

STATE OF INDIANA

BEFORE THE INDIANA ALCOHOL AND TOBACCO COMMISSION

| | | |
|----------------------------------|---|------------------------------|
| IN THE MATTER OF |) | |
| THE PERMIT OF |) | |
| JATINDER KUMAR |) | PERMIT NO. DL11-33019 |
| 8658 LAURELTON PLACE |) | |
| BROWNSBURG, INDIANA 46112 | | |

PROPOSED FINDINGS OF FACTS AND CONCLUSIONS OF LAW

Comes now James W. Payne, Hearing Judge, having presided over the appeal hearing in the above-mentioned matter on October 9, 2025, and recommends the following findings and orders:

I. BACKGROUND

On May 23, 2025, Daryle (Dale) York (hereinafter referred to as “York”) filed his Remonstrator’s Objection, Petition for Intervention and a Request for Appeal, an appeal on the granting of the above-mentioned permit, on a 3-0 vote by the Clay County Local Alcohol Board (hereinafter referred to as “Local Board”) on March 27, 2025. The recommendation of the Local Board to grant the Permit to Jatinder Kumar (hereinafter referred to as “Kumar”) was considered by the full meeting of the Indiana Alcohol and Tobacco Commission (hereinafter refer to as “ATC”) on May 6, 2025, and ATC adopted the recommendation of the Local Board. The ATC granted the Motion for intervention and appeal filed by York and this appeal was heard by Vice Chairman James W. Payne as the Hearing Judge.

Kumar filed an application for a package liquor store permit in Clay County. He has several permits in Indiana and there appears to be no question that he is of sound character, as nothing was presented regarding his character at either the local board or the ATC hearing. The liquor store to be operated by Kumar is proposed to be located at 810 National Rd., Knightsville, IN.

Local Board heard testimony about the above-mentioned permit. Kumar made a presentation followed by supporters and Remonstrators. There were three people present in support of the grant of the permit and three remonstrators present to oppose the permit. Those testifying against the application mentioned traffic, congestion, and the general area in Knightsville, Indiana. One remonstrator, York, concurred with the other remonstrators but primarily addressed the issue that he operates a church next to the proposed site. The Local Board

considered that testimony about the church and voted to approve the applicant's request for a permit.

The hearing on October 9, 2025, before the Hearing Judge, almost entirely addressed the issue of the church and its proximity to the proposed site of the permit.

II. EVIDENCE BEFORE THE LOCAL BOARD

A. The following individuals testified before the Local Board in favor of the Applicant:

1. Jatinder Kumar
2. Joshua and Jennifer Bell
3. Lisa Fischer

B. The following evidence was introduced and admitted before the Local Board in favor of the Applicant:

1. None

C. The following Individuals testified before the Local Board against the Applicant:

1. Bruce Hoopingarner
2. Daryle (Dale) York
3. Jeff Miner

D. The following evidence was introduced and admitted before the Local Board in opposition to the Applicant:

1. IRS Document dated 12-5-2022 re Our Earth of Today
2. Photo of driveway and garage area
3. Arial map
4. Photo of sign for Our Earth of Today
5. Credentials of Ministry

III. EVIDENCE BEFORE THE COMMISSION

A. The following individuals testified at the ATC hearing in favor of the Applicant:

1. Jatinder Kumar

- B. The following exhibits were introduced and received into evidence at the ATC hearing in favor of the Applicant:
1. Exhibit 1 – Affidavit of Daryle D. York
 2. Exhibit 2 – Picture of church/garage
 3. Exhibit 3 – Picture and statement about the church building.
- C. The following individuals testified at the ATC hearing in opposition to the Applicant:
1. Daryle (Dale) York
 2. Llexcyiss Omega
- D. The following evidence was introduced at the ATC hearing in opposition to the Applicant:
1. Exhibit A – Credentials of Ministry
 2. Exhibit B – IRS Employer Identification Number
 3. Exhibit C – The building in the Summer of 2023
 4. Exhibit D – The building in January 2025
 5. Exhibit E – Aerial picture of the building.

