

FINDINGS AND DECISION
OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of
CAPITOL HILL COMMUNITY COUNCIL

FILE NO. S-76-012

from a ruling of the Superintendent
of Buildings

The appeal is DENIED and the Findings and
Decision of the Superintendent of Buildings are affirmed.

Introduction

The appellant, the Capitol Hill Community Council, filed an appeal from a written ruling of the Superintendent of Buildings, hereinafter Superintendent, concerning property at 1633 17th Avenue.

The appellant exercised his right to appeal pursuant to Section 25.40, Ordinance 86300, as amended by Ordinance 104795.

This matter was heard before the Hearing Examiner on April 22, 1976.

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 on this appeal.

Findings of Fact

1. In a written decision dated March 23, 1976 the Superintendent ruled that the current use of a facility located at 1633 17th Avenue did not constitute a change of use pursuant to Section 26.04.020, Seattle Code. A written appeal was filed by the Capitol Hill Community Council on April 7, 1976.

2. The facility at 1633 17th Avenue, which is a large older home in the Multiple Residence Low Density (RM 800) zone has been operated since at least 1950 as a home for the aged under the name: German Retirement Home. It was licensed by the state under the classification of "Boarding Home for the Aged".

3. The facility is now owned and operated by Seattle Northwest Collective, Inc. as a congregate care facility for psychologically disabled persons and is licensed by the state under the classification of "Boarding Home for the Aged". The age of patients ranges from 18 to 94 years with the average age being 30 years.

4. Section 26.24.020, Seattle Code, provides that retired and nursing or convalescent homes in the RM 800 zone are permitted outright if the following conditions are met:

- (1) Such homes shall be established and operated under standards established in accordance with state laws governing such homes.

- (2) No lot so used shall be less than ten thousand square feet in area.
- (3) All principal buildings shall be located fifteen feet or more from any other lot in an R zone.
- (4) No more than twenty persons shall be in residence at one time.

5. The state Boarding Home (For the Aged) Licensing Law is codified in Chapter 18.20 RCW. RCW 18.20.020 defines "aged person" as a person of the age sixty-five years or more, or a person of less than sixty-five years who by reason of infirmity requires domiciliary care.

6. Section 26.04.020, Seattle Code, provides that it is unlawful for an owner to permit a change of use until a use permit has been issued by the Superintendent.

Conclusions

1. Based on the facts of the subject case, no change in use occurred and therefore no new use permit is required. Once a use permit has been granted a new use permit does not have to be issued unless there is a change in use. The previous use of the facility at 1633 17th Avenue was as a boarding home for the aged and the present use is for the same purpose. Although there has been a change in ownership, management and the age of the patients, there has been no change in use as defined by Section 26.04.020, Seattle Code.

2. Both the prior and existing operations were licensed by the state under the classification "Boarding Home for the Aged". The state classification is relevant in this case since Section 26.24.020, Seattle Code, provides that such homes shall be established and operated in accordance with state laws.

3. The facts in this case demonstrate that there has been a change in the facility in that the age composition of the present patients is considerably younger than the previous patients. In spite of this apparent inconsistency, the present home is classified by the state as a "Boarding Home for the Aged". However, for purposes of the state licensing law chronological age is not a requirement to be classified as "aged" since it is specifically provided that a person less than sixty-five years of age, who by reason of infirmity requires domiciliary care is qualified. Therefore, under this broad state definition of "aged" the fact that the ages of the patients has changed does not necessarily mean a change in use.

4. The standards for assisting the Superintendent in his determination as to what constitutes a change of use are not that precise. In addition the definition of change in use when applied to such sensitive uses as convalescent and retirement homes may require separate definitions. However, the clarification of such standards would require action by the City Council.

5. Pursuant to the procedural requirements of the State Environmental Policy Act of 1971 (SEPA) (RCW 43.21C), the action proposed in this appeal is not considered a major action having significant environmental impact.

Decision

The appeal is DENIED and the Findings and Decision of the Superintendent of Buildings are affirmed.

Entered this 30th day of April,
1976.

William N. Snell
William N. Snell
Hearing Examiner