

**OFFICE OF ADMINISTRATIVE LAW PROCEEDINGS**

Administrative Cause No.: DHS-1220-001458  
Underlying/State Agency Action No.: 20-12-33

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**Portage Place Development, LLC,**  
Petitioner,

**v.**

**Indiana Department of Homeland Security,**  
Respondent.

**FINAL ORDER OF DISMISSAL**

On February 4, 2021, the parties filed a Stipulated Dismissal and Agreed Order for the above-captioned matter. The ultimate authority in this matter is the Fire Prevention and Building Safety Commission (Commission).

The Commission has authorized the Administrative Law Judge (ALJ) assigned by the Office of Administrative Law Proceedings to serve as the ultimate authority and thereby issue final orders of dismissal where the parties file a joint or agreed request to dismiss the appeal. The undersigned ALJ therefore issues this final order dismissing the above captioned matter with prejudice.

A person who wishes to seek judicial review of this final determination must file a petition for review in an appropriate court within thirty (30) days of this Order and must otherwise comply with the provisions of Ind. Code § 4-21.5-5.

So Ordered: February 4, 2021



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Hon. Chelsea E. Smith, Administrative Law Judge  
Indiana Office of Administrative Law Proceedings

Distributed to Parties:

**Dennis Bradshaw**

Representative for Petitioner  
Fire Protection & Code Consultants, LLC  
1520 Main Street  
Indianapolis, IN 46224  
[dennisb@fpccllc.com](mailto:dennisb@fpccllc.com)  
*Via U.S. Mail and Email*

**Justin Guedel**

Counsel for Respondent  
Indiana Department of Homeland Security  
302 W. Washington Street, Room E-208  
Indianapolis, IN 46204  
[jguedel@dhs.in.gov](mailto:jguedel@dhs.in.gov)  
*Via Email*

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**AGREED ORDER AND STIPULATION OF DISMISSAL**

The parties respectfully request this action be dismissed. In support of this request, the parties state the following:

1. On November 24, 2020, Respondent issued an order denying Petitioner's request for a variance from Section 504 and Table 503 of the 2014 Indiana Building Code.
2. On December 09, 2020, Petitioner filed their petition for review of this denial.
3. Following the initiation of this proceeding, the parties were able to informally resolve this matter, and Respondent will issue an order finding "no variance is required", based upon the following understanding:

The rooftop structure which is the subject of this proceeding is a penthouse in compliance with sections 1509.2.1 through 1509.2.5 and is considered a portion of the story directly below the roof deck on which it is located. Therefore, the structure which is the subject of this proceeding is a three (3) story structure and is not required to comply with the requirements for four (4) story structures contained in the section in which the variance is requested.

WHEREFORE, the parties respectfully request this matter be dismissed with prejudice.

Respectfully submitted,

Dennis Bradshaw  
Dennis Bradshaw  
Representative for Petitioner

Justin Guedel  
Justin Guedel  
Attorney for Respondent

Date: 2/3/2021