

BEFORE THE HEARING EXAMINER

CITY OF SEATTLE

In the Matter of the Appeal of

S. M. RUDEL

FILE NO. S-76-008

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, S. M. Rudel, filed an appeal from a
written interpretation of the Superintendent of Buildings,
dated December 19, 1975.

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

This matter was heard before the Hearing Examiner on
January 15, 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 written findings, dated December 19, 1975, and
relating to property located at 11½ West Cremona Street, the
Superintendent found that the subject building was never
legally established as a residence and was therefore not a
legal non-conforming use. In the alternative the Superintendent
found that the residential use had been vacated.
2. The subject property is located in a Manufacturing
(M) Zone and dwelling units are prohibited in this zone
pursuant to Section 26.38.140, Seattle Code.
3. The subject structure was utilized as a dwelling
unit in 1970 but was cited for numerous housing code violations
and an administrative decision by the Superintendent on
July, 1970 ordered that certain repairs be made within 30
days or the structure should revert to storage use.
4. A Building Department inspection on February 9,
1971 indicated that the building was vacated as a residence.
Section 26.10.060(d), Seattle Code, provides that a nonconforming
building which has been unoccupied continuously for one year
or more shall not be reoccupied except by a conforming use.
5. The appellant, S. M. Rudel, in May 1975 signed a
real estate contract to purchase the subject property.

6. The appellant said he purchased the subject property with the intent to occupy it for residential purposes. The appellant admits that he was put on notice as to housing code violations, by being supplied by the Building Department with a copy of a letter, exhibit 1A, addressed to the prior property owner from a housing inspector stating that compliance with the housing code must be made "...by May 11, 1970, or further action will become necessary as prescribed by the code". However, the appellant alleges that he was not provided by the Building Department with a copy of the administrative decision, exhibit 1B, finding that the structure should remain vacant unless repairs are made within 30 days and that the use should be changed to storage. A copy of exhibit 1B was mailed to the former property owner.

7. The appellant has not contested the interpretation of the zoning code set forth by the Building Department but only that he was misled by the alleged failure of the Department to provide him with all available information.

Conclusions

1. The appeal is denied since the appellant has not raised any substantive challenges to the December 19, 1975 written interpretation of the Superintendent and in fact does not disagree with the interpretation of the zoning code contained therein.

2. The appellant does claim that he should be issued a building/use permit due to the failure of the Superintendent to supply him with all of the information relating to the subject property. There is no indication that the Superintendent attempted to conceal any of the available information or acted other than in good faith to the request for information.

3. The appellant was supplied with a letter, exhibit 1A, that placed him on notice of housing code violations. The appellant then had the burden of determining whether or not a final ruling had been made. Occasionally it is difficult for a party to readily obtain such information, but he must be persistent in his efforts.

4. The ruling of the Superintendent is regarded as prima facie correct and the appellant has failed to meet his burden of establishing the contrary.

Decision

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

Entered this 23rd day of January, 1976.


William N. Snell
Hearing Examiner