
STATE OF INDIANA

FIRE PREVENTION AND BUILDING SAFETY COMMISSION

DEPARTMENT OF HOMELAND SECURITY

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FEB 27 2017

LEGAL

IN THE MATTER OF
DREYER & REINBOLD BMW,
Petitioner

vs.

FIRE PREVENTION AND BUILDING
SAFETY COMMISSION,
Respondent

VARIANCE NO.: 16-11-02

MOTION TO STAY EFFECTIVENESS OF ORDER

Dreyer & Reinbold BMW, ("D&R") Petitioner under the contemporaneously filed "Petition for Administrative Review" (the "Petition") hereby requests stay of the denial of its requested variance and in support states:

1. D&R sought by means of its application for variance #16-11-02 placement of tents to protect areas immediately around temporary sales trailers that have been placed for use during a construction project.

2. On February 9, 2017, the Department of Homeland Security of the State of Indiana issued its Notice ("Order") denying that variance. A copy of this Order is attached as Exhibit A to the Petition.

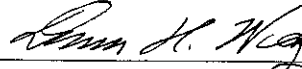
3. D&R respectfully requests that the Order be stayed in its entirety pending completion of the administrative review requested in the Petition.

4. The Order should be stayed *pendente lite* because the denial of the requested variance places an undue burden on D&R and its business. Specifically, requiring the removal of tents in the immediate vicinity of temporary sales trailers would place D&R at enhanced risk, said tents being necessary to protect the ramp to the trailers and outdoor areas in the immediate proximity of the trailers from inclement weather, particularly slip-and-fall danger; said tents which are provided by American Tent & Awning Co., Inc. have the proper certificates of flame resistance on file, and have been properly and professionally installed by American Tent & Awning Co., Inc., and their removal would increase danger to D&R's employees and customers who must frequent the area while the construction project (new showroom building) is under way.

WHEREFORE, D&R respectfully requests that this Motion to Stay of Effectiveness of Order in accordance with Indiana Code § 4-21.5-3-5(h) be granted and that in accord with said statute an Administrative Law Judge set this matter for preliminary hearing as soon as practicable, and for all other relief just and proper in the premises.

Respectfully submitted,

BAMBERGER, FOREMAN, OSWALD & HAHN, LLP



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