IV. FINDINGS OF FACT

1. Kumar is the applicant for a permit for a package liquor store permit in the state of Indiana in Clay County under DL11-33019.
2. Licensed premises is located at 810 National Rd., Knightsville, IN, and Kumar has contracted to purchase the building at that site, tearing the building down and building a new 3500 square-foot building.
3. York presented evidence about the denial of an unrelated package liquor store application nearby under permit number DL11-32603.¹
4. In 2021 under DL11-32603, residents in the local community and the local county chose to oppose or support the applicant's permit for a dealer license- the Local Board denied the application.
5. In 2025 under DL11-33019, residents in the local community and the local county chose to oppose or support the applicant's permit for a dealer license – the Local Board approved the application.

¹ JLS Family LLC applied for and was denied a package liquor store permit in 2021 for a proposed premises at 765 East US Hwy 40, Knightsville, IN 47857. Evidence in that record shows two petitions signed by approximately 17 and then 18 persons opposed to the grant of the permit at the proposed location.

6. While the address location of the proposed permits is different, the fact that far fewer Knightsville residents opposed the current permit is an important distinction.
7. The intervening Remonstrator under the above-mentioned permit, York, at the hearing on October 9, 2025, primarily addressed the issue of the church, not issues regarding the location of the proposed liquor store to his residence, to other homes in the neighborhood and the community, or to the traffic issues.
8. York received ordination from the Universal Life Church Ministries on September 15, 2015. See Exhibit A
9. York testified to operating a church named Our Earth of Today, A Church of the World, holding services primarily on Monday with a church attendance of an unidentified number, but probably between nine and 21 people with an average of 12.
10. There was conflicting testimony about whether there is a listing or record of the attendees—York testified he did not have a list of the attendees, but his wife, testified that she has a list, but he may not be aware of it.
11. The church has received an employer identification number from the Internal Revenue Service, but York testified that the church has no employees. See Exhibits B and 1
12. York presented no information that this church is recognized as a not-for-profit organization by the Internal Revenue Service as a 501c(3).
13. He presented no evidence that this church has a distinct legal existence; a distinct ecclesiastical government; a formal code of doctrine or discipline; literature of its own; Sunday schools for the instruction of the young; an established congregation; or other criteria established by the Internal Revenue Service to qualify as a 501c (3). See American Guidance Foundation, Inc. v. United States 490 F. Supp 304 (1980) and Foundation of Human Understanding v. Commissioner 88 T.C. 1341 (1987)
14. An aerial photo of York's property shows the house and the alleged church building in proximity and shows the alleged church building at the end of what appears to be a driveway. See Exhibit E.
15. A review of the alleged church building shows the building as an apparent garage with a front garage door, no visible side doors, and with a vehicle parked inside, a cross above the building but does not show any chairs or seating for attendees.
16. York testified that there is no water, no bathroom, no electricity, and no doorways available to the building that serves as the alleged church building. See Exhibits 2 and 3.

17. When asked, York stated that when someone needed water or to use the bathroom facilities, they merely had to walk to his house, a very short distance.
18. York testified that in cold or inclement weather church services would be held in his house.
19. York testified that there are very few restrictions in a small town like Knightsville and a small County like Clay County, Indiana.
20. When questioned, York testified that the church itself is not registered with the Indiana Department of Revenue, the Indiana Secretary of State or as a not-for-profit organization.
21. York stated that he was unaware of any building code or operating business requirements that may apply to a building that serves as a church or is open to the public such as health department, safety, fire department, or other occupancy or safety purposes such as existing emergency exits, bathroom facilities or heating and air conditioning availability.
22. York admitted that he has expressed interest in buying the property in question but that the asking price was too much – it is clear that the property value would increase dramatically if there were a successful, operating liquor store on the premises.
23. In a document dated December 6, 2021, submitted to ATC, York stated that he occasionally performs marriages because he is a minister with no reference that he is a minister of a church.
24. An arial map of the area measures the distance between the property line of York's parcel to the property line of the licensed premises parcel.
25. York did not provide any information showing that the church has a constitution, bylaws, charter, religious creed or form of religious worship or other distinguishing characteristics associated with this church.
26. Kumar is not disqualified from having a permit issued pursuant to I.C. 7.1-3-4-2 since the evidence showed that Our Earth of Today does not meet criteria for it to be called a church and the proposed property is not located within 200 feet of a church building.
27. Any Finding of Fact herein that should more appropriately be a Conclusion of Law is hereby denominated.

