

**STATE OF INDIANA
BEFORE THE FIRE PREVENTION AND
BUILDING SAFETY COMMISSION**

IN RE:)	CAUSE NO.
)	
ELKHART COUNTY)	DHS-1714-FPBSC-008
)	
)	

NON-FINAL ORDER OF DISMISSAL

On November 29, 2017, the parties filed the attached Joint Motion to Dismiss, which states that the parties have resolved this matter informally.

Accordingly, the Administrative Law Judge now enters this Non-Final Order of Dismissal. The ultimate authority in this matter is the Fire Prevention and Building Safety Commission. Indiana Code § 4-21.5-3-29(d) requires any party seeking to preserve an objection to this order for judicial review to file a written objection that:

1. identifies the basis of the objection with reasonable particularity; and
2. is filed with the Commission within fifteen days (or any longer period set by statute) after this order is served.

In the absence of an objection from a party or notice from the Commission of its intent to review any issue related to this order, the Commission shall affirm this order in accordance with Ind. Code § 4-21.5-3-29(c). **This order will be considered by the Commission on December 5, 2017 at 9:00 a.m. (EST), in Conference Center Room B, Indiana Government Center South, 302 West Washington Street, Indianapolis, IN 46204.**

Date: November 29, 2017



HON. CHELSEA E. SMITH
Administrative Law Judge
Indiana Department of Homeland Security
302 W. Washington Street
Indiana Government Center South, Rm E208
Indianapolis, IN 46204
Telephone: (317) 234-8917
E-mail: chesmith2@dhs.in.gov

A copy of the foregoing was served by U.S. Postal Service upon the following parties and attorneys of record:

Nathaniel M. Jordan
YODER, AINLAY, ULMER, & BUCKINGHAM LLP
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and personally served on the following attorney of record:

Justin Guedel, Staff Attorney
Indiana Department of Homeland Security
302 W. Washington Street
Indiana Government Center South, Room E208
Indianapolis, IN 46204

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BEFORE THE FIRE PREVENTION AND
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ELKHART COUNTY) **DHS-1714-FPBSC-008**
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JOINT MOTION TO DISMISS

Respondent, Indiana Department of Homeland Security, by counsel, and Petitioners, the Board of Commissioners of the County of Elkhart and the Elkhart County Sheriff, respectfully request that the above-captioned matter be dismissed. In support, they state:

1. On November 4, 2016, Respondent issued an inspection report order regarding a building identified by identification number BU26699 and named in the inspection report order as Elkhart County Courthouse. On November 23, 2016, Respondent issued an inspection report order regarding a building identified by identification number BU26786 and named in the inspection report order as Elkhart Superior Court House. These two buildings are referred to herein collectively as the “buildings.” These inspection report orders regarded delays built into the buildings’ egress doors (the “egress doors”).

2. Petitioners thereafter engaged in variance proceedings with Respondent. Those proceedings did not result in issuance of a variance.

3. On March 23, 2017, Respondent issued new inspection report orders regarding the buildings, again regarding delays built into the buildings’ egress doors.

4. On April 5, 2017, Petitioners filed petitions for review and for stay of effectiveness of the March 23, 2017 inspection report orders. Petitioners’ filings were consolidated into the above-captioned matter.

5. On April 20, 2017, Respondent issued a new inspection report order for facility BU26699. Respondent, by counsel, thereafter indicated to Petitioners, by counsel, that the April 20, 2017 inspection report order was issued inadvertently and that Petitioners could disregard it.

6. Since the dates of the above-referenced inspection report orders, Petitioners have deactivated delays built into the buildings' egress doors. Alarms built into the buildings' egress doors continue to remain activated.

7. On November 21, 2017, and November 22, 2017, Respondent re-inspected the buildings and determined that the buildings are in compliance with applicable fire and building safety laws. Per this determination, all inspection report orders regarding the buildings have been satisfied.

8. Respondent is not seeking fines against Petitioners; closure of the buildings; referral to the Indiana Attorney General's Office for pursuit of legal action against Petitioners; or any other penalties, judgments, or claims against Petitioners.

9. Respondent and Petitioners desire that this matter be dismissed.

WHEREFORE, Respondent and Petitioners respectfully request this matter be dismissed.

Date: 11/29/17

Respectfully submitted,

YODER AINLAY ULMER & BUCKINGHAM LLP
Attorneys for Petitioners

/s/ Nathaniel M. Jordan

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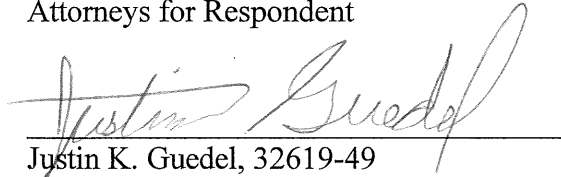
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INDIANA DEPARTMENT OF
HOMELAND SECURITY
Attorneys for Respondent

A handwritten signature in cursive script, reading "Justin K. Guedel", is written over a horizontal line.

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