

Cause No. 04-04V

Name: Calvary Christian Church Family Life Center

Administrative Law Judge: William K. Teeguarden

Date: October 12, 2004

Commission Date: November 3, 2004

## **FINDINGS OF FACT**

1. The FPBSC is an agency within the meaning of IC 4-21.5.
2. IC 4-21.5 and IC 22-13 apply to this proceeding.
3. The FPBSC is the ultimate authority within the meaning of IC 4-21.5 with respect to the grant of Variances.
4. At all times relevant to this proceeding, the Church existed on a scenic site in Sellersburg, Indiana.
5. The original church building was built in 1989 and is separated from the current project, The Family Life Center, by an appropriate 2 hour separation so for code purposes, even though there is an enclosed walkway between the buildings, the buildings are separate structures.
6. In 2002, the Church obtained a Construction Design Release and began work.
7. The Church is blessed with a number of craftsmen in different areas of construction so much of the work was done by members.
8. To the naked eye, the craftsmanship is excellent and the building in question looks professionally built both inside and outside.
9. The 1997 Uniform Building Code with Indiana modifications applies to this building.
10. The LFO, LBO, and Church Design Professional all agree that under the 1997 UBC, 1 hour rated construction can be used in lieu of a sprinkler system.
11. All three of the above also agree that because the city water lines are approximately ¼ mile away, sprinkling is not a viable alternative.
12. There is a kitchen in the Family Life Center which was built with rated ceiling tile so the kitchen is not an issue in this case.
13. The gymnasium area, which is the major portion of the building, does not have a tiled ceiling and thus is not at issue.
14. At issue are approximately 10 rooms to be used as offices or meeting rooms which ring the gymnasium.
15. The lounge area in which the hearing was held is slightly smaller than the other rooms. There is one room in the back which is double sized and has two exits.
16. Each room has 4 2 x 4 foot fluorescent lights.
17. Each has small intrusions for heat and ventilation.
18. The air ducts are standard metal construction.
19. The lights are standard fluorescent light fixtures with an acrylic covering.
20. The grid in all the rooms was purchased new and is 1 hour UL rated.

21. The light assemblies and ducts account for approximately 18% of the ceiling space in the hearing room. Witnesses estimated they would account for 10-15% in the other rooms.
22. The tile in the office/meeting rooms came from another construction site.
23. The tile does not have a UL seal.
24. The Design Professional conducted his own burn test of both the office ceiling tile and the rated ceiling tile.
25. The results are attached as Exhibit 3.
26. The LBO witnessed the test and testified there was no apparent difference in flammability.
27. Further, the LBO indicated that the tile in question was FHC 25/50 which is a high rating for non UL rated tile.
28. The tile is ¾" thick, USG Glacier tile.
29. The LBO further opined that the ceiling assembly in question was close to equivalent of a rated one hour assembly.
30. There is one additional exit above and beyond the code required compliant exits which would assist people in the kitchen in exiting the building.
31. In addition to craftsmen, the Church is blessed with a member who is a Honeywell employee who works with fire alarm systems.
32. Based on his advice, the Church proposes an alarm system with photo electric and ionized duct detectors in each meeting room. This would provide an alarm upon the detection of any abnormal heat or smoke detection.
33. There is a modular structure about 100 yards to the north, nothing but trees and grass to the east and south, and I 65 to the west.
34. The Fire Department's main concern is the fact that the closest Fire Department water source is approximately 1/3 mile from the Church.
35. IC 22-13-2-11 sets forth the criteria for the grant of a variance.
36. The key provision of IC 22-13-2-11 as it applies to this case is that the noncompliance plus alternatives is not adverse to the public health, safety, or welfare.
37. After receiving the evidence about the nonflammability of the ceiling tile, the rated grid, the fact that the ceiling assembly in the kitchen is UL rated, and the installation of an enhanced alarm system providing early detection of abnormal heat or smoke, the trier of fact concludes that the Variance satisfies the criteria.
38. The Variance should be granted.

**Nonfinal Order**

Variance 03-12-11 is hereby granted as per the Variance Application.