



December 20, 2018
By Electronic Mail and U.S. Postal Mail

Timothy Callas
J & T Consulting, LLC
8220 Rob Lane
Indianapolis, IN 46237
tcallas@jtconsult.us

**Re: Petition for Administrative Review – Construction Design Release Project No. 404400 –
Stacy’s Restaurant Fire Remediation Design**

Dear Mr. Callas:

The Commission is in receipt of your petition for administrative review of Construction Design Release Project No. 404400 – Stacy’s Restaurant Fire Remediation Design, dated 12/17/2018. The petition for review is timely and has been granted by the Commission. The petition has been assigned to the Commission’s administrative law judge.

The judge’s office will contact you to make arrangements for further proceedings. Should you have any questions, you may contact our staff attorney assigned to the matter, Justin Guedel at JGuedel@dhs.in.gov or (317) 234-9515.

Sincerely,

Douglas J. Boyle, Director
Fire Prevention and Building Safety Commission
Indiana Department of Homeland Security
302 W. Washington Street, Room E-208
Indianapolis, IN 46204
doboyle@dhs.in.gov
(317) 650-7720

Enclosure

cc: Justin Guedel, IDHS Staff Attorney (by personal service and electronic mail)
The Honorable Chelsea E. Smith, Administrative Law Judge (by personal service and electronic mail)
File

From: [DHS Legal Mailbox](#)
To: [Boyle, Douglas J \(DHS\)](#)
Subject: FW: Petition for Review
Date: Tuesday, December 18, 2018 1:43:56 PM
Attachments: [68379161_plan_design_release04292005.pdf](#)
[68380022_Petition for Review 2627 12 17 18 Stacy's.pdf](#)
[68380035 Letter 2627 Stacy s -CME 11 30 18.pdf](#)

From: noreply@formstack.com [mailto:noreply@formstack.com]
Sent: Monday, December 17, 2018 11:12 PM
To: DHS Legal Mailbox <Legal@dhs.IN.gov>
Subject: Petition for Review

**** This is an EXTERNAL email. Exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email. ****



Formstack Submission For: [petition for review](#)
Submitted at 12/17/18 11:11 PM

Individual Name:	Timothy Callas
Business Name :	J & T Consulting, LLC
Phone Number:	(317) 889-4300
Email Address:	tcallas@jtconsult.us
Mailing Address:	8220 Rob Lane INDIANAPOLIS, IN 46237
Are you represented by an attorney?:	No
Attorney Name:	
Firm:	

Phone Number:	
Email Address:	
Mailing Address:	
Order Number:	404400
Facility Device Boiler ID:	
Date Order Received:	Nov 28, 2018
How did you receive the Order? :	Email
Entity Issuing Order:	Indiana Department of Homeland Security
Entity Name:	
Upload Order:	View File
Was this order specifically directed to you?:	No
Explain:	Sent to Design Professional
Have you been aggrieved or adversely affected by the order?:	Yes
Explain:	Representing Owner and Architect
If the order was not specifically directed to you and you have not been aggrieved or adversely affected by the order, are you entitled to review under some other law? :	No
What law?:	See Attached
I request review of the entire order described above:	Yes
If you are not requesting review of the entire order, what is the scope of your request?:	See Attached

I request a stay of effectiveness:	No
What is the basis of your challenge? :	See Attached or do not believe the "stay of effectiveness" applies in this case.
What is your desired outcome? :	To remove incorrect condition listed on Construction Design Release
Additional information in support of my request:	See Attached
Additional Attachments:	View File
Additional Attachments:	View File
Additional Attachments:	

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Formstack, 8604 Allisonville Road, Suite 300, Indianapolis, IN 46250

December 17, 2018

Douglass Boyle
Department of Homeland Security
302 West Washington Street Room W246
Indianapolis, Indiana 46204

PETITION FOR REVIEW

**STACY'S RESTAURANT-FIRE DAMAGE REMODEL
309 S. MAIN STREET
LEESBURG/KOSCIUSKO COUNTY
CDR NUMBER: 404400**

Dear Mr. Boyle,

On behalf of the Architect and Owner, we Petition for Review Condition 14B0903212 of the Construction Design Release Plan Review Division. We dispute the Condition on the Construction Design Release Dated November 28 (enclosed) requiring a fire suppression system. Attached is a letter (enclosed) sent to the Architect in turn was sent to Plan Review Dated November 30 identifying the reasons for the condition to be removed. As of this date no response has been issued by Plan Review.

