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JAN 17 2020  
COMMISSION  
STAFF

STATE OF INDIANA  
BEFORE THE FIRE PREVENTION AND  
BUILDING SAFETY COMMISSION

FILED  
JAN 17 2020  
SPECIAL SERVICES  
ALJ

IN RE: ) CAUSE NO.  
MALICE MANOR ) DHS-1916-FPBSC-016

**RECOMMENDED ORDER OF DISMISSAL  
AND RECOMMENDED ORDER DENYING MOTION TO INTERVENE**

On January 16, 2020, the parties in the above-captioned matter filed a Joint Motion to Dismiss. The ALJ having reviewed the Motion and being otherwise duly advised in the premises, now finds that this matter should be dismissed. Accordingly, it is hereby **ORDERED** that Cause No. **DHS-1916-FPBSC-016** is dismissed. See Exhibit A, "Joint Motion to Dismiss".

The Motion for Leave to Intervene Rick Barr, as the duly appointed and serving Building Commissioner of the Town of Clarksville, Indiana's ("Petitioners") is now denied. At the pre-hearing conference held Thursday January 16, 2020, Barr did not object to him motion being dismissed. Barr was aware of the Joint Motion to Dismiss.

**Accordingly, the Administrative Law Judge now enters this Recommended Order of Dismissal and Recommended Order Denying Motion to Intervene.** 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 Indiana Code § 4-21.5-3-29(c).

*The rest of this page purposely left blank.*

Date: January 17, 2020

/s/ Nicole M. Schuster

Nicole M. Schuster, Administrative Law Judge  
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FILED

JAN 16 2020

SPECIAL SERVICES  
ALJ

STATE OF INDIANA  
BEFORE THE FIRE PREVENTION AND BUILDING  
SAFETY COMMISSION

IN THE MATTER OF: )  
 )  
MALICE MANOR ) CAUSE NO: DHS-1916-FPASC-016  
 )

JOINT MOTION TO DISMISS

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

1. On or about September 19, 2019, Respondent granted Petitioner's request for a variance to Sections 3401.3 and 2902.1 of the 2014 Indiana Building Code with an expiration date of December 31, 2019. See Variance # 19-08-95(b).

2. On or about October 4, 2019, Petitioner filed their petition for review of this order arguing that no variance was required.

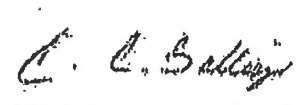
3. During the pendency of these proceedings, the parties were able to resolve this dispute based on the following understandings of the parties:

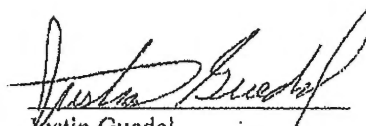
Respondent will approve variance # 19-08-95(b) with the following conditions:

1. this variance only permits the exclusion of public facilities for the stated assembly use, and does not provide a variance for any required employee facilities;
2. the actual occupant load of the building shall be limited to 150 occupants;
3. signage that provides the occupant load limit of 150 occupants shall be posted in or on the building; and
4. no food or beverage may be served that are to be consumed within the structure.

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

Respectfully submitted,

  
Carrie Ballinger  
Petitioner

  
Justin Guedel  
Attorney for Respondent

Date: 1/16/2020

Exhibit A  
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