

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

In the Matter of the Appeal of

WASHINGTON CENTER, INC.

FILE NO. S-81-015

from a determination of the Director,  
Department of Construction and Land Use

The Decision of the Director, Department of  
Construction and Land Use, is AFFIRMED.

Introduction

King County, applicant, applied for a change of use permit to house a detoxification facility on two vacant floors of the Washington Center Building, 1114-22 Union Street (aka 1421 Minor Avenue). The Department of Construction and Land Use (CLU) approved the application and issued the permit.

The appellant exercised its right to appeal pursuant to 24.10.030 of the Municipal Code (Section 25.40 of the Zoning Ordinance, 86300, as amended).

This matter was heard before the Hearing Examiner on May 5, 1981.

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 subject property is located at 1114-22 Union Street, Seattle. (The street address also is known as 1421 Minor Avenue, Seattle.)
2. The legal description of the property is the south 10 feet of Lot 2; all of Lots 3-6, Block 5, replat of 12th Avenue Addition; and Lots 10-11, Block 114, A. A. Denny's Broadway Addition.
3. The property is zoned RMV 150 (Multiple Residence Highest Density Variable Height).
4. The Washington Center Building located at 1114-22 Union Street (1421 Minor Avenue) in Seattle is owned by Villa Care, Inc.
5. The Washington Center Building, Incorporated possesses a lease for the premises through May of 1984. This lease was assigned to Washington Center, Inc. on June 1, 1979.
6. The owners and operators of Washington Center, Inc. are Kenneth and Marlene Brougham and Frank Olson. The purpose of the corporation is management of the building.
7. The present use of the building is for board and housing and as a work release facility by the Washington State Department of Social and Health Services, Division of Adult Corrections. The building also has facilities for commercial use. The work release facility will be discontinued by June, 1981.
8. Two floors of the building are used for work release; one floor for general boarding; one floor for kitchen and administrative use; and one floor is vacant.

9. Washington Center, Inc. plans to use the building for student room and board housing. To that end, a change of use permit was granted by the City of Seattle on August 25, 1980. Said permit's language specified that a Certificate of Occupancy was required.

10. On March 26, 1981, King County made application to the Seattle Department of Construction and Land Use for a permit to change the use of the subject facility "to hospital per plans (Class A Alcoholism Treatment facility)."

11. Notice of CLU permit approval and of the attendant Declaration of Non-Significance (DNS) was published March 31, 1981, and again on April 2, 1981. Washington Center, Inc. appealed.

12. The appeal of the DNS was dismissed by order of the Hearing Examiner entered May 1, 1981 (File No. W-81-006).

13. The applicant currently operates a 94-bed detoxification program at Firlands. Contract physicians are regularly employed by the University of Washington. A physician is on call 24 hours per day. As well, morning rounds are made by the physician(s). Registered and Licensed Practical Nurses, Nursing Assistants and six alcoholism "counselors" are also employed. These counselors, who are to work with residents, residents' families and attorneys, work staggered shifts in their 35 hour per week rounds of duty. They provide some referrals to Alcoholics Anonymous, for example.

14. Firland detoxification residents are transported from King County (Harborview) Hospital. The sole criterion for admission is the incapacitation by alcohol, i.e., whether the prospective resident is unable to manage or determine the danger to him or herself, others or to property.

15. Persons brought to detoxification centers in some instances may have received a police citation; however, there are no court sentences to the detoxification center.

16. Persons are not detained there because of brushes with law enforcement authorities. The center's primary function is emergency treatment of a health condition.

17. Some persons become detoxification facility residents by virtue of a 48-hour maximum involuntary commitment provision of the Revised Code of Washington (RCW).

18. The average detoxification center residency is 2½ days.

19. The applicant proposes to use two floors of the Washington Center Building for detoxification center bed space and residency. An additional floor would be used for the kitchen.

20. Jails are not permitted in the subject zone. Halfway houses are permitted as conditional uses. 24.36.040, reference. A hospital is an outright permitted use in the zone. 24.36.020(B).

#### Conclusions

1. The sole issue remaining in this appeal is whether the proposed use of the building violates the provisions of the zoning ordinance. See prehearing order of May 1, 1981.

2. Appellant contends that applicant's label notwithstanding the proposed use is that of a jail or a halfway house. The decision of the Director is to be regarded as prima facie correct, and the burden of establishing the contrary is the appellant's. 24.10.070.

3. Section 24.08.090"H"(1) defines a halfway house as:

...an establishment operated with full-time supervision for housing resident persons who, by reason of their mental or physical disability, addiction to drugs or alcohol, or family and social adjustment problems, require a transitional nonmedical treatment program for rehabilitation and social readjustment. For purposes of this subtitle, a nonmedical treatment program consists of counseling, vocational guidance, training, group therapy and other similar rehabilitative social services. These services shall not include drug and/or alcohol detoxification. Monitoring the taking of prescription medication shall be permitted. Programs providing alternatives to imprisonment, including pre-release, work-release and probationary programs which are under the supervision of a court, state or local agency, are included within this definition. (Emphasis added).

4. Halfway houses by definition are operated for housing persons who require nonmedical treatment. Drug and alcohol detoxification services are specifically excluded from classification as "nonmedical treatment." Therefore, if the applicant's proposal is to operate a facility for alcohol detoxification, which it is, it cannot be classified as a halfway house. 24.08.090.

5. Neither has the applicant proposed a jail use. Pursuant to 24.08.110 a jail facility is for

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

The proposed use is not for the "incarceration" of persons. The residents are at the center pending detoxification, not trial, although some residents may have received citations and others may have been involuntarily committed. The purpose of the residency is not the imposition of sanctions for unlawful conduct; rather, the treatment of the emergency health condition of intoxication.

6. A hospital or sanitarium is defined as:

...an establishment which provides accommodations, facilities and services over a continuous period of twenty-four hours or more, for observation, diagnosis and care, of two or more individuals, not related by blood or marriage to the operator.

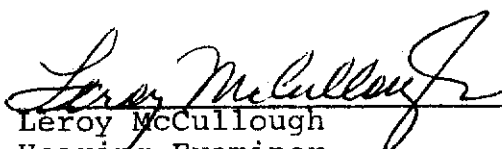
The proposed center would provide accommodations, facilities and services for observation, diagnosis, and care of intoxicated persons by physicians, nurses, assistants and other staff persons. Some counseling and other non-medical assistance will be provided. However, that is not determinative. The key is the principal purpose of the use. Thus, since that principal purpose is to provide diagnosis and care, as opposed to providing nonmedical treatment (a secondary or attendant purpose) the use qualifies by definition as a hospital or sanitarium.

7. Based on all of the foregoing, the Director is affirmed.

Decision

The decision of the Director of the Department of Construction and Land Use is AFFIRMED.

Entered this 11a day of May, 1981.

  
Leroy McCullough  
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 further appeal must be filed with the Superior Court within 14 days of the date of this decision. Vance v. Seattle, 18 Wn. App. 418 (1977); JCR 73 (1981).