

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

In the Matter of the Appeal of

WASHINGTON ROADSIDE COUNCIL

FILE NO. W-77-021

from an environmental determination
of the Superintendent of Buildings

This matter is REMANDED to the Superintendent
for the preparation of a new threshold deter-
mination.

Introduction

The appellant, the Washington Roadside Council, filed an appeal from a declaration of non-significance prepared by the Superintendent of Buildings, hereinafter Superintendent, with regard to a proposed action to construct 28 off-premise billboards at locations throughout the city.

The appellant organization exercised its right to appeal pursuant to Section 20, Ordinance 105735.

Parties to the proceeding were: the Washington Roadside Council, the Superintendent, represented by Ross Radley, and Ackerly Communications, represented by Mr. Washburn and Mr. England.

This matter was heard before the Hearing Examiner on October 17, 1977.

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. Ackerly Communications filed an application for 28 sign permits to build and maintain billboards containing poster panels displaying advertising messages at various locations throughout the city. Sixteen of the signs would be located at existing 7-11 store sites. The signs would measure 12 by 25 feet and have a height of 24 feet. Two fluorescent tubes would provide illumination for the advertising displays.

2. A declaration of non-significance (DNS) prepared by the Superintendent was filed with the SEPA Public Information Center on August 24, 1977. The Superintendent determined that the subject proposal did not have a significant adverse impact on the environment and that an environmental impact statement was not required.

3. On September 8, 1977, the appellant filed a timely appeal alleging that the proposal would have a significant adverse impact on the environment. The appellant alleges that erection of the proposed signs would result in adverse impacts with regard to transportation and circulation, aesthetics, and light and glare.

4. The DNS states that the applicant proposes to construct 30 off-premise billboard signs, but the record was clarified at the hearing to show that only 28 applications were on file although two others were proposed to be submitted. At the hearing the appellant produced adverse testimony with regard to the sign proposed to be located at 1518 W. Dravus Street. Ackerly Communications withdrew the permit for that site so that only 27 sign permit applications are the subject of this appeal.

5. A separate environmental checklist form was filled out and submitted with each of the 27 sign permits. Under item 7, light and glare, the checklist states that the proposal will not produce new light or glare and no explanation is provided. Under item 13, transportation and circulation, subparagraph "f", it states that there will be no increase in traffic hazards to motor vehicles, bicyclists, or pedestrians. With reference to item 18, aesthetics, it states that the proposal will not result in the obstruction of any scenic vista or view open to the public, and will not result in a creation of an aesthetically offensive site open to public view. All of the 27 environmental checklist forms submitted by Ackerly Communications and reviewed by the Superintendent have identical answers to the checklist items 7, 13, and 18. The Superintendent, who is responsible for reviewing the checklist, made no corrections or modifications to the 27 checklists.

6. The Superintendent's representative, who reviewed the environmental checklist forms, testified that she viewed only half of the sites although she was familiar with the remaining portion and did not feel that a field trip was necessary. The Superintendent's representative when questioned on the review of the environmental checklists stated that in her opinion item number 7, light and glare, and item number 18, aesthetics, should have been check marked as "maybe" rather than "no". It is common practice for the reviewing agency to make corrections when it disagrees with the answers supplied by the applicant in accordance with WAC 197-10-320.

Conclusions

1. Court rulings have stressed the importance of compliance with the procedural requirements of SEPA with specific reference to threshold determinations. "The policy of the act (SEPA), which is simply to insure via a 'detailed statement' the full disclosure of environmental information so that environmental matters can be given proper consideration during decision making, is thwarted whenever an incorrect 'threshold determination' is made." Norway Hill v. King County Council, 87 Wn. 2d 267, 552 P.2d 674 (1976).

2. Pursuant to WAC 197-10-320 the Superintendent is required to independently evaluate each item on the checklist and indicate the results of the evaluation. If there is not sufficient information available to make a determination, the Superintendent may initiate further studies including physical investigations. WAC 197-10-330 provides that the threshold determination must be based upon information reasonably sufficient to determine the environmental impact of the proposal.

3. The record of a negative threshold determination by the City must "demonstrate that environmental factors were considered in a manner sufficient to amount to prima facie compliance with the procedural requirements of SEPA". Juanita Bay Valley Community Association v. Kirkland, 9 Wn. App. 59, 510 P.2d 1140 (1973). In this case the record shows that the evaluation of the environmental checklists by the Superintendent was cursory in nature and not based upon


information reasonably sufficient to determine the environmental impacts. The Superintendent's representative admitted that the checklist items relating to light and glare and aesthetics were incorrectly answered by the applicant but no such notation was entered on the checklist. A complete lack of information was available as to the amount of light that would be reflected from the signs even though the record shows this to be a potential adverse impact. A field trip was made to only half the sites although the location of each sign in relationship to surrounding properties is critical to any evaluation. All 27 environmental checklists contain identical answers and evaluations. Given the wide variety of sites involved and the resulting identical evaluations, the checklists are suspect on their face. After considering the record in this case and the environmental policy of SEPA, it is concluded that there was not a prima facie compliance with the procedural requirements of SEPA and the case is remanded to the Superintendent for the preparation of a new threshold determination.

4. In preparing a new threshold determination the Superintendent should secure sufficient information to make a reasonable determination as to the environmental impacts of the proposal. Specifically additional information must be obtained with reference to the light and glare emanating from the billboards and the impact on surrounding properties. The location of each sign must be evaluated with reference to the potential obstruction of any scenic vista or view open to the public. Information also needs to be secured as to whether the billboards will increase traffic hazards to motor vehicles, bicyclists or pedestrians.

Decision

This matter is REMANDED to the Superintendent for the preparation of a new threshold determination.

Entered this 3rd day of November, 1977.


William N. Snell
Hearing Examiner

Notice of Right to Appeal

The decision of the Hearing Examiner in this case is the final administrative determination and any further appeal must be made to the courts.