6).

7. Unsuccessful consultation and negotiation on the subject of controls and incentives followed Board approval of the nomination.

8. By letter of May 9, 1980, the owner requested a 60 day postponement of LPB action concerning a mutually acceptable agreement on the issue.

9. By letter of July 2, 1980, the owner requested postponement of a July 2, 1980 hearing on this issue.

10. On August 6, 1980, the LPB voted to approve staff Recommendations on Proposed Controls and Incentives.

11. The Recommendations were filed with the Hearing Examiner on August 12, 1980.

12. The owner did not file any objection to procedure or to the Recommendation on Controls and Incentives, but through counsel submitted a memorandum in opposition for purposes of the hearing on the cause.

13. The staff Recommendations on Proposed Controls and Incentives provided that:

To assure the preservation of the specified features and characteristics of the above-named Seattle Landmark, a Certificate of Approval issued by the City of Seattle Landmarks Preservation Board, pursuant to City Ordinance #106348, must be obtained, or the time for denying a Certificate of Approval application must have expired, before the owner may make major alterations or significant changes: 1) where such changes would require application for a Building or Demolition Permit; and 2) where such changes would affect the exterior of the structure, or the immediate site as indicated on...map.

There was no designation or control mentioned of the church interior although such had been discussed in the earlier stages. A proviso was included in the staff recommendations that nothing within those recommendations should "prevent any changes in such features where such changes are necessitated by changes in the liturgy or theology, it being understood that the church is the exclusive authority on liturgy and theology and is the decisive party in determining what architectural changes are appropriate to the liturgy/theology.

14. At the hearing the owner opposed the recommended controls and incentives, expressing concern with violation of the First Amendment doctrine of separation of Church and State, and also expressing concern as to which body would speak for the Church in deciding appropriate theological or liturgical changes such as exterior Latin inscriptions and stained window memorials.

15. The hearing was held September 23, 1980.

Conclusions

1. The Hearing Examiner has jurisdiction of landmark preservation cases pursuant to Ordinance 106348, the Landmarks Preservation Ordinance.

2. Ordinance Section 9.01 provides that in the event of a failure to agree on proposed controls and incentives, the LPB shall file with the Hearing Examiner recommendations for proposed controls and incentives not later than 185 days after the approval of the nomination. Reference Section 8.03.

3. Section 14.02, Termination of Proceedings, provides that (b)(2) if the LPB fails to file with the Hearing Examiner the statement of proposed controls within the time prescribed in Section 9.01, the proceedings shall terminate.

4. The approval of nomination was voted February 6, 1980, and issued February 8, 1980. One-hundred-eighty-five days subsequent to February 8 is August 11, 1980; the proposed controls were submitted to the Hearing Examiner on August 12, 1980.

5. However, Sections 14.02(d)(1) and (2) provide that when delays in the proceedings pursuant to this ordinance result from "the owner's request for a continuance or extension," or "the owner's stipulation to a continuance or extension," the time limits shall be accordingly extended. Therefore, the matter is not dismissed for untimely proceedings. No objection having been filed by the owner to procedure or to reconsideration those matters are deemed waived.

6. The LPB has made a prima facie showing that there are reasons and needs for the controls proposed. See Finding 6.

7. The controls' effect would be to preserve the exterior architectural characteristics of the structure and site. Although the matter had been discussed in the early stages of this process, no restriction has been recommended nor is such granted regarding the interior of the church structure.

8. The staff recommendations on proposed controls and incentives are adopted with the modification that nothing within this order or the proposed controls shall prevent any changes in the features of the property where such changes are deemed desirable by changes in the liturgy or in theology. In this matter the free exercise of religion is not impacted; and memorials, inscriptions and the like are left to the designation of the Church.

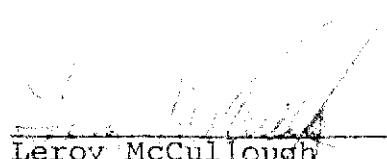
Recommendation

For the foregoing reasons the Hearing Examiner recommends to the City Council that to assure preservation of the exterior of the building and of the site the following controls be imposed:

A Certificate of Approval issued by the City of Seattle Landmarks Preservation Board pursuant to Ordinance 106348 must be obtained or the time for denying a Certificate of Approval application must have expired before the owner may make major alterations or significant changes: 1) where such changes would require application for a building or

demolition permit; and 2) where such changes would affect the exterior of the structure, or the immediate site as indicated by the designation; 3) provided that the owner is allowed to change the features of the property where such changes are deemed desirable by changes in the liturgy or in theology, with deference to the Church as the exclusive authority on liturgy and theology; 4) all inkind maintenance and repair of the subject features and any proposals on church property south of the landmark site as indicated shall be excluded from the Certificate of Approval requirement; 5) the interior of the structure is excluded from the Certificate of Approval requirement. The incentives shall include those provided in the Recommendations on Proposed Controls and Incentives.

Entered this 16th day of January, 1980.



Leroy McCullough
Hearing Examiner

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