

STATE OF INDIANA
DEPARTMENT OF HOMELAND SECURITY

IN THE MATTER OF:

AMERICAN TANK WASH

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Cause No. DHS-1927-FPBSC-027

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

On January 28, 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-1927-FPBSC-027 is dismissed, and the telephonic prehearing conference set for February 13, 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 30th day of January, 2020.

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



Certificate of Service

I certify that on January 30, 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

Edwin Rensink
RTM Consultants, Inc. (representing American Tank Wash)
6640 Parkdale Place, Suite J
Indianapolis, IN 46254
(317) 329-7700
rensink@rtmconsultants.com

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

IN THE MATTER OF:

AMERICAN TANK WASH

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CAUSE NO: DHS-1927-FPBSC-027

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 19, 2019, Respondent issued a construction design release to Petitioner that contained a condition to provide an automatic sprinkler system. *See* condition # 14B090329 for Project Number 405526 that was released on December 12, 2019.

2. On or about December 23, 2019, Petitioner filed their petition for review of this order, arguing that condition # 14B090329 was inappropriate as the rules for new construction should not apply to this project.

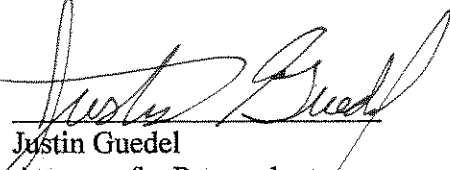
3. Upon consideration of the argument made by Petitioner, Respondent issued a revised construction design release, removing condition # 14B090329, which rendered this review moot. A copy of the revised design release has been attached as Exhibit 1.

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

Respectfully submitted,



Edwin Rensink
Representative for Petitioner



Justin Guedel
Attorney for Respondent

Date: 1-28-2020

ELECTRONICALLY FILE YOUR PROJECT WITH STATE OF INDIANA at <http://www.in.gov/dhs/2650.htm>.

This on-line filing is through a secure site, you can use it to submit your project information, pay the fees and upload your project plans.

Use Internet Browser to View this report, other browsers are not compatible to view this report

 Indiana Department of Homeland Security DIVISION OF FIRE & BUILDING SAFETY PLAN REVIEW DIVISION 402 W. Washington St., Room E245 Indianapolis, IN 46204 To: Owner / Architect / Engineer Michell Allen Ritz David M. Allen AR11800007 319 Bank Street New Albany IN 47150 Fax & e-mail: 8129450207, dallen@michellallenritz.com	 INDIANA 02 F0000 S0000 HOOSIER SAFETY Available At Your Local Licence Branch SUPPORT HOOSIER SAFETY		Project number 405526	Release date 01/27/20
	Construction type V-B	Occupancy classification S-1, B, REM	Scope of release ARCH ELEC PLUM STR	
	Type of release Standard			
	Project name American Tank Wash			
	Street address 4870 Keystone Blvd			
	City JEFFERSONVILLE	County CLARK		

The plans, specifications and application submitted for the above referenced project have been reviewed for compliance with the applicable rules of the Fire Prevention and Building Safety Commission. The project is released for construction subject to, but not necessarily limited to, the conditions listed below. THIS IS NOT A BUILDING PERMIT. All required local permits and licenses must be obtained prior to beginning construction work. All construction work must be in full compliance with all applicable State rules. Any changes in the released plans and/or specifications must be filed with and released by this Office before any work is altered. This release may be suspended or revoked if it is determined to be issued in error, in violation of any rules of the Commission or if it is based on incorrect or insufficient information. This release shall expire by limitation, and become null and void, if the work authorized is not commenced within one (1) year from the above date.

CONDITIONS:

Note : (A1A & A1B): In accordance with the affidavit sworn under penalties of perjury in the application for construction design release the plans and specifications filed in conjunction with this project shall comply with all of the applicable rules and laws of Fire Prevention and Building Safety Commission. Providing false information constitutes an act of perjury, which is a Class D felony punishable by a prison term and a fine up to \$10,000.

In accordance with Section 19 of the General Administrative Rules (675 IAC 12-6-19) a complete set of plans and specifications that conform exactly to the design that was released by the office of the state building commissioner shall be maintained on the construction jobsite as well as a copy of the design release.

- 14B This project has been reviewed under the 2014 Indiana Building Code.
- 14W09061 Portable fire extinguishers shall be installed in accordance with Section 906.1, IFC (675 IAC 22-2.5).
- 4G0603AM This release does not include mechanical work. Plans and specifications for adding or remodeling this system shall be filed as a new project or as a partial before commencing work in accordance with 675 IAC 12-6-3.
- 4G0623A Storage of some commodities at a height of six feet or more may be high-piled storage as defined in 675 IAC 22-2.4, Section 202. Improper use of this structure for high-piled storage will subject the project design release to revocation in accordance with 675 IAC 12-6-23.
- 14W32011 This project has not been designed to accommodate high-piled combustible storage as described in Chapter 32 and defined in Section 3201.1, IFC (675 IAC 22-2.5).
- 4G0412AC No addition or alteration shall cause an existing building, structure, or any part of the permanent heating, ventilating, air conditioning, electrical, plumbing, sanitary, emergency detection, emergency communication, or fire or explosion suppression systems to become unsafe or overloaded under the provisions of the rules of the Commission for new construction in accordance with 675 IAC 12-4-12(c).
- 14W1104A Required means of egress shall be maintained during construction and demolition, remodeling or alterations and additions to any building, in accordance with Section 1104, IFC (675 IAC 22-2.5).
- 4G03 This construction design is a revised release to the release dated: 12.19.2019
- AREL Pursuant to 675 IAC 12-6-21, the issuance of a design release does not relieve the owner from required compliance with all applicable rules of the commission, even if noncompliant conditions appear in the plans and specifications that have been filed with the division. The owner is responsible for correcting any and all areas of noncompliance even if they are discovered

subsequent to the issuing of this design release.

Please be advised that if an administrative review of this action is desired, a written petition for review must be filed at the above address with the Fire Prevention and Building Safety Commission identifying the matter for which a review is sought no later than eighteen (18) days from the above - stated date, unless the eighteenth day falls on a Saturday, a Sunday, a legal holiday under State statute, or a day in which the Department of Fire and Building Services is closed during normal business hours. In the latter case, the filing deadline will be the first working day thereafter. If you choose to petition, and the before-mentioned procedures are followed, your petition for review will be granted, and an administrative proceeding will be conducted by an administrative law judge of the Fire Prevention and Building Safety Commission. If a petition for review is not filed, this Order will be final, and you must comply with its requirements.

Code review official DAUDA ISHOLA-GBENLA dishola-gbenla@dhs.in.gov	Indiana State Building Commissioner
Address (name,title of local official,street,city,state and ZIP code Building Commissioner Larry Wallace 500 Quartermaster Court SUITE 200 Jeffersonville, IN 47130 Fax & e-mail: 8122856403, lwallace@cityofjeff.net	