V. CONCLUSIONS OF LAW

1. The Commission has jurisdiction over this matter pursuant to IC 7.1-1-2-2 and IC 7.1-2-3-9.
2. The permit application was submitted pursuant to IC 7.1-3-1-4.
3. The Commission is authorized to act upon proper applications. *Id.*
4. The Hearing Judge conducted a *de novo* review of the appeal from the decision of the Clay County Local Alcohol Board on behalf of the Commission, including a public hearing, and a

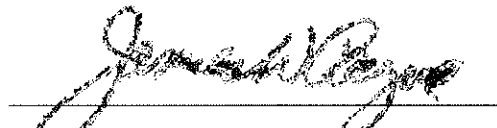
review of the records and documents in the Commission's ATC file and evidence and testimony. IC 7.1-3-19-1 1a; 905 IAC 1-36-7(a); and 905 IAC 1-37 (2).

5. The Hearing Judge may take judicial notice of all of the Commission's files relevant to a case, including the transcript of proceedings, the exhibits and the Indiana Court record before the local board. 905 IAC 1-36-7(a).
6. The Findings are based exclusively upon substantial and reliable evidence in the record of the proceedings, the ATC files, and all matters officially noticed in the proceedings. 905 IAC 1-36(7(a)).
7. The ATC has absolute discretion in granting or denying the application for a permit. IC 7.1-2-3-9, IC 7.1-3-19-1, and IC 7.1-3-19-10.
8. The Commission shall follow the recommendation of a majority of the members of a local board to grant or deny a permit unless it finds that the decision of the Local Board is : 1- arbitrary, capricious, an abuse of discretion or otherwise not in accordance with the law; 2- contrary to a constitutional right, power, privilege or immunity; 3- in excess of or contrary to statutory jurisdiction, authority, limitations or rights; 4- without observance of procedure required by law, or; 5- unsupported by substantial evidence, IC 7.1-3-19-11.
9. Evidence and local board recommendation for denial during a prior unrelated application at a different location cannot be considered in this matter where the evidence, remonstrators, applicant and location are different.
10. The substantial evidence standard is met if "a reasonable person would conclude that the evidence and the logical and reasonable inferences there from of such a substantial character and probative value so as to support the administrative determination." *Indiana Alcoholic Beverage Commission v. Edwards*, 659 N.E.2d 631 (1995) (citing *Civil Rights Commission v. Weigart, Inc.*, 588 N.E.2d 1288, 1289 (ind. 1992).
11. The substantial evidence standard requires a lower burden of proof than the preponderance of evidence test, yet more than a scintilla of evidence test. *Burke v. City of Anderson*, 612 N.E.2d 559, 565, n.1 (Ind. Ct. App. 1993).
12. Based upon the evidence and the testimony, Our Earth of Today does not have the necessary qualifications to be church.
13. Since Our Earth of Today does not meet the federal or state requirements to be a church, the use of the building on the Remonstrator's property does not prevent ATC from issuing the permit applied for under RR11-33019.

14. Measurement of the distance between a licensed premises and a church for the purposes of IC 7.1-3-21-11 is from the wall of the church building to the wall of the licensed premises building, not from property line to property line.
15. Additionally, the wall of the licensed premises, when built, may be more than 200 feet from the wall of the alleged church.
16. When services are moved into the house on York's property, the distance between the wall of the licensed premises and the wall of the alleged church would again change.
17. Based upon the evidence and the testimony before the Hearing Judge, the records of ATC and the Local Board hearing, the Hearing Judge concludes that the findings and recommendation of the Clay County Local Board are not arbitrary, capricious or an abuse of discretion and its recommendation is supported by substantial evidence.
18. The facts support the approval of the issuance of the permit DL 11-33019, and the recommendation of the Clay County Local Board is Affirmed.
19. Any Conclusion of law may be considered a Finding of Fact if the context so warrants.

THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED that the recommendation of the Clay County Local Board to approve the issuance of a dealer's license to Jatinder Kumar under ^{DL}~~PP~~ 11-33019 is approved and affirmed.

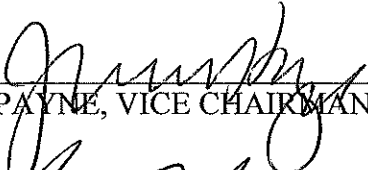
All of which is dated this 16h day of October 2025.


James W, Payne, Hearing Judge

Approved this 4th day of November, 2025



JESSICA ALLEN, CHAIR



JAMES PAYNE, VICE CHAIRMAN



MARJORIE MAGINN, COMMISSIONER



MARK A. JONES, COMMISSIONER