

STATE OF INDIANA
DEPARTMENT OF HOMELAND SECURITY

IN THE MATTER OF:

BROTHERS BAR

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Cause No. DHS-1926-FPBSC-026

**ORDER VACATING PREHEARING CONFERENCE AND
RECOMMENDED ORDER OF DISMISSAL**

On January 24, 2020, the parties in the above-captioned matter filed an Agreed Order and 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-1926-FPBSC-026 is dismissed, and the telephonic prehearing conference set for January 30, 2020 is vacated.

The Order Vacating Prehearing Conference is a final order.

The Order of Dismissal is a non-final recommended order. 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 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).

So ordered this 28th day of January, 2020.

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



Certificate of Service

I certify that on January 28, 2020, I have served the foregoing Order Vacating Prehearing Conference and Recommended Order of Dismissal on the following persons by the methods noted below:

/s/ Donna Stolz Sembroski
Donna Stolz Sembroski

Service by email:

Indiana Department of Homeland Security (DHS):

Justin Guedel
Staff Attorney
Indiana Department of Homeland Security
jguedel@dhs.in.gov

Petitioner

Andrew McDonough
1601 Muncie, Inc. d/b/a Brothers Bar & Grill
amcdonough@fortneycompanies.com

Representative for the Petitioner

David Rothenberg
McKean Law, P.C.
david@mckeanlaw.com

**STATE OF INDIANA
BEFORE THE FIRE PREVENTION AND BUILDING
SAFETY COMMISSION**

IN THE MATTER OF:

BROTHERS BAR

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CAUSE NO: DHS-1926-FPBSC-026

AGREED ORDER AND JOINT MOTION TO DISMISS

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

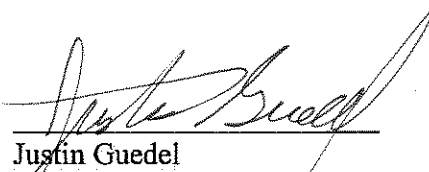
1. On or about December 12, 2019, Respondent issued a civil penalty to Petitioner for failing to correct two violations found during an inspection on November 07, 2019.
2. On or about December 16, 2019, Petitioner filed their petition for review of this civil penalty.
3. After further review and consideration of additional information, Respondent agrees to dismiss the civil penalty on the basis that the landlord, and not Petitioner, was responsible for abating the violations.

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

Respectfully submitted,



David Rothenberg
Attorney for Petitioner



Justin Guedel
Attorney for Respondent

Date: 1/24/20