The Architect and Owner would be aggrieved and adversely affected if the condition was to remain and enforced without the Architect and Owner being afforded an opportunity to explain its position.

Accordingly per Indiana Code 4-21.5-3-7 and other law, the Architect and Owner are entitled to a review of the condition of the Construction Design release and, therefore, deliver this petition for review, requesting an appointment of an Administrative Law Judge and a hearing and order.

Please contact the undersigned at their office regarding the setting of a date and time for hearing.

Very truly yours,

Timothy T. Callas

Timothy T. Callas

cc:

2627.001

November 30, 2018

Mr. Nathan Moore
CME Corporation
Director of Design
7235 Vicksburg Pike
Fort Wayne, Indiana 46804

STACY'S RESTAURANT – FIRE DAMAGE REMODEL

Dear Mr. Moore,

The purpose of this letter is to provide documentation of fire suppression requirements for an existing A-2 Occupancy undergoing a renovation based upon fire damage renovation per the 2014 Indiana Building Code (IBC) and General Administrative Rules (GAR). We offer the following information.

Description

The existing building is of Type VB construction, one (1) story in height, and of 3,555 square feet. The use consists of restaurant classified as an A-2 Occupancy. The existing had a fire event that damaged 10 roof trusses over the kitchen, roof sheathing and stud walls that includes water damage mainly in front of the building. The building was constructed in the 1960's.

Scope of Work

The scope of work is to repair or replace elements of the building that was damaged in the fire including water damage. It is estimated that this would be approximately 20% of the building. The building foot print is not being augmented nor is the layout changing. Seating will remain as before with the actual and calculated occupant load remaining the same.

General Administrative Rules

675 IAC 12-4-11 allows the existing use or occupancy to continue without complying with the rules of with the Fire Prevention and Building Commission (herby known as the Commission) for new construction. Existing buildings not undergoing a change of use that would place the building into a different occupancy group are not required to comply with subsections 12-4-11 (b) (1) or (2). 675 IAC 12-4-12 (b) permits alterations to existing buildings without requiring the entire building to comply with the rules of the commission for new construction. Those alterations are required to comply with the current rules of the commission.

New Construction

Based upon that the scope of work is limited to trusses, interior partition studs/drywall, and interior finishes and no additional square feet (fire area) or augmentation of occupant load compliance with Section 903.2.1.2 IBC for fire suppression is not required. A fire suppression system is required for new buildings or additions that would exceed the threshold listed in Section 903.2.1.2 IBC.

Mr. Nathan Moore
Stacy's Restaurant

Page 2 - # 2627.001.6
November 30, 2018

Conclusion

Based upon the existing building will not have an addition that would create additional fire area and is permitted to continue with the current occupant load per the GAR a fire suppression system is clearly not required. In addition 675 IAC 12-4-12 (j) does not require compliance with the Indiana Energy Code as the building was constructed prior to January 21, 1978. Please refer to attached GAR Section.

Very truly yours,

Timothy T. Callas

Timothy T. Callas
Principal



CONSTRUCTION DESIGN RELEASE

State Form 41191 (R9/5-98)

Report Printed on: November 28, 2018

**Indiana Department of Homeland Security
 DIVISION OF FIRE & BUILDING SAFETY
 PLAN REVIEW DIVISION
 402 W. Washington St., Room E245
 Indianapolis, IN 46204**



Available At Your Local Licence Branch

SUPPORT HOOSIER SAFETY

To: Owner / Architect / Engineer
CME CORPORATION
 Nathan Louis Moore AR10700122
 7235 Vicksburg Pike
 Fort Wayne IN 46804

Fax & e-mail: 2607452728, nmoore@cmebuilditright.com

Project number 404400		Release date 11/28/18
Construction type V-B, SPK		Occupancy classification A-2, REM
Scope of release ARCH ELEC MECH STR		
Type of release Standard		
Project name Stacy's Restaurant - Fire Remediation Design		
Street address 309 S Main St		
City Leesburg	County KOSCIUSKO	

The plans, specifications and application submitted for the above referenced project have been reviewed for compliance with the applicable rules of the Fire Prevention and Building Safety Commission. The project is released for construction subject to, but not necessarily limited to, the conditions listed below. THIS IS NOT A BUILDING PERMIT. All required local permits and licenses must be obtained prior to beginning construction work. All construction work must be in full compliance with all applicable State rules. Any changes in the released plans and/or specifications must be filed with and released by this Office before any work is altered. This release may be suspended or revoked if it is determined to be issued in error, in violation of any rules of the Commission or if it is based on incorrect or insufficient information. This release shall expire by limitation, and become null and void, if the work authorized is not commenced within one (1) year from the above date.

