

**PRELIMINARY CODE INTERPRETATION
L02CI001**

Background

By letter dated April 15, 2002, Mr. Theodore Hunter, Esq., on behalf of Rainier Ridge Association, requested a code interpretation. The request was filed on April 17, 2002. By letter of May 6, 2002, the Department of Development and Environment Services (DDES) acknowledged the request as required under K.C.C. Chapter 2.100 and restated the code interpretation request as follows:

Are the student living quarters proposed in building permit application B02L0595 properly classified as (1) a dormitory as defined in K.C.C. 21A.06.330, (2) apartments as defined in K.C.C. 21A.06.355, or (3) an organization lodging house as provided for in K.C.C. 21A.08.030A?

The restatement of the request was accepted by Mr. Hunter by telephone call.

Green River Community College (College) has filed building permit application B02L0595. The College proposes to construct nine buildings that will include 86 residential units. As proposed in the building permit application, each residential unit will consist of from one to four bedrooms, a bathroom, living room, and kitchen. At least two units are designed to be wheelchair accessible. The rooms within each unit are internally accessible. The overall complex would also include common areas for all the residential units, including an office, meeting rooms, laundry facility, and lounge.

Discussion

Organization Hotel/Lodging House

An organization hotel/lodging house is not defined in the King County Code other than by reference to Standard Industrial Classification (SIC) 7041. See, K.C.C. 21A.08.030A. SIC 7041 includes “lodging houses and hotels operated by membership organizations for the benefit of their constituents, and are not open to the general public.” SIC Manual (1987). Examples include fraternity and sorority houses and boarding houses operated by organizations for members only. SIC Major Group 86 classifies a variety of membership organizations. The group includes “organizations operating on a membership basis for the promotion of the interests of their members.” The Major Group has six subcategories and one catch-all category.

A public college is not a membership organization. It is open to any member of the general public who can meet its admission requirements and pays appropriate fees. A public college is not established to promote the interests of those who attend the college. Rather, it provides a service – education – to those who attend. SIC Major Group 82 classifies educational services. Colleges are included in SIC 822, with a community college falling in SIC 8222. See, also K.C.C. 21A.08.100A which refers to SIC 8221 and 8222 in establishing zoning standards for colleges and universities.

Since the College is not a membership organization, the residential buildings proposed by the College in building permit application B02L0595 do not meet the definition of an organization hotel/lodging house.

Dormitory

K.C.C. 21A.06.030 defines a dormitory as a residential building that provides sleeping quarters but not separate dwelling units. A dwelling unit is "one or more rooms designed for occupancy by a person or family for living and sleeping purposes, containing kitchen facilities and rooms with internal accessibility, for use solely by the dwelling's occupants" K.C.C. 21A.06.345.

Building permit application B02L0595 proposes to construct residential units that are designed for living and sleeping purposes. The units will contain kitchen facilities. Each unit is only for the use of the occupants of that unit.

The residential units proposed in building permit application B02L0595 are dwelling units and therefore do not meet the definition of a dormitory.

Apartment

K.C.C. 21A.06.355 defines an apartment as "a dwelling unit contained in a building consisting of two or more dwelling units which may be stacked, or one or more dwellings with nonresidential uses." A dwelling unit is

one or more rooms designed for occupancy by a person or family for living and sleeping purposes, containing kitchen facilities and rooms with internal accessibility, for use solely by the dwelling's occupants; dwelling units include but are not limited to bachelor, efficiency and studio apartments, factory-built housing and mobile homes.

K.C.C. 21A.06.345.

The dwelling units proposed in building permit application B02L0595 appear to satisfy this definition. The units have two or more sleeping rooms, kitchen facilities, and bathrooms. Each unit is intended only for the use of its occupants.

Mr. Hunter's letter providing supporting information for the code interpretation request asserts that College representatives have stated that the units will only be available to members of the college community and that they will not be available to members of the general public. He also asserts that the units will not be occupied by families, but by one to four students, the assumption being that they will be unrelated. Because of this, he suggests that the dwelling units cannot be apartments because apartments must be available to the general public for rent or lease and that the units are not designed for occupancy by a person or family.

For purposes of the zoning code, a family is defined as

an individual; two or more persons related by blood or marriage; ... a group of eight or fewer residents, who are not related by blood or marriage, living together as a single housekeeping unit;

K.C.C. 21A.06.450

Regardless of whether the College intends to make the units available for rent or lease only to members of the College community and not to the general public, the units are designed as dwelling units and qualify as apartments. Under the zoning code, a family does not require relationship by either blood or marriage. K.C.C. 21A.06.450 explicitly recognizes that a family may consist of up to eight unrelated individuals living together in a single housekeeping unit.

The suggestion that in order for a dwelling unit to be classified as an apartment it must be available for rent or lease by the general public is not supported by the King County Code. Neither the definition of a dwelling unit nor the definition of an apartment contains any language which is susceptible to such an interpretation. Such a requirement would necessitate an evaluation by DDES of a building permit applicant's intent as to whom apartments would be made available before it could issue a building permit. There is nothing in the Zoning Code or the Building Code that suggests this intent.

The residential units proposed in building permit application B02L0595 do meet the definition of a dwelling unit. Whether the units are made available to the general public or only to the college community has no bearing on their classification.

Decision

The residential units proposed in building permit application B02L0595 are properly classified as dwelling units. Because there are to be located in buildings with two or more dwelling units, they meet the definition of apartments. They do not meet the definition of either a dormitory or an organization motel/lodging house.

Appeal of Preliminary and Final Code Interpretations

This code interpretation relates to building permit application B02L0595. Under the provisions of K.C.C. 2.100.040, this code interpretation is preliminary. A final code interpretation will be issued at the time DDES makes its final decision on building permit application B02L0595.

Under K.C.C. 2.100.050, once a final code interpretation is issued, it is generally not subject to administrative appeal. However, if a code interpretation relates to a development application, the code interpretation is subject to the same administrative appeal provisions that apply to the development permit application.

For purposes of a appealing this code interpretation, the issuance or denial of the building permit constitutes the final agency decision. As a note, K.C.C. 2.100.040H requires the department to mail a copy of the final code interpretation to the person requesting the interpretation, to the applicant for a permit to which the interpretation is related, and to parties of record on the underlying permit.

/s/ Greg Kipp
Greg Kipp
Director

June 13, 2002
Date