

AGENDA

STATE BUILDING CODE TECHNICAL REVIEW BOARD

Friday, October 16, 2015 – 10:00 a.m.

Virginia Housing Center 4224 Cox Road – Glen Allen, Virginia

- I. Roll Call (**Tab 1**)
- II. Approval of August 21, 2015 Minutes (**Tab 2**)
- III. Public Comment
- IV. Approval of Final Order (**Tab 3**)
In Re: Appeal of John Thulin
Appeal No. 15-2\
- V. Approval of Final Order (**Tab 4**)
In Re: Appeal of Joseph E. Ellis
Appeal No. 15-4
- VI. Approval of Final Order (**Tab 5**)
In Re: Appeal of Justin Verville
Appeal No. 15-5
- VII. Appeal Hearing (**Tab 6**)
In Re: Appeal of International Technology Industry, Inc. (ITI)
Appeal No. 15-10
- VIII. Conflict of Interest Training for Board Members
- IX. Secretary's Report

STATE BUILDING CODE TECHNICAL REVIEW BOARD

Updated October 6, 2015

J. Robert Allen, CBO
Chairman
(Representing the Virginia Building & Code Officials Association)

James R. Dawson
Vice Chairman
(Representing the Virginia Fire Chiefs Association)

Matthew Arnold
(Representing the American Institute of Architects)

W. Keith Brower, Jr.
(Representing the Commonwealth at large)

Vince Butler
(Representing the Virginia Homebuilders Association)

J. Daniel Crigler
(Representing the Virginia Plumbing-Heating-Cooling Contractors Association)

John H. Epperson, PE
(Representing the Virginia Society of Professional Engineers)

Alan D. Givens
(Representing the Virginia Plumbing-Heating-Cooling Contractors Association)

Joseph A. Kessler, III
(Representing the Associated General Contractors of Virginia)

John A. Knepper, Jr., PE
(Electrical Contractor)

Eric Mays, PE
(Representing the Virginia Building & Code Officials Association)

Joanne D. Monday
(Representing the Virginia Building Owners and Managers Association)

Patricia S. O'Bannon
(Representing the Commonwealth at Large)

W. Shaun Pharr, Esq.
(Representing the Apartment and Office Building Association of Metropolitan Washington)

Justin I. Bell, Esq.
Assistant Attorney General
Financial Law and Government Support Section
Office of the Attorney General
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DRAFT MINUTES

STATE BUILDING CODE TECHNICAL REVIEW BOARD MEETING

August 21, 2015

RICHMOND, VIRGINIA

Members Present

Mr. J. Robert Allen, Chairman
Mr. Vince Butler
Mr. James R. Dawson
Mr. John H. Epperson, PE
Mr. Alan D. Givens
Mr. Joseph A. Kessler, III
Mr. John A. Knepper
Mr. Eric Mays
Ms. Joanne D. Monday
Ms. Patricia S. O'Bannon
Mr. W. Shaun Pharr, Esq.

Members Absent

Mr. Matthew Arnold
Mr. W. Keith Brower
Mr. J. Daniel Crigler

- Call to Order The meeting of the State Building Code Technical Review Board ("Review Board") was called to order by the Chairman at approximately 10:00 a.m.
- Roll Call The attendance was established by Mr. Vernon W. Hodge, Secretary, and constituted a quorum. Mr. Justin I. Bell, Assistant Attorney General in the Office of the Attorney General, was present and serving as the Board's legal counsel.
- Approval of Minutes Mr. Butler moved to approve the minutes of the June 19, 2015 meeting as presented in the Review Board members' agenda package with the correction to add the words "Mr. Pharr and" at the beginning of the last sentence in the third paragraph of page five of the minutes.. The motion was seconded by Mr. Dawson and passed unanimously with Ms. O'Bannon abstaining from the vote.
- Public Comment The Chairman opened the floor for public comment. The Secretary reported that no one was preregistered. The Chairman closed the public comment period.

Final Orders

Appeal of Leslie Carper; Appeal No. 15-7:

After consideration, Mr. Epperson moved to approve the final order as presented in the Review Board members' agenda package. The motion was seconded by Mr. Dawson and passed unanimously with Ms. O'Bannon abstaining from the vote.

Appeal of Jonathan and Carolyn Clark; Appeal No. 14-13:

After consideration, Ms. Monday moved to approve the final order as presented in the Review Board members' agenda package. The motion was seconded by Mr. Butler and passed unanimously with Ms. O'Bannon abstaining from the vote.

