

STATE OF INDIANA

DEPARTMENT OF HOMELAND SECURITY

IN THE MATTER OF:)
)
IN RE: ER VISION NEW OFFICE) Cause No. DHS-1918-FPBSC-018
BUILDING)

**AMENDED ORDER VACATING PREHEARING CONFERENCE AND
NON-FINAL ORDER OF DISMISSAL**

On January 16, 2020, the Administrative Law Judge issued an Order Vacating Prehearing Conference and Non-Final Order of Dismissal in this cause. Due a scrivener’s error, that Order incorrectly indicated that the Department of Homeland Security is the ultimate authority in this matter. The purpose of this Amended Order is to clarify that the ultimate authority in this matter is the Fire Prevention and Building Safety Commission (“Commission”). Any objection to the Non-Final Order of Dismissal must be filed with the Commission. 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 Order Vacating Prehearing Conference and Non-Final Order of Dismissal remains in full effect as of January 16, 2020 with the clarification noted above.

So ordered this 24th day of January, 2020.

/s/ Donna Stolz Sembroski
Donna Stolz Sembroski
Administrative Law Judge

Certificate of Service

I certify that on January 24, 2020, I have served the foregoing Amended Order Vacating Prehearing Conference and Non-final Order of Dismissal on the following persons in the methods noted below:

/s/ Donna Stolz Sembroski
Donna Stolz Sembroski

Service by email:

A. Indiana Department of Homeland Security (DHS):

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

B. Petitioner

Tracy Witte
ER Vision, LLC
11020 Diebold Road
Fort Wayne, Indiana 46845
tracy@engineeringresourcesinc.com

C. RTM Consultants

Melissa Tupper, P.E.
Principal, Fire Protection Engineer
RTM Consultants, Inc.
4460 Parkdale Place, Suite J.
Indianapolis, Indiana 46254
tupper@rtmconsultants.com

STATE OF INDIANA

DEPARTMENT OF HOMELAND SECURITY

IN THE MATTER OF:)
)
IN RE: ER VISION NEW OFFICE) Cause No. DHS-1918-FPBSC-018
BUILDING)

**ORDER VACATING PREHEARING CONFERENCE AND
NON-FINAL ORDER OF DISMISSAL**

On January 13, 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-1918-FPBSC-018 is dismissed, and the telephonic prehearing conference set for January 16, 2020 is vacated.

The Order Vacating Prehearing Conference is a final order.

The Order of Dismissal is a non-final order. The ultimate authority in this matter is the Indiana Department of Homeland Security. 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 Board 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 IDHS of its intent to review any issue related to this order, the IDHS shall affirm this order in accordance with Indiana Code 4-21.5-3-29(c).

So ordered this 16th day of January, 2020.

/s/ Donna Stolz Sembroski
Donna Stolz Sembroski
Administrative Law Judge

Certificate of Service

I certify that on January 16, 2020, I have served the foregoing Order Vacating Prehearing Conference and Non-final Order of Dismissal on the following persons in the methods noted below:

/s/ Donna Stolz Sembroski
Donna Stolz Sembroski

Service by email:

A. Indiana Department of Homeland Security (DHS):

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

B. Petitioner

Tracy Witte
ER Vision, LLC
11020 Diebold Road
Fort Wayne, Indiana 46845
tracy@engineeringresourcesinc.com

C. RTM Consultants

Melissa Tupper, P.E.
Principal, Fire Protection Engineer
RTM Consultants, Inc.
4460 Parkdale Place, Suite J.
Indianapolis, Indiana 46254
tupper@rtmconsultants.com

STATE OF INDIANA
BEFORE THE FIRE PREVENTION AND BUILDING
SAFETY COMMISSION

IN THE MATTER OF:)

IN RE: ER VISION NEW OFFICE)
BUILDING)

CAUSE NO: DHS-1918-FPASC-018)
)

JOINT MOTION TO DISMISS

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

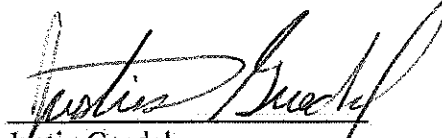
1. On or about October 08, 2019, Respondent denied Petitioner's request for a variance from section 1018.1 of the 2014 Indiana Building Code. *See* Variance # 19-09-36.
2. On or about October 23, 2019, Petitioner filed their petition for review of this denial.
3. In an effort to resolve this case in an expedient manner, Petitioner filed a separate request for a variance from section 1018.1 of the 2014 Building Code which was granted by Respondent on or about December 19, 2019. *See* Variance # 19-12-86 attached as Exhibit A.
4. As Petitioner has been granted a variance to section 1018.1 of the 2014 Indiana Building Code, this review has become moot.

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

Respectfully submitted,


Melissa Tupper
Petitioner

1/10/20


Justin Guedel
Attorney for Respondent

Date: 1/13/20

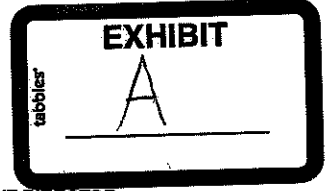


ERIC J. HOLCOMB, Governor
STATE OF INDIANA

DEPARTMENT OF HOMELAND SECURITY

BRYAN J. LANGLEY, EXECUTIVE DIRECTOR

Indiana Department of Homeland Security
Indiana Government Center South
302 West Washington Street
Indianapolis, IN 46204
317-232-3980



Tracy Witte
ER Vision, LLC
11020 DIEBOLD ROAD
11020 DIEBOLD ROAD
FORT WAYNE, IN 46845

December 19, 2019

Dear Tracy Witte,

This letter provides notice of the action taken on your application(s) for a variance(s) from the Commission's rules under IC 22-13-2-11.

Project Number	Project Name	Variance Number
410758	ER Vision New Office Building	19-12-86

Conditions

Edition	Code	Code Section	Action & Date
	Other Code (Not in the list provided)	2014 IBC, 1018.1	Approved as submitted 12/17/2019

If you have any questions regarding this order, you may contact that Department at (317) 232-2222.

ADMINISTRATIVE REVIEW

If you desire administrative review of this order, you must comply with the requirements of Indiana Code IC 4-21.5-3-7 and file a written petition for review within fifteen (15) days after receiving notice of this order. Your petition for review must state facts demonstrating that you are: (1) a person to whom the order is specifically directed; (2) aggrieved or adversely affected by the order; or (3) entitled to review under any law. You may submit your petition by one of the following methods:

U.S.MAIL OR PERSONAL SERVICE

Indiana Department of Homeland Security
Fire Prevention and Building Safety Commission
302 W.Washington Street, Rm. E208
Indianapolis, IN 46204

ONLINE

By completing the form at
<https://www.in.gov/dhs/appeals.htm>

For additional information about the administrative review process and applicable templates that may be used for filings, visit the following link

<https://www.in.gov/dhs/appeals.htm>