

STATE OF INDIANA  
BEFORE THE FIRE PREVENTION AND BUILDING  
SAFETY COMMISSION

IN RE: ) CAUSE NO.  
)  
RATHSKELLER ) DHS-1508-FPBSC-005  
RESTAURANT )  
)

**NOTICE OF NONFINAL ORDER OF DISMISSAL**

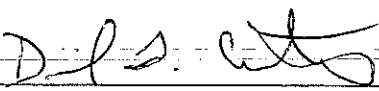
You are hereby notified that the attached document entitled **Nonfinal Order of Dismissal** has been entered by the Administrative Law Judge in accordance with Indiana Code § 4-21.5-3-27.

The ultimate authority in this matter is the Fire Prevention and Building Safety Commission. Indiana Code § 4-21.5-3-29(d) requires a party seeking to preserve an objection to this order for judicial review to file a written objection that:

1. identifies the basis of the objection with reasonable particularity; and
2. is filed with the administrative law judge within 18 days after service of this notice.

In the absence of an objection from a party or notice from the Commission of its intent to review any issue related to this order, the Commission shall affirm this order in accordance with Indiana Code § 4-21.5-3-29(c). This order will be considered by the Fire Prevention and Building Safety Commission on **December 6, 2016, at 9:00 a.m. (EST), in Conference Room B, Indiana Government Center South, 302 West Washington Street, Indianapolis, Indiana 46204.**

Date: November 15, 2016

  
HON. DAVID L. C ARTER  
Administrative Law Judge  
Indiana Department of Homeland Security  
302 W. Washington Street  
Indiana Government Center South, Rm E208  
Indianapolis, Indiana 46204  
Telephone: (317) 234-8917  
Fax: (317) 232-0146  
E-mail: [dacarter2@dhs.in.gov](mailto:dacarter2@dhs.in.gov)

A copy of the foregoing has been sent to the following:

Ed McMichael  
401 E. Michigan Street  
Indianapolis, IN 46204

Chief Courtney Gordon  
Indianapolis Fire Department  
300 East Fall Creek Parkway North Drive, Suite 500  
Indianapolis, IN 46205

and personally served on the following attorneys for the Commission:

Pamela Walters, Esq.  
Justin Guedel, Esq.  
Indiana Department of Homeland Security  
302 W. Washington Street  
Indiana Government Center South, Room E208  
Indianapolis, IN 46204

---

STATE OF INDIANA  
BEFORE THE FIRE PREVENTION AND BUILDING  
SAFETY COMMISSION

IN RE: ) CAUSE NO.  
 )  
RATHSKELLER ) DHS-1508-FPBSC-005  
RESTAURANT )  
 )

NONFINAL ORDER OF DISMISSAL

On October 27, 2016, the ALJ issued a Notice of Substitution of Administrative Law Judge. The ALJ points out that in a Report on Status Conference held on July 8, 2015 the ALJ stated the Petitioner was to seek a variance from the Fire Prevention and Building Safety Commission that the granting of which would render this appeal moot. No further proceedings were set in this matter, pending the Commission's determination on the variance.

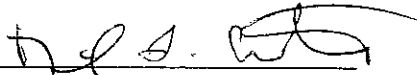
The Petitioner was directed to advise the ALJ of the Commission's decision so that a decision could be made to either dismiss this matter or set it for further proceedings. By a letter from Petitioner's representative, Ed McMichael, and received November 7, 2016 by the ALJ, the matter has been resolved by the approval of the variance on September 2, 2015 as reflected in the Commission's correspondence attached to Mr. McMichael's letter.

**Accordingly, the Administrative Law Judge now enters this Nonfinal Order of Dismissal.** The ultimate authority in this matter is the Fire Prevention and Building Safety Commission. Indiana Code § 4-21.5-3-29(d) requires any party seeking to preserve an objection to this order for judicial review to file a written objection that

1. identifies the basis of the objection with reasonable particularity; and
2. is filed with the Commission within fifteen days (or any longer period set by statute) after this order is served.

In the absence of an objection from a party or notice from the Commission of its intent to review any issue related to this order, the Commission shall affirm this order in accordance with Indiana Code § 4-21.5-3-29(c). **This order will be considered by the Commission on December 6, 2016, at 9:00 a.m. (EST), in Conference Room B, Indiana Government Center South, 302 West Washington Street, Indianapolis, Indiana 46204.**

Date: November 15, 2016

  
HON. DAVID L. C ARTER  
Administrative Law Judge  
Indiana Department of Homeland Security  
302 W. Washington Street  
Indiana Government Center South, Rm E208  
Indianapolis, Indiana 46204  
Telephone: (317) 234-8917  
Fax: (317) 232-0146  
E-mail: [dacarter2@dhs.in.gov](mailto:dacarter2@dhs.in.gov)

A copy of the foregoing was served by U.S. Postal Service upon the following parties and attorneys of record:

Ed McMichael  
401 E. Michigan Street  
Indianapolis, IN 46204

Chief Courtney Gordon  
Indianapolis Fire Department  
300 East Fall Creek Parkway North Drive, Suite 500  
Indianapolis, IN 46205

and personally served on the following attorneys for the Commission:

Pamela Walters, Esq.  
Justin Guedel, Esq.  
Indiana Department of Homeland Security  
302 W. Washington Street  
Indiana Government Center South, Room E208  
Indianapolis, IN 46204

