

Cause #98-11F

Name: Revco/CVS Drug Store

Administrative Law Judge: William K. Teeguarden

Date: May 10, 1999

Commission Action: Affirmed

FINDINGS OF FACT

1. Jurisdiction over this matter by the FPBSC is provided by IC 36-8-17-9 which allows an LFO to issue violation orders and IC 36-8-17-11 which allows an appeal of LFO orders to the FPBSC pursuant to IC 4-21.5.
2. IC 4-21.5, IC 36-8, IC 22-12, 675 IAC 13-2.2 (“IBC”) apply to this proceeding.
3. At all times relevant to this proceeding, the Occupant conducted a one story retail sales business in a complex located in Warren Township, Marion County, Indiana.
4. On January 5, 1998, the LFO conducted an inspection of the Occupant’s business and on January 6, 1998, issued an order requiring the correction of a number of conditions in the building.
5. On January 19, 1998, the Occupant petitioned for review of the first paragraph of the Order. None of the other paragraphs of the Order are at issue here.
6. The relevant portion of the Order cites Section 3802 (b) of the Uniform Building Code (“UBC”) as the code section being violated.¹
7. Section 3802 (b) of the UBC requires that an automatic fire extinguishing system be installed in Occupant’s building unless exterior openings of at least 20 square feet with a minimum dimension of 30 inches are provided every 50 feet or fraction thereof.
8. The original released set of plans provided for a sprinkler system.
9. These plans were later amended and in order to delete the sprinkler system, the plans added an exterior door to a storage area.
10. The addition of this door provided a second exterior access point within a wall length of 52 feet, 8 inches.²
11. The purpose of the exterior openings in Section 3802 (b) is to allow access to the building to the fire department from the exterior.
12. The addition of the 40 inch exterior door satisfies the objective criteria of Section 3802 (b) and the LFO concedes this.
13. The LFO based the Order on the subjective portion of Section 3802 (b) which reads as follows:

“such openings shall be accessible to the fire department

¹The IBC in effect in January of 1998 adopted the 1991 UBC as the State Building Code.

² Because of the importance of the floor plan to this decision, a copy of the storage room plans and the two exterior exits are attached to this decision and labeled “attachment A”.

from the exterior and shall not be obstructed in a manner that firefighting or rescue cannot be accomplished from the exterior.”

14. The added door is accessible but the LFO has a valid concern about the opening being obstructed.
15. An examination of attachment A shows that the added opening enters into a storage room which has a solid wall running parallel to the exterior wall about 8 feet from the exterior wall.
16. There is no opening in the interior wall of the storage room.
17. The only way to get out of the storage room and into the retail floor area is to turn left and proceed to a doorway at the far end of the storage room, a distant of approximately 24 feet.

18. Further, exiting at the end of the storage room places a firefighter within 5 or 6 feet of the same place he would be if he entered the building through the original door on the exterior wall.
19. The net result of the addition of the new door is a building that allows no more unrestricted access by firefighters to the main body of the store than did the original design with only one door.
20. Under these circumstances, the new opening does not provide an independent, unobstructed entrance from the exterior for the fire department and does not add to the ability to fight fires or conduct rescue operations.
21. Because of this, the building as it exists does not comply with Section 3802 (b) of the UBC and thus violates the IBC.
22. The Order issued by the LFO should be affirmed.

NONFINAL ORDER

Paragraph one of the Order dated January 6, 1998, issued to Revco/CVS at 8935 E. 21st Street, Indianapolis, Indiana, by the Warren Township Fire Marshal is hereby affirmed.