

Cause #: 97-40B

Name: Enduron Inc. Warehouse

Administrative Law Judge: William K. Teegarden

Date: January 5, 2000

Commission Action: Affirmed

### **FINDINGS OF FACT**

1. The SBC is an agency within the meaning of IC 4-21.5.
2. IC 4-21.5, IC 22-12-1 and 675 IAC 12 apply to this proceeding.
3. The FPBSC is the ultimate authority within the meaning of IC 4-21.5 with respect to orders of the SBC.
4. At all times relevant to this proceeding Enduron operated a manufacturing business in Thorntown, Indiana.
5. On September 9, 1997, a duly authorized representative of the SBC (“Inspector”) conducted an inspection of a warehouse (“Warehouse”) owned by Enduron.
6. The purpose of this inspection was to confirm that the building was still being used in violation of a 1993 order issued by the SBC.
7. The Inspector determined that the building was still in use and no design release had even been issued.
8. Because of the lapse of time, the Inspector wrote a new notice of violation (“Order”) on September 12, 1997.
9. Enduron filed a timely petition for review.
10. The testimony at the hearing established the fact that a 4,500 sq. ft. warehouse addition was built at the Enduron site in 1992.
11. The construction primarily involved the enclosure of an existing loading dock and is used to store steel beams and loading (or unloading) trucks.
12. There has never been a design release obtained from the SBC.
13. IC 22-12-1-4 defines a Class I structure as “a building or structure that is intended to be or is occupied or otherwise used in any part by any of the following:

.  
. .  
(C) One (1) or more persons who act as the employees of another.”

14. The Warehouse is a Class I structure.
15. 675 IAC 12-6-3 requires that a Class I structure may not be constructed until a design release has been issued by the SBC.
16. Further, 675 IAC 12-6-6 requires that a Class I structure of this size have plans certified by a design professional before the SBC can issue a design release.
17. The only defense presented by Enduron was the fact that the local building official for Thorntown approved the project and issued a local building permit.
18. A permit from the local official cannot take the place of a release of plans by the SBC.
19. IC 22-15-3-7 provides that construction without a design release is a Class C infraction.
20. The Order of the SBC should be affirmed.

**NONFINAL ORDER**

The Order of the State Building Commissioner written September 12, 1997, and issued to Enduron, Inc. is hereby affirmed.

