

Cause #: 98-37

Name: Courtyard By Marriott

Administrative Law Judge: William K. Teegurden

Date: July 8, 1999

Commission Action: Affirmed

## **FINDINGS OF FACT**

1. The FPBSC is a state agency within the meaning of IC 4-21.5.
2. IC 4-21.5 IC 22-13, and 675 IAC 13 (“1993 IBC”) apply to this proceeding.
3. The FPBSC is both the initial agency authority and the ultimate authority within the meaning of IC 4-21.5 with respect to the IBC variances.
4. The Hotel is a business property located in Marion County, Indiana.
5. In May of 1998, the Hotel requested 6 variances to the IBC from the FPBSC.
6. The Hotel has petitioned for administrative review of denial of two variances, Variance A and Variance B.
7. At the hearing, the City and the Hotel agreed that changes made by the Hotel to its exiting signs now put it into compliance with the 1993 IBC<sup>1</sup> and thus Variance A was no longer needed.
8. Variance B involves the locking of the front doors of the Hotel in the late evening which is done for the safety of the employees and guests.
9. Variance B requests that the Hotel be allowed to use a door with a magnetized lock system instead of “panic hardware”.
10. Section 3304 (c ) requires that “Exit doors shall be operable from the inside without the use of a key or any special knowledge or effort.”
11. The system to be used is a magnetic lock which will release on the happening of any one of four events:

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<sup>1</sup> The Hotel building project commenced before April of 1998, hence the plans as released are subject to the 1993 IBC. The 1998 IBC only applies to plans filed after April 30, 1998.

- a. Power failure.
  - b. A person approaching the door from the inside will trigger a release by means of an electric eye.
  - c. A person approaching the door from the inside pushing a button.
  - d. The front desk clerk triggers a manual switch.
12. During the on site meetings the fire officials concluded that there are two other complying exits on the first floor of the building and thus the front entrance is not a “required exit” for building and fire purposes.
  13. As such, the fire officials withdrew their opposition to the variance.
  14. The City appeared at the hearing not to object to the variance but to urge that a variance was needed.
  15. One contention of the Hotel is that since there are the mandatory two compliant exits, the exit in question can be locked by any means without requiring a variance.
  16. Section 3304 (l) of the IBC deals with additional doors and states that “When additional doors are provided for egress purposes, they shall conform to all provisions of this chapter. . . .”
  17. Generally speaking, the trier of fact agrees in principal with the Hotel; that is, since the doors in question are not required by the IBC, they need not comply with Section 3304 (c).
  18. However, in this particular case, the doors in question are the entrance to the lobby and desk of a fairly large Hotel.
  19. Virtually everyone first entering the building will enter by these doors and thus, by the testimony of all parties, will first think of these doors as the primary exit.
  20. Solely because of this fact, the trier of fact concludes that whether intended by design or not, patrons will consider the lobby area as a means of egress and thus Section 3304 (l) of the IBC applies.
  21. For that reason, the trier of fact agrees with the City’s contention that a variance is needed.
  22. During the time after the hearing while the record was held open, the

LFO submitted a letter which agreed that the main lobby doors were not required exits and the safeguards installed with the magnetic locking system were adequate to allow exiting in emergency situations.

23. The testimony presented about the magnetic locks supports this opinion of the LFO.
24. Accordingly, Variance B is required and should be granted.

**NONFINAL ORDER**

Variance 98-6-19 (b) is hereby approved.

