

**Cause #: 03-09F**

**Name: Recycle Group**

**Administrative Law Judge: William K. Teeguarden**

**Date: March 12, 2004**

**Commission Action: Affirmed**

**FINDINGS OF FACT**

1. The FPBSC is an agency within the meaning of IC 4-21.5.
2. The FPBSC is the state agency responsible for adopting and interpreting the State Fire Code (“SFC”) and Building Code (“SBC”) and is the ultimate authority over disputes involving building and fire codes in Indiana.
3. IC 4-21.5 and the Indiana State Building Code apply to this proceeding.
4. At all times relevant to this proceeding, Recycle operated a plastic bumper reclamation facility in Avon, Indiana.
5. In January of 2003, a duly authorized representative of the FD issued the Order for several violations.
6. The only violation under review was the failure to include a fire separation between mixed occupancies in violation of 675 IAC 13-2.3 table 3B.
7. Recycle, the FD, and the State Fire Marshal (SFM) all agree that the only issue in this case is whether the current use of part of the building is a sufficient change of use so as to require a separate occupancy classification.
8. If there has been a change of occupancy classification, the order was properly issued and Recycle must provide a fire separation.
9. If the current usage does not constitute a change of occupancy classification, then the building in question is compliant with respect to separation and the order should be reversed.
10. The building in question covers approximately 9000 square feet.
11. A business known as the Elite Body Shop operates an auto body shop in 2/3 of the structure.
12. The parties agree that this portion of the building has been used as an auto body shop for over 20 years.
13. The other 1/3 of the building is used by Recycle.<sup>1</sup>
14. Since 1980, the larger portion of the building has been used to rebuild total loss vehicles or other body repairs. Originally, the whole building was used as a body shop.
15. The building has been used for storage of parts, bodywork, and painting.
16. The Recycle portion of the building is now used for recycling plastic bumper covers for the insurance industry.
17. Prior to the development of recycling techniques, damaged plastic bumpers went to landfills.
18. Recycle takes these damaged plastic parts and puts them in hot water.
19. The bumper reshapes and then is blown dry.

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<sup>1</sup> The businesses have common or overlapping ownership.

20. Torn plastic is repaired with a hot glue gun.
21. The repaired product is then primed with a water-based primer.
22. The primed bumper is then returned to whatever auto body shop is doing the repairs for reinstallation and painting.
23. Recycle processes ten to fifteen bumpers per day.
24. Essentially, the business performed at Recycle is an exotic form of auto body repair.
25. The work being done in the Recycle portion of the building does not appear to increase any risk not already present in standard auto body facilities.
26. Accordingly, the administrative law judge concludes there is not a change of occupancy classification and therefore the order should be reversed.

**NONFINAL ORDER**

The Order of the Avon Fire Department dated January 6, 2003, and issued to Recycle Group is hereby reversed as to the issue of required fire separation only.