

Cause #: 97-18B

Name: Xavier Center Remodel

Administrative Law Judge: William K. Teeguarden

Date: May 22, 1998

Commission Action: Affirmed

### **FINDINGS OF FACT**

1. The Plan Review section of the Indiana State Building Commissioner's Office ("SBC") is an agency within the meaning of IC 4-21.5.
2. IC 4-21.5, IC 22-12, and 675 IAC 12 apply to this proceeding.
3. At all time relevant to this proceeding, the Xavier Center ("Center") was an old 3 story inner city building formerly used as a branch of the Indianapolis Public Library currently owned by the Archdiocese.
4. At issue are the remodeling plans submitted by the Center.
5. The proposed project will take existing space and divide it into individual offices.
6. The proposed project thus creates a new corridor out of existing room space.
7. The SBC added a condition to the design release that the corridor in question must be constructed of one hour resistant material.
8. The Center agrees that any new wall being created to define the corridor must be one hour rated but objects to having to upgrade existing walls along the path which are not involved in the construction project.
9. The SBC agrees that there is not a change of occupancy or use.
10. The SBC contends that the corridor in question did not exist prior to the remodeling and therefore must meet the current code requirement for corridors.
11. IC 22-12-1-7 (4) includes remodeling work as "construction".
12. 675 IAC 12-4-11 allows continued usage or occupancy of a building without alteration if new rules are adopted.
13. Alterations to existing structures, however, must comply with the

current rules for new construction.

14. Further, 675 IAC 12-4-12 (d) provides that alterations cannot reduce fire protection to a level less than the provision of the rules of the commission for new construction.
15. No existing exit or hallway need be upgraded to comply with the code.
16. However, since the hallway in question is newly constructed, even though a portion of it consists of pre-existing walls, the hallway must meet current fire and building code requirements.
17. The condition imposed by the SBC should be affirmed.

**NONFINAL ORDER**

The Construction Design Release issued on April 16, 1997, by the Indiana State Building Commissioner to Xavier Center is affirmed as written.