Appeal of Mark L. Riley; Appeal No. 14-14:

After consideration, Mr. Kessler moved to approve the final order as presented in the Review Board members' agenda package. The motion was seconded by Mr. Dawson and passed unanimously with Ms. O'Bannon abstaining from the vote.

Appeal of Edward J. Taborek; Appeal No. 15-3:

After consideration, Mr. Dawson moved to approve the final order as presented in the Review Board members' agenda package. The motion was seconded by Ms. Monday and passed unanimously with Ms. O'Bannon abstaining from the vote.

Mr. Givens arrived at approximately 10:15 a.m.

Appeal of John Thulin; Appeal No. 15-2:

An appeal hearing convened with the Chairman serving as the presiding officer. The appeal concerned the issue of whether there was a proper application of the code by the local building official upon which Mr. Thulin could appeal.

The following persons were sworn in and given the opportunity to present testimony:

New Business

Appeal of John Thulin; Appeal No. 15-2 (cont'd.):

John Thulin
Doug Saunders, City of Lynchburg building official
Michael McKinney, City of Lynchburg plan reviewer

No exhibits were submitted by the parties to supplement the documents in the Review Board members' agenda package.

After testimony concluded, the Chairman closed the hearing and stated a decision from the Review Board members would be forthcoming and the deliberations would be conducted in open session. It was further noted that a final order reflecting the decision would be considered at a subsequent meeting and, when approved, would be distributed to the parties and would contain a statement of further right of appeal.

Decision: Appeal of John Thulin; Appeal No. 15-2:

After deliberations, Mr. Epperson moved that the application is not properly before the Review Board and to uphold the decision of the local building official and the local appeals board. The motion was seconded by Mr. Mays and passed unanimously.

Appeal of Joseph E. Ellis; Appeal No. 15-4:

An appeal hearing convened with the Chairman serving as the presiding officer. The appeal involved citations issued under the Virginia Maintenance Code by the City of Lynchburg Inspection Department for conditions at Ellis' property at 208 and 233 Jefferson Avenue, in Danville and whether the appeal was filed to the local appeals board within the required timeframe.

The following persons were sworn in and given the opportunity to present testimony:

Joseph E. Ellis
Jerry Rigney, City of Danville building official
Dennis Bisson, City of Danville inspector

Appeal of Joseph E. Ellis; Appeal No. 15-4 (cont'd.):

Jay Thornton, City of Danville inspector

Also present was:

Alan Spencer, Esq., legal counsel for the City of Danville

No exhibits were submitted by the parties to supplement the documents in the Review Board members' agenda package.

After testimony concluded, the Chairman closed the hearing and stated a decision from the Review Board members would be forthcoming and the deliberations would be conducted in open session. It was further noted that a final order reflecting the decision would be considered at a subsequent meeting and, when approved, would be distributed to the parties and would contain a statement of further right of appeal.

Decision: Appeal of Joseph E. Ellis; Appeal No. 15-4:

After deliberations, Mr. Mays moved to uphold the decision of the local code official and the local appeals board. The motion was seconded by Ms. O'Bannon and passed unanimously.

Appeal of Milari Madison; Appeal No. 15-5:

The Secretary informed the Review Board members that the appeal had been postponed with agreement by all parties subsequent to the agenda package being distributed.

Appeal of Justin Verville; Appeal No. 15-11:

An appeal hearing convened with the Chairman serving as the presiding officer. The appeal concerned the proposed use of a church educational wing as a daycare and whether it would constitute a change of occupancy under the Virginia Uniform Statewide Building Code.

Appeal of Justin Verville; Appeal No. 15-11 (cont'd.):

The following persons were sworn in and given the opportunity to present testimony:

Justin Verville
Laura M. Verville
Doug Smith, City of Portsmouth building official
William Hargrove, for the City of Portsmouth
Jon Hartley, for the City of Portsmouth

Also present was:

Bob Merhige, Esq., legal counsel for the City of Portsmouth

Prior to testimony, Mr. Epperson recused himself due to his relationship to the church in the appeal.

The following exhibit was submitted by Justin Verville, without objection, to supplement the Review Board members' agenda package:

Appellant Exhibit A – Response to City of Portsmouth's Letter of Objection dated August 7, 2015.

After testimony concluded, the Chairman closed the hearing and stated a decision from the Review Board members would be forthcoming and the deliberations would be conducted in open session. It was further noted that a final order reflecting the decision would be considered at a subsequent meeting and, when approved, would be distributed to the parties and would contain a statement of further right of appeal.

