

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

In the Matter of the Appeal of

TONY DEL MASTRO, et al.

FILE NO. W-77-002

from an environmental determination  
of the Department of Buildings

The appeal is DENIED and the determination  
of the Department of Buildings is affirmed.

Introduction

The appellant, Tony Del Mastro, et al., filed an appeal from the declaration of non-significance prepared by the Department of Buildings with regard to a proposed action to amend the Seattle Building Code with a chapter concerning signs and outdoor displays.

The appellant exercised his right to appeal pursuant to Section 20, Ordinance 105735.

This matter was heard before the Hearing Examiner on March 1, 1977.

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. The Department of Buildings for the City of Seattle (hereinafter Department) proposes to amend the Seattle Building Code by adding the Comprehensive Sign Ordinance (102929), as amended by Ordinances 103383 and 105378, and repealing Chapter 3.46 of the Seattle Building Code (Ordinance 85500). The text of the proposed amendment is entitled "Signs and Outdoor Displays" and is referred to as the proposed Chapter 49 of the Building Code.

2. The Department, pursuant to the provisions of the State Environmental Policy Act (SEPA, RCW 43.21C), prepared a Declaration of Non-significance (hereinafter DNS) with regard to the proposed action. The DNS was issued and published on January 10, 1977.

3. The appellant filed an appeal concerning the subject environmental determination with the Office of Hearing Examiner on January 24, 1977. The appeal, in essence, alleges that the DNS is an improper determination and that an environmental impact statement is required for the proposed action.

4. The purpose of proposed Chapter 49 is to regulate and control certain aspects of signs and sign structures which may be visible from any portion of public property or rights-of-way. The proposed provisions are restrictive in nature and place a significant number of additional regulations on signs and outdoor displays beyond what exists in current sign regulations.

5. Section 4907 of proposed Chapter 49 enumerates the instances in which a sign permit is not required. This section exempts such activities as cosmetic maintenance of

existing signs, the installation of certain signs of a temporary nature and smaller institutional signs, as well as other signs of a relatively insignificant nature in comparison to those which are strictly regulated by the remainder of this chapter.

6. The proposed action will improve the aesthetics of the city as a result of restrictions placed on signs situated in scenic vistas or public view areas. Such signs will be regulated as to their density in addition to other regulations which dictate the maintenance for signs and the amortization of certain signs which will be prohibited.

7. The proposed sign regulations will reduce the amount of light and glare in the city as a result of restrictions on the design and location of illuminated signs as well as the outright prohibition on flashing signs.

8. A final draft of the proposed sign amendment to the Building Code was used by the Department in the preparation of the checklist which was used as the basis for the threshold determination that a DNS would be issued with regard to the proposed action. There is no evidence in the record that the preparation of the DNS was done in a casual or frivolous manner.

9. Policy considerations concerning the type and number of signs which are to be regulated and whether additional or fewer restrictions on signs are desirable are within the jurisdiction of the City Council. An analysis of such policy considerations is not incumbent upon the Department in reaching a threshold determination.

### Conclusions

1. An environmental impact statement is required by SEPA only where there is a major action which would have a significant adverse impact on the environment. An adverse impact is significant whenever more than a moderate effect on the quality of the environment is a reasonable probability. At the threshold determination stage the lead agency cannot merely balance the positive aspects of the proposed action against the negative aspects, but must determine whether the proposal involves any significant adverse impact on the quality of the environment. WAC 197-10-360(3).

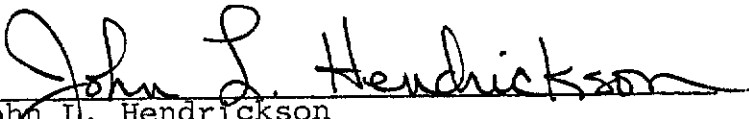
2. There is no evidence in the record that the proposed action will have any significant adverse impact on the quality of the environment. The proposed sign regulations are restrictive in nature rather than permissive and will result in additional controls on various aspects of signs within this city. The provisions of proposed Chapter 49 will have the effect of reducing the impact of signs on the quality of the environment and there is no indication that these provisions will adversely affect the environment in any manner. The Department did not utilize a balancing test in reaching the threshold determination since no adverse impacts were found.

3. A review of the record of this case indicates clearly that the Department has not committed any error or omission in the preparation of the subject DNS. All relevant factors have been considered in the environmental checklist and the appellant has not established that the Department has made any mistake in its evaluation nor failed to fully disclose or consider relevant environmental factors.

Decision

The appeal is DENIED and the determination of the Department of Buildings is affirmed.

Entered this 15<sup>th</sup> day of March, 1977.

  
John L. Hendrickson  
Deputy Hearing Examiner

Notice of Appeal

The decision of the Hearing Examiner in this case is the final administrative determination. Any appeal must be made to the courts. Section 12, Ordinance 102228, the Administrative Code, sets forth the procedure for staying enforcement of an administrative order or decision pending judicial review.