

Cause #: 97-18F
Name: Paoli Wee Care
Administrative Law Judge: William K. Teegarden
Date: March 29, 1999
Commission Action: Affirmed

FINDINGS OF FACT

1. The OSFM is an agency within the meaning of IC 4-21.5.
2. IC 4-21.5, IC 22-13, and 675 IAC 13, Indiana Building Code, (“IBC”) apply to this proceeding.
3. The OSFM is the state agency responsible for enforcing fire regulations and inspecting licensed day care facilities in Indiana.
4. At all times relevant to this proceeding, Paoli was a properly licensed day care operating in Paoli, Indiana.
5. On April 15, 1997, a duly authorized representative of the OSFM conducted a routine fire inspection of Paoli and cited two violations of the IBC.
6. Those violations included Section 3318 (e)¹ and 3305 (h) of the IBC.
7. At the time of inspection, the IBC in force was the 1993 IBC.
8. In February of 1993, the State Building Commissioner released the plans of the day care.
9. Periodic OSFM inspections were made after release in 1993 and no fault was found on the issues presented here until 1997.
10. The 1993 IBC basically adopts the 1991 Uniform Building Code (“UBC”) as the IBC.
11. Section 3318 (e) of the UBC deals with corridors.
12. Section 3305 (h) of the IBC deals with fire rated openings.
13. Section 3305 (h) only applies when 3305 (g) requires rated corridors.

¹ The order itself said 3318 (c) but this was corrected at the hearing.

14. The building in question is one story, group E occupancy, and type V construction.
15. In 1998, the Fire Prevention and Building Safety Commission adopted the 1997 UBC as the IBC.
16. Section 3318 (e) of the 1991 UBC required corridors to be build with a 1 hour rating “. . . with openings protected as required in Section 3305 (h).”
17. There is an exception to Section 3318 (e) which reads as follows:

“When each room used for instruction has a least one exit door directly to the exterior at ground level and when rooms used for assembly purposes have at least one half of the required exits directly to exterior ground levels, one hour fire resistive construction of corridor walls and ceilings is not required.”
18. Exhibit B is a floor plan of the day care.
19. Rooms 112 and 113 are connected by an area divider.
20. So are rooms 114 and 115.
21. Room 112 has an exterior exit.
22. Room 114 has an exterior exit.
23. Rooms 113 and 115 have access to exterior exits by way of their connection to rooms 112 and 114, respectively.
24. While there is a paucity of evidence of the nature of the area dividers, it is obvious that the rooms are connected and traffic can move between the rooms. If this were not the case, plan review and the first few OSFM inspections would have been disturbed by rooms 115 and 113 only having a single exit and a capacity rating of 10 occupants,² so clearly the two rooms are in reality just one room with an area divider. Also the order in question would have included a violation for insufficient exits.
25. Other rooms used for instructional purposes (rooms 108, 109, 111,

² See table 33-A, 675 IAC 13-2.2-123 which requires 2 exits in any day care room with 7 or more children.

116, and 117) have exterior exits.

26. Room 118 has access to an exterior exit through room 117.
27. This brings into play Section 3303 (e) which allows an exit through an adjoining room so long as the adjoining room has a path to an exit or exit corridor.
28. The net result is a design which meets the exception to Section 3318 (e) and thus does not require a one hour rated corridor.
29. If the corridor is not required to be rated, then the openings are not required to be rated since Section 3305 (h) of the UBC applies only to rated corridors.
30. Since the corridor is not required to be constructed of fire rated materials, the fact that the plans show substantial amounts of one hour wall construction does not mean that the remainder of the exiting system must be one hour rated.
31. If the design professional and the owner choose to put one hour walls where they are not required, it does not follow that they should then be required to also use rated doors.
32. Even if the order was correctly issued under the 1993 IBC, the 1998 IBC (1997 UBC) would resolve the problem.
33. One of the significant changes to the IBC deals with corridors and hallways. See Code Explorer (formerly Code Quest) Volume 1, issue 1, January 1999, published by the Technical Services Section.
34. In most buildings under the 1998 IBC, “hallways” are not required to be fire rated. Corridors are so required.
35. Section 1004.2.2, exceptions 2 and 4 specifically allow access through an adjoining room. It also specifies a hallway is an intervening room.
36. If both required exits to a class room enter into the hallway, exception 4 to Section 1004.2.2 of the 1998 IBC would make the hallway a corridor and require it to be rated pursuant to Section 1004.3.4.3 of 1998 IBC.
37. There is no limit on the number of openings permitted in a hallway as

long as the exiting does not require a corridor pursuant to Section 1004.2.2 of the 1998 IBC.

38. An examination of exhibit B shows that the existing system can be considered a hallway and thus need not be fire rated.
39. The current design conforms to both the 1993 IBC and the 1998 IBC.
40. The order should be vacated.

NONFINAL ORDER

The Order of the Fire Marshal dated April 22, 1997, issued to Paoli Wee Care is hereby vacated.