

BEFORE THE HEARING EXAMINER

FOR THE CITY OF SEATTLE

In the Matter of the Recommendation  
of the Landmarks Preservation Board for  
property at 812-23rd Avenue

FILE NO. LP-79-001

Introduction

The Landmarks Preservation Board filed its recommendation on controls and incentives with the Hearing Examiner in Section 9.01, Ordinance 106348 for property at 812-23rd Avenue.

A hearing on the matter was held May 3, 1979. The record was reopened May 16, 1979, for introduction of further evidence, and closed June 5, 1979.

The Landmarks Preservation Board was represented at hearing by Roberta Deering. The property owner, Felton Sims, did not attend.

After due consideration of the evidence elicited during the public hearing, the following findings of fact and conclusions of law shall constitute the decision of the Hearing Examiner.

Findings of Fact

1. The subject property is a house and lot located at 812-23rd Avenue legally described as: Lot 6, Block 21, Walla Walla Addition.

2. The owner of record is Felton Sims.

3. On November 1, 1978, the Seattle Landmarks Preservation Board, hereinafter, Board, approved the nomination of the subject property and four or five adjoining properties for designation as a landmark.

4. The Report on Designation approved by the Board at public hearing on December 6, 1978, and issued December 7, 1978, recommended that the exteriors of all buildings and the sites be preserved.

5. The property was found to be "associated in a significant way with a significant aspect of the cultural, political, or economic heritage of the community, city, state or nation", Section 3.01(3), in that the row houses are "fine examples of low-income speculative housing of the late Victorian period" and are considered "the proto-types for twentieth century tract housing."

6. Further the properties embody "the distinctive visible characteristics of an architectural style, or period, or of a method of construction," Section 3.01(4), as "excellent examples of simple late Victorian row houses." The houses are of stick style or balloon type wood frame construction. Main floor siding runs horizontally while the upper dormer area was laid vertically on each house. Each faces west with small porches at the northwest corner. Each shows concern with decoration - some with original small paned window details, some with wood friezes below the gables, some with the original posts on the porches.

Finally, the Board found that the property falls into category (6) of Section 3.01 because the "row of houses provides a continuous and cohesive street wall along 23rd Avenue."

7. A copy of the nomination and written notice of Board approval of the nomination were mailed to Mr. Sims but

returned because of an incorrect address. Staff eventually hand delivered the documents to him in January, 1979.

8 Notice stating the date when the Board was to consider controls and incentives was served by certified mail on the owner.

9. Recommendations on controls and incentives were approved by the Board February 7, 1979, and mailed to the property owner February 14, 1979. That mailing was returned to the Department of Community Development. A copy of the recommendations were mailed to the property owner in care of his son on April 6, 1979.

10. The Board recommended the following control:

"A Certificate of Approval, issued by the Landmarks Preservation Board, must be obtained, or the time for denying a Certificate of Approval must have expired, before any of the owners may make alternations or significant changes to:

- the entire exterior of the houses;
- the entire site, but only as proposed changes would impinge upon or strongly affect the exterior appearances of the houses. Any in-kind maintenance and repair for the above properties shall be excluded from the controls."

11. The Board noted that the following incentives may be available to the owner:

1. The incentives to all Seattle Landmarks under the Zoning Code;

2. The availability of Historic Preservation Grants-in-Aid funds, on an application basis, should the properties be entered in the National Register of Historic Places (properties have been entered for some time in the State Register).

No further Council action appears to be necessary as to the economic incentives.

12. The Board staff met with the property owner and his legal advisor but the owner was unwilling to agree on the controls and incentives.

13. The Recommendations on Controls and Incentives were filed with the Office of Hearing Examiner February 22, 1979.

14. The owner did not file any objection to the recommendation on controls and incentives.

15. A prehearing conference was scheduled by the Hearing Examiner April 24, 1979. The property owner did not appear.

16. Official notice of the hearing set for May 3, 1979, was given the owner by certified mail. The notice was received by the owner April 12, 1979. Roberta Deering also spoke on the telephone with the owner after the prehearing conference to ensure that he was aware of the date and reason for the hearing.

#### Conclusions of Law

1. The Hearing Examiner has jurisdiction in the matter.

2. The notice requirements of Sections 4.01, 5.01, 6.03(a) and 8.03, Ordinance 106348, were substantially met by the Board. From the record it does not appear that the requirements of Sections 5.03 or 6.03, as to Notice of Report on Designation, were complied with, however, no objection having been filed by the owner, those requirements

are deemed waived.

3. The Board made a prima facie showing that the controls proposed are necessary to preserve the exterior features of the property to assure the the grouping be maintained. The significance of the grouping is set forth in Findings of Fact Nos. 5 and 6. Without the controls, alteration could change "the distinctive visible characteristics" of this Victorian row house and destroy the continuity of the easily identifiable grouping.

4. The controls' effect would be to preserve the exterior architectural characteristics of the structure and site. No limitations would be placed on the owner's right to alter the interior so no affect on the owner's economic use of the site is reasonably foreseeable.

#### Recommendation

For the foregoing reasons, the Hearing Examiner recommends to the City Council that to assure preservation of the exterior of the building and the site, the following controls be imposed:

Before any alteration or significant change to the house or site which would impinge upon or strongly affect the exterior appearance the house, a Certificate of Approval from the Landmarks Preservation Board be obtained or the time for denying a Certificate of Approval be expired.

Entered this 17th day of June 1979.

M. Margaret Klockars  
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Deputy Hearing Examiner

#### Notice of Right to Appeal

Any party of record may appeal the findings and recommendation of the Hearing Examiner to the City Council. An appeal must be in writing and filed with the City Council and served on other parties of record within 30 days after the Hearing Examiner's decision is served on the party appealing.