CONDITIONS:

Note :(A1A & A1B): In accordance with the affidavit sworn under penalties of perjury in the application for construction design release the plans and specifications filed in conjunction with this project shall comply with all of the applicable rules and laws of Fire Prevention and Building Safety Commission. Providing false information constitutes an act of perjury, which is a Class D felony punishable by a prison term and a fine up to \$10,000.

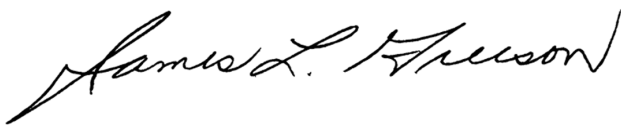
In accordance with Section 19 of the General Administrative Rules (675 IAC 12-6-19) a complete set of plans and specifications that conform exactly to the design that was released by the office of the state building commissioner shall be maintained on the construction jobsite as well as a copy of the design release.

- 14B This project has been reviewed under the 2014 Indiana Building Code.
- 4G0412AE The proposed building, addition, or remodel shall not put the existing building in noncompliance or into further noncompliance in accordance with 675 IAC 12-4-12.
- 4G0603AE Detailed plans and specifications of the fire suppression system shall be filed with the required application and appropriate fees in accordance with 675 IAC 12-6-3(a), 675 IAC 12-6-7(g)(17), and 675 IAC 13-1-8. (N.F.P.A. 13)
- 4G0607AN Plans and specifications for the kitchen exhaust hood shall be submitted in accordance with 675 IAC 12-6-7-(b).
- 4G0603AN This release does not include plumbing work. Plans and specifications for adding or remodeling this system shall be filed as a new project or as a partial before commencing work in accordance with 675 IAC 12-6-3.
- 14B0903212 An automatic sprinkler system shall be provided for Group A-2 occupancies in accordance with Section 903.2.1.2, IBC (675 IAC 13-2.6).
- 14W09061 Portable fire extinguishers shall be installed in accordance with Section 906.1, IFC (675 IAC 22-2.5).
- 9E11026A Access and working space shall be provided and maintained about all electric equipment in accordance with Section 110.26, IEC (675 IAC 17-1.8).
Buildings shall be addressed as set forth in section 501.2 IBC (675 IAC 13-2.6)
Glazing in hazardous locations shall be installed in accordance with Section 2406 IBC (675 IAC 13-2.6)
- AREL Pursuant to 675 IAC 12-6-21, the issuance of a design release does not relieve the owner from required compliance with all applicable rules of the commission, even if noncompliant conditions

ELECTRONICALLY FILE YOUR PROJECT WITH STATE OF INDIANA at <http://www.in.gov/dhs/2650.htm>.
This on-line filing is through a secure site, you can use it to submit your project information, pay the fees and upload your project plans.
Use Internet Browser to View this report, other browsers are not compatible to view this report

appear in the plans and specifications that have been filed with the division. The owner is responsible for correcting any and all areas of noncompliance even if they are discovered subsequent to the issuing of this design release.

Please be advised that if an administrative review of this action is desired, a written petition for review must be filed at the above address with the Fire Prevention and Building Safety Commission identifying the matter for which a review is sought no later than eighteen (18) days from the above - stated date, unless the eighteenth day falls on a Saturday, a Sunday, a legal holiday under State statute, or a day in which the Department of Fire and Building Services is closed during normal business hours. In the latter case, the filing deadline will be the first working day thereafter. If you choose to petition, and the before-mentioned procedures are followed, your petition for review will be granted, and an administrative proceeding will be conducted by an administrative law judge of the Fire Prevention and Building Safety Commission. If a petition for review is not filed, this Order will be final, and you must comply with its requirements.

Code review official REX MAYS rmays@dhs.in.gov	Director, Division of Fire and Building Safety 
Address (name, title of local official, street, city, state and ZIP code) ED W SORENSEN 302 W WASHINGTON ST RM E241 Indianapolis, IN 46204 Fax & e-mail: 3172330307, ESORENSEN@DHS.IN.GOV	

