

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

In the Matter of the Appeal of

AMERICAN SIGN AND INDICATOR CORP.

FILE NO MUP-88-033(V)

from a decision of the Director
of the Department of Construction
and Land Use on a master use permit
application

APPLICATION NO. 8800434

Introduction

American Sign and Indicator Corp. appeals the decision of the Director, Department of Construction and Land Use, to deny a height variance for a sign at the Kingdome.

The appellant exercised the right to appeal pursuant to the Master Use Permit Ordinance, Chapter 23.76, Seattle Municipal Code.

This matter was heard before the Hearing Examiner on July 7, 1988.

Parties to the proceedings were Appellant represented by Henry A. Hair, American Sign and Indicator Company, and Dick Gemperle, Kingdome project manager; and the Director, Department of Construction and Land Use, by Ed Somers, land use specialist.

For purposes of this decision, all section numbers refer to the Seattle Municipal Code unless otherwise indicated.

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

Findings of Fact

1. A master use permit application was filed by appellant to erect a free-standing advertising sign on the Kingdome grounds at 201 S. King Street. The Director determined that a variance would be required from Section 23.55.036.D.5.b to exceed the 30 ft. height limit. The Director denied the variance. This appeal followed.

2. Section 23.55.036.D.5.b sets the maximum height of an on-premises pole sign at 30 ft.

3. The sign would be 85 ft. high and stand on three supporting legs. It would be triangular in shape so that one side would face northbound traffic on 4th Avenue S. and one side would be angled to the east to face southbound traffic. The main part of the sign would be in three parts: a "tri-vision ad panel", an "illuminated lamp matrix panel" with a changing message, and an advertising panel below measuring 10 ft. by 30 ft. This would be capped by a domed top with the Kingdome name and logo. The changing message panel would give information about current and future events at the Kingdome. The other two panels would show commercial advertisements in order to pay for the sign.

4. The agreement between the Seattle Mariners and King County called for an exterior sign for the Kingdome. The Mariners contracted with appellant to construct the sign.

5. Two other wall-mounted signs are proposed for the Kingdome. One sign is to be on the north side, yet to be designed, and one would face the southwest. The latter is to have three message parts similar to the subject sign but no dome.

6. The site of the proposed sign would be on the southeast

side of the Kingdome about 30 ft. from the face of the building. The site is surrounded by the Kingdome to the west, parking lots north and south and railroad tracks and 4th Avenue S. to the east. The proposed site is south of the Pioneer Square Special Review District and west of the International Special Review District.

7. The zoning of the proposed site is IG2-U/85'.

8. Fourth Avenue South is elevated some 20-30 ft. above the parking lot of the Kingdome. A railing rises some 3 ft. above the road. Because of that difference in elevation, motorists on 4th Avenue S. would not have a clear view of a sign 30 ft. high. The upper 25 ft. would be clearly visible with a 65 ft. high sign.

9. Husky Stadium and the Tacoma Dome are the two most comparable uses in this area. Each has a large sign of the nature proposed which is located to be visible to passing motorists. Witnesses estimated the height of each to be between 30 ft. and 40 ft.

10. Because the proposed sign would be an on-premise advertising sign, rather than on off-premise billboard, it would not be restricted by its proximity to any highway.

11. The sign would be visible from the International District and from some points within the Pioneer Square Special Review District.

12. Dick Gemperle has calculated that the Kingdome would be permitted to have 124 wall and 12 pole signs, based on the amount of Kingdome property street frontage, with no limit on the size and the height limited to the cornice of the building.

13. A sign attached to the building itself could be 65 ft. high.

14. Appellant's witnesses testified that a large sign attached to the building would be less attractive and not as visible to passersby.

15. No similar sign variances have been granted in the vicinity or to comparable facilities.

Conclusions

1. Variance from the provisions of the Land Use Code may be granted only when all of the conditions set forth in Section 23.40.020C are satisfied. Those conditions are: 1) an unusual condition applicable to the property, not created by the owner or applicant, because of which the strict application of the code provision will deprive the property of rights and privileges enjoyed by other properties in the same zone or vicinity; the variance would not go beyond the minimum necessary for relief and not constitute a grant of special privilege; the variance would not be materially detrimental to the public welfare or injure other property; the literal interpretation and strict application of the Code provision would cause undue and unnecessary hardship; and the variance would be consistent with the spirit and purpose of the Land Use Code and adopted policies. Section 23.40.020C. 1, 2, 3, 4 and 5.

2. The Kingdome is almost a unique property. The sign and public nature of the property, its unusual features, in concert with the height limit on signs do not operate to deprive it of any rights enjoyed by other properties, however. While more sign space may be appropriate because of the size of the property, the code provides for that.

3. The applicant must show that the requested variance is the minimum necessary for relief. Here, no relief has been shown to be warranted. Moreover, if variance were warranted to assure

that the message panel was at a level visible to motorists, the amount of variance could be greatly reduced by eliminating the decorative dome on top and placing the message panel at the level of the lower ad panel which is, presumably, also visible to passing motorists. Since no similar sign variances were shown to have been granted even to comparable facilities, the granting of the requested variance would confer special privilege.

4. An 85 ft. sign at the proposed location would not injure any other property and though it would be visible from properties within the two special districts, the record does not show that it would cause material detriment to the public welfare.

5. Though not the kind of hardship cognizable for this purpose, there would be contractual and financial difficulties caused by the strict application of the code. Signs could be employed on the site by other means to give notice of current and coming events so that need can be satisfied without the variance.

6. The purpose of the height limit on pole signs is clearly to restrict the incidence of obtrusive signs in the cityscape. Since no conditions were shown which would warrant variance from that limit, the variance would not be consistent with the spirit and purpose of the Land Use Code.

Decision

The variance is denied.

Entered this 22nd day of July, 1988.


M. Margaret Klockars
Deputy Hearing Examiner

CONCERNING FURTHER REVIEW OF HEARING EXAMINER FINAL DECISIONS ON MASTER USE PERMITS

The decision of the Hearing Examiner in this case is final and is not subject to reconsideration except to correct errors on the ground of fraud, mistake, or irregularity in vital matters. Any party's request for judicial review of the decision must be by application to King County Superior Court for a writ of review within fifteen calendar days of the date of this decision. Seattle Municipal Code Section 23.76.22(C)(12)(c).

If the Superior Court orders a review of the decision the person seeking review must arrange for and bear the cost of preparing a verbatim transcript of the hearing, but will be reimbursed if successful in court. Instructions for preparation of the transcript are available from the Office of Hearing Examiner, 400 Yesler Building, Seattle, Washington 98104, (206) 684-0521.