

FINDINGS AND DECISION

OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

JOHN LEE RYAN, SR.

FILE NO. S-80-020

from a determination of the
Superintendent of Buildings

The appeal is DENIED and the Decision of the
Superintendent of Buildings is AFFIRMED as modified.

Introduction

Appellant, John Lee Ryan, Sr., filed an appeal from the Superintendent of Building's decision to deny a use permit to establish a triplex at 1829 Queen Anne Avenue North.

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

Parties to the proceeding were: Appellant and the Superintendent of Buildings represented by Greg Borba, Program Director.

This matter was heard before the Hearing Examiner on April 24, 1980.

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. Appellant applied for a use permit to establish a triplex at 1829 Queen Anne Avenue North.

2. The Superintendent of Buildings published his decision to deny the permit on April 1, 1980. Appellant filed his appeal April 10, 1980.

3. The subject lot contains 3,600 sq. ft. and has been zoned Multiple Residence Low Density (RM 800) since 1957. Prior to 1957 a triplex or fourplex could have been established on this property. Variances would now be required to establish a triplex on a lot smaller than 4,000 sq. ft.

4. A permit for a two-story residence on the subject property was issued in 1902. In 1910 a permit was issued to add to a two-story flat building on the site. A flat building was for two or more families according to the building code at that time.

5. In 1977 the appellant applied for a permit to repair a porch on the structure. The "one family dwelling" reference was changed to duplex.

6. In 1978 the appellant again applied for a permit to make repairs on the duplex and establish a triplex. In 1980 another application was filed to establish a triplex and woodworking shop.

7. The plans filed with the application showed one dwelling unit on the first floor, two on the second floor and one in the basement.

8. The dwelling unit in the basement was developed about 15-20 years ago by Mr. Klineland as a sleeping area for his teenage daughters. The second floor was changed in the 40's or 50's from one unit to two, two-room housekeeping units and three sleeping rooms.

9. The basement unit was not completed until 1979. While wiring and plumbing for a kitchen was installed, no cooking facilities were. Interior stairs led from the basement to the first floor. The stairs have been removed by appellant.

10. The Superintendent's representative, after hearing facts not before the Superintendent at the time of determination, amended the decision to find sufficient evidence to permit one unit on the first floor and two on the second floor.

Conclusions

1. According to Section 3.21, a use had to be lawfully in existence on the effective date of the ordinance to be nonconforming and therefore have the provisions of Section 5.3 allowing it to continue apply.

2. The record shows that the basement unit was not established either by permit or in fact prior to the adoption of the present ordinance. Therefore, the Superintendent's determination as to that unit is correct.

Decision

The appeal is DENIED and the Decision of the Superintendent of Buildings is AFFIRMED.

Entered this 12th day of May 1980.

M. Margaret Klockars
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Deputy 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).