

Cause No. 04-17V

Name: Montgomery County Commissioners

Administrative Law Judge: William K. Teeguarden

Date:

Commission: Affirmed

### **FINDINGS OF FACT**

1. The FPBSC is an agency within the meaning of IC 4-21.5.
2. IC 4-21.5 and the 2003 Indiana Building Code (2000 International Code) apply to this proceeding.
3. The FPBSC is the ultimate authority within the meaning of IC 4-21.5 over matters dealing with variances from building and fire codes.
4. At all times relevant to this proceeding, the Montgomery County Commissioners maintained the courthouse, which was the typical county courthouse, found in smaller communities.
5. The Courthouse has the same problem as a number of courthouses; an increasing need for courtrooms in a building not designed for additional courtrooms.
6. In August of 2003, the SFM cited the courthouse for several violations including the failure to provide a second exit from the County Court on the 3<sup>rd</sup> floor.
7. Section 1004.2.1 of the IBC requires a second exit whenever the occupant load is more than 50 people.
8. Table 1004.1.2.1 requires occupancy calculations at the rate of 7 square feet per person.<sup>1</sup>
9. The courtroom is sprinklered and contains approximately 950 square feet.
10. Only about 300 square feet is used by the public; the rest is set aside for the judge, his staff, a jury, counsel, and a witness box.
11. There is a second exit in the room but it is usable only by the judge and his reporter.
12. A barrier prohibits anyone else from getting behind the judge's bench, so it is not a compliant exit except as to the judge and the reporter.
13. The public seating area is separated from the jury, witness, and counsel area by a low barrier with an opening, which is typical of most courtrooms.
14. The Commissioners priced a redesign and it was approximately \$50,000.
15. The Commissioners propose a limit of 49 people be placed on this room.
16. Normally, the Marshal's office objects to self-limiting occupancies as being unenforceable.
17. In this case, however, the Marshal's office does not.
18. The primary reason for not objecting to this variance being granted subject to several conditions is that anytime the courthouse is open to the public, there will be security officers.

This means people trained in public security will be hanging around the third story

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<sup>1</sup> Unfortunately, the IBC does not have a special category for courtrooms. Any courtroom always has unused (and unusable) space around the judge, court reporter, jury, and counsel tables. No allowance is made for this in the code.

- of the courthouse.
19. If the Commissioners place the number of chairs in the locations as designated on Exhibit A, place a sign on the courtroom entrance that all persons must be seated until called forward, and the security personnel instructed to limit the number of people in the public area to 36, the number of chairs in that area, self limiting occupancy should work fine.
  20. Subject to those conditions, the variance should be granted.

**NONFINAL ORDER**

Variance 03-12-7 is granted subject to the following conditions:

1. The floor plan presented by Stephen T. Akers, Architect, dated January 8, 2004 is followed.
2. Audience seating is limited to a maximum of 36 chairs.
3. The courtroom will post a requirement that all persons in the public section must remain seated until their case is called or they are instructed to rise by the bailiff.
4. Security officers will be instructed to enforce the 36 person seating limitation and ask persons not seated to wait in the hall until others leave.