STATE OF INDIANA

DEPARTMENT OF HOMELAND SECURITY

IN THE MATTER OF:)	
)	
21 W. CANAL STREET CONDO)	Cause No. DHS-1912-FPBSC-012
)	
)	

NON-FINAL ORDER OF DISMISSAL

Respondent, the Indiana Department of Homeland Security, approved Variance No. 19-08-18 with additional conditions on August 8, 2019. Petitioner filed a Petition for Administrative Review of the additional conditions of the variance. After the initiation of the appeal, Petitioner contacted the Administrative Law Judge and indicated that the Petitioner had received a new Construction Design Release, which rendered the Petition for Administrative Review no longer necessary. Respondent had no objection to dismissing the appeal. See Exhibit A, which is Petitioner's Motion to Dismiss Petition for Administrative Review under cause no. DHS-1912-FPBSC-012.

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 (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 Indiana Code § 4-21.5-3-29(c). This order will be considered by the Commission on Tuesday, January 7, 2020, at 9:00 a.m. (EDT), in Conference Center Room B, Indiana Government Center South, 302 West Washington Street, Indianapolis, IN 46204.

Dated: December 11, 2019

/s/ Zanna Claire Dyer Zanna Claire Dyer Administrative Law Judge

Certificate of Service

I certify that on December 11, 2019, I have served the foregoing Non-Final Order of Dismissal on the following persons in the methods noted below:

/s/ Zanna Claire Dyer Zanna Claire Dyer

Service by email:

Justin Guedel
Staff Attorney
Indiana Department of Homeland Security
302 W. Washington St., Room E208
Indianapolis, IN 46204
(317) 234-9515
jguedel@dhs.in.gov

Service by email:

David Vandermark 2848 N. 800 E. Andrews, IN 46702 vandy@vandermarkinc.com

STATE OF INDIANA

DEPARTMENT OF HOMELAND SECURITY

IN THE MATTER OF:)
21 WEST CANAL STREET CONDO) CAUSE NO. DHS-1912-FPBSC-012)
)
)

MOTION TO DISMISS PETITION FOR ADMINISTRATIVE REVIEW

Comes now David Vandermark, Petitioner, by Counsel, Joseph W. Eddingfield, and respectfully moves to dismiss his Petition For Administrative Review of Variance Number 19-08-18-21, filed August 22, 2019.

Petitioner, subsequent to November 7, 2019, submitted amended application and plans to the Indiana Department of Homeland Security Division of Fire and Building Safety for Petitioner's project at 21 West Canal Street, Wabash, Indiana. Said amended application and plans have been determined to be code compliant, and resulted in the Division of Fire and Building Safety issuing a new Construction Design Release dated November 26, 2019. The actions by Petitioner, and resulting determinations made by said division now render the Variance originally sought by Petitioner, and Administrative Review of the Division's ruling on said Variance, moot.

WHEREFORE, Petitioner respectfully moves for dismissal of his Petition For Administrative Review, and for all further and proper relief in the premises.

JOSÉPH W. EDDINGFIELD

Attorney For David Vandermark, Petitioner

CERTIFICATE OF SERVICE

This is to certify that that a copy of the above and foregoing was served upon Justin Guedel, Staff Attorney, Indiana Department of Homeland Security, 302 West Washington Street, Room E208, Indianapolis, Indiana 46204, this 10th day of December, 2019.

JOSEPH W. EDDINGFIELD, #8421-85

Attorney At Law

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Wabash, Indiana 46992

Joseph WEdding D

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