

FINDINGS AND DECISION

OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

KING COUNTY

FILE NO. S-79-016

from a determination of the
Superintendent of Buildings

The appeal is GRANTED and the Findings and Decision of the
Superintendent of Buildings are reversed.

Introduction

King County filed an appeal from an interpretation of the Superintendent of Buildings (Superintendent), dated June 22, 1979, relating to property at 815 Airport Way South (Immigration Building).

The appellant exercised its right to appeal pursuant to Section 25.40 of the Zoning Ordinance (86300, as amended)

Parties to the proceeding were: the appellant, represented by Robert Stier, and the Superintendent, represented by Joyce Kling.

This matter was heard before the Hearing Examiner on July 31, 1979.

For purposes of this decision, all section numbers, unless otherwise indicated, refer to the Zoning Ordinance (86300, as amended).

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. Located at 815 Airport Way South is the four-story Immigration Building which is owned by the U.S. Government but may become available for use by other governmental agencies. The building is presently used by the U.S. Government for immigration related functions. The second floor of the building is used as a detention center for illegal aliens and has all of the appearances of a jail with barred windows and steel doors. The Superintendent's representative stated that the second floor appeared to come within the Zoning Code definition of jail. The subject property is located in a Manufacturing (M) zone.

2. King County is attempting to secure a lease of the second floor and establish a jail based work-release program for up to 85 inmates. Long range plans call for using the entire Immigration Building for a work-release program with up to 300 inmates but that is not the subject of this appeal. The work-release program is presently housed in the King County Courthouse under very crowded conditions. If the work-release program is transferred to the Immigration Building it would be administered by the Division of Corrections and the only difference in operation from the present situation would be the physical location. Uniformed corrections personnel would operate the facility, which can best be described as a minimum security jail. Only minor improvements such as plumbing and electrical modifications would need to be made to convert the second floor to a minimum security jail meeting adequate safety standards.

3. Work-release programs are designed to permit inmates to work at jobs or attend school during a portion of the day. Jail based work-release programs operate out of jail facilities and are operated like jails with tight security measures. Community based work-release programs are more like halfway houses and are usually located in a residential type building with relatively loose security.

4. Section 19.31(b) permits jails and work release centers in the Manufacturing zone when authorized by the Council in accordance with Article 27 and subject to the following:

(b) Jails and Work-Release Centers subject to the following conditions:

- (1) When nearby or associated uses and other conditions in the immediate environs would not adversely affect persons residing in the facility.
- (2) When the facility will not usurp land which is needed for or better suited to commercial usage by virtue of special attributes such as railroad access and proximity of established commercial development.

5. Section 3.11 defines Jail as:

A facility for the incarceration of persons under warrant, awaiting trial on felony or misdemeanor charges, or serving a sentence for such conviction, including work-release programs and other accessory services commonly associated with such incarceration.

6. Section 3.24 defines Work-Release Center as:

An establishment other than a jail operated with full-time supervision, housing 20 or more resident persons who are on a pre-release, work-release or probationary status and employed or enrolled in a supervised education/training program.

7. On June 22, 1979, the Superintendent issued a written interpretation concerning the proposed use of the second floor of the Immigration Building by King County as a work-release center. The Superintendent held that a work-release center that is physically separate from but administered by a public jail is not a jail and that the proposed use would require a Council conditional use approval. King County filed a timely appeal on July 10, 1979.

Conclusions

1. A fundamental rule of statutory construction is that legislative intent is first deduced from what is said in the statute. In re Lyons Estate, 83 Wn.2d 105 (1973). Where the language of a statute is clear and unambiguous, there is no room for construction or judicial interpretation. Roza Immigration District v. State, 80 Wn.2d 633 (1972). The definition of jail in Section 3.11 is clear and unambiguous in that a jail can include a work-release program. The ordinance language does not preclude a jail facility from being devoted totally to a work-release function and being established as a principal use minimum security jail. Section 3.11 refers to accessory services such as work-release and not accessory uses so the work-release function is not limited by the zoning code definition of accessory uses.

2. The definitions in Sections 3.11 and 3.24 recognize the difference between jail based and community based work-release programs. The Superintendent failed to recognize

this distinction. The record clearly shows that the facility proposed by King County is a minimum security jail which has as its primary program element a work-release program. If King County structured its work-release program to more closely resemble a halfway house type of operation then it would be defined as a work-release center and subject to the applicable ordinance requirements.


3. Review of a proposal within the format of the conditional use process is an important protection for the public and nearby residents. However, in this case it is clear that no such review was intended.

4. The facts in this case are somewhat unusual in that a jail already exists on the second floor of the Immigration Building and consequently the proposed King County use would not result in a change of use. Needless to say there are not many existing jail facilities so that the likelihood of a reoccurrence is minimal. Based on the facts produced at the hearing, any proposal by King County to use the entire Immigration Building as a jail would require conditional use approval.

Decision

The appeal is GRANTED and the Findings and Decision of the Superintendent of Buildings are reversed.

Entered this 3rd day of August, 1979.


William N. Snell
Hearing Examiner

Notice of Right to Appeal

The decision of the Hearing Examiner in this case is the final administrative determination by the City. Any appeal to the Superior Court should be filed within 20 days of the date of this decision. Vance v. Seattle, 18 Wn.App.418 (1977).