Decision: Appeal of Justin Verville; Appeal No. 15-11:

After deliberations, Mr. Mays moved to uphold the decision of the local code official and the local appeals board that the proposed activity constituted a change of occupancy. The motion was seconded by Ms. O'Bannon. The motion failed with four members voting

Decision: Appeal of Justin Verville; Appeal No. 15-11:

“yea” and the rest of the board members voting “nay.” Then, Mr. Butler moved to overturn the decision of the local code official and the local appeals board. The motion was seconded by Ms. Monday and passed with five members voting “yea” and four members voting “nay.”

Secretary’s Report

The Secretary provided to the Review Board members an update on the code development process. Mr. Hodge also notified the Review Board members that it would be his last Review Board meeting due to internal cross-training activities and that other Review Board staff, Mr. Alan McMahan and Mr. Richard Potts, would take assume the secretarial duties of the Review Board.

Adjournment

There being no further business, the meeting was adjourned by motion of Mr. Butler at approximately 4.00 p.m.

Approved: _____

Chairman, State Building Code Technical Review Board

Secretary, State Building Code Technical Review Board

VIRGINIA:

BEFORE THE
STATE BUILDING CODE TECHNICAL REVIEW BOARD

IN RE: Appeal of John Thulin
Appeal No. 15-2

Hearing Date: August 21, 2015

DECISION OF THE REVIEW BOARD

I. PROCEDURAL BACKGROUND

The State Building Code Technical Review Board (Review Board) is a Governor-appointed board established to rule on disputes arising from application of regulations of the Department of Housing and Community Development. See §§ 36-108 and 36-114 of the Code of Virginia. The Review Board's proceedings are governed by the Virginia Administrative Process Act. See § 36-114 of the Code of Virginia.

II. CASE HISTORY

John Thulin (Thulin), the owner of property in the City of Lynchburg, appeals a decision of the city's building official, under Part 1 of the Virginia Uniform Statewide Building Code (USBC), known as the Virginia Construction Code, of VCC.

Following a fire at Thulin's home at 206 Springfield Drive in Lynchburg, Thulin contacted the City of Lynchburg's building official concerning related repairs. After meeting onsite with the building official and the insurance company's contractor, Thulin sent a letter in November of 2014 to the building official asking for rulings on how the Virginia Uniform Statewide Building Code (USBC) applied to repairs. Of specific concern was the insurance company's willingness to pay for the use of a shellac-type product sealant to coat the wood studs and inside face of the exterior sheathing, which supports the brick veneer, to kill the smoke odor, and its unwillingness to pay for the removal of the brick veneer and the installation of a vapor barrier on the outside of the exterior sheathing.

In December of 2014, the building official responded to Thulin and indicated that if shellac was used in the home's repairs, it would not be viewed as a violation of the USBC.

In December of 2014, Thulin filed an appeal to the City of Lynchburg Board of Building Code Appeals which heard the appeal in February of 2015 and ruled to deny his appeal.

III. FINDINGS OF THE REVIEW BOARD

The issue before the Review Board in Appeal No. 15-2 is whether Thulin's appeal is properly before the Review Board.

The right to appeal is predicated on language under § 119.5 of the VCC which reads, in pertinent part, as follows:

“Any person aggrieved by the local building department’s application of the USBC or the refusal to grant a modification of the provisions of the USBC may appeal to the LBBCA.”

The purpose of the building official’s correspondence was to offer a general opinion to Thulin regarding the use of a particular building product, and was not issued in relation to any specific USBC permit. As a result, the Review Board finds that no application of the USBC has taken place.

Under § 119.5 of the USBC, an appeal may be filed of the “local building department’s application of the USBC [...]” In this case, there has been no application of the USBC; therefore, there is no valid appeal.

IV. FINAL ORDER

Thulin’s appeal having been given due regard, and for the reason set out herein, the Review Board orders the decisions of the City of Lynchburg’s building official and the local appeals board to be, and hereby are, upheld.

Chairman, State Technical Review Board

VIRGINIA:

BEFORE THE
STATE BUILDING CODE TECHNICAL REVIEW BOARD

IN RE: Appeal of Joseph E. Ellis
Appeal No. 15-4

Hearing Date: August 21, 2015

DECISION OF THE REVIEW BOARD

I. PROCEDURAL BACKGROUND

The State Building Code Technical Review Board (Review Board) is a Governor-appointed board established to rule on disputes arising from application of regulations of the Department of Housing and Community Development. See §§ 36-108 and 36-114 of the Code of Virginia. The Review Board's proceedings are governed by the Virginia Administrative Process Act. See § 36-114 of the Code of Virginia.

II. CASE HISTORY

The City of Danville Department of Community Development (DCD), the agency responsible for the enforcement of Part III of the Virginia Uniform Statewide Building Code, the Virginia Maintenance Code (VMC), issued notices of demolition dated June

24, 2014 for buildings at 208 and 233 Jefferson Avenue, both owned by Joseph E. Ellis (Ellis).

The notices of demolition issued by DCD were mailed to Ellis' mailing address by certified mail and regular mail but were not signed for. The notices were also posted on the buildings and copies were published in a local newspaper on July 5, 2014.

Ellis filed an appeal of the notices to the City of Danville Local Board of Building Code Appeals (City appeals board) on November 17, 2014, which ruled to dismiss the appeal as untimely.

III. FINDINGS OF THE REVIEW BOARD

The VMC addresses when an appeal must be filed to the local appeals board, in § 106.5, which states in pertinent part as follows:

"The applicant shall submit a written request for appeal to the LBBCA within 14 calendar days of the receipt of the decision being appealed."

Based on testimony and evidence submitted verifies that Ellis' appeal to the local board was not filed within the 14 day time limit required by the VMC. Accordingly, and consistent with past rulings of the Review Board, Ellis' appeal is invalid.

IV. FINAL ORDER

The appeal having been given due regard, and for the reasons set out herein, the Review Board orders Ellis' appeal of the demolition order for the buildings at 208 and 233 Jefferson Avenue, to be, and hereby is, dismissed as untimely.

Chairman, State Technical Review Board

Date Entered

As provided by Rule 2A:2 of the Supreme Court of Virginia, you have thirty (30) days from the date of service (the date you actually received this decision or the date it was mailed to you, whichever occurred first) within which to appeal this decision by filing a Notice of Appeal with Alan McMahan, Secretary of the Review Board. In the event that this decision is served on you by mail, three (3) days are added to that period.

Virginia:

BEFORE THE
STATE BUILDING CODE TECHNICAL REVIEW BOARD (REVIEW BOARD)

IN RE: Appeal of Justin Verville
Appeal No. 15-11

Hearing Date: August 21, 2015

DECISION OF THE REVIEW BOARD

I. PROCEDURAL BACKGROUND

The State Building Code Technical Review Board (Review Board) is a Governor-appointed board established to rule on disputes arising from application of regulations of the Department of Housing & Community Development. See §§ 36-108 and 36-114 of the Code of Virginia. The Review Board's proceedings are governed by the Virginia Administrative Process Act. See § 36-114 of the Code of Virginia.

II. CASE HISTORY

In mid-2014, Justin Verville (Verville), operator of a program known as Operation Restore Dreams, located in Monument United

Methodist Church at 450 Dinwiddie Street in Portsmouth sought approval from the city building official for the use of the church's educational wing for use as a school and daycare for approximately 24 pre-school aged children. The two-story educational wing, built in the 1950s, is the center portion of the U-shaped church.

After further consideration, the building official determined that the use of the educational wing for caring for more than five children under the age of two and half constituted a change of occupancy under the USBC and that such a use would require compliance with the USBC's change of use requirements for the Group I-4 classification.

Verville provided historic documentation to the building official as evidence that the no change of occupancy was occurring in the use of the educational wing. In early 2015, Verville enlisted an architect who, after attempting to obtain approval for the use of the educational building, filed an appeal to the City's appeals board which heard the appeal in May of 2015 and upheld the building official's decision. Consequently, Verville further appealed the City appeals board's decision to the Review Board.

III. FINDINGS OF THE REVIEW BOARD

With respect to whether a change of use is occurring for the use of the educational wing of Monument United Methodist Church as planned by Operation Restore Dreams, the Review Board finds as follows:

Part I of the USBC, the Virginia Construction Code ("VCC"), in Chapter 2, provides a definition of term "change of occupancy:"

"Change of occupancy. A change in the use or occupancy of any building or structure that would place the building or structure in a different division of the same group of occupancies or in a different group of occupancies; or a change in the purpose or level of activity within a building or structure that involves a change in application of the requirements of this code."

Additionally, Section 116.4 explains, in part.

"116.4. Issuance of certificate for pre-USBC buildings or structures. When a building or structure was constructed prior to being subject to the initial edition of the USBC and the local building department does not have a certificate of occupancy for the building or structure, the owner or owner's agent may submit a written request for a certificate to be created. The building official, after receipt of the request, shall issue a certificate provided a determination is made that there are no current violations of the VMC or the Virginia Statewide Fire Prevention Code (13VAC5-51) and the occupancy classification of the building or structure has not changed. Such buildings and structures shall not be prevented from continued use."

In applying these sections to the current appeal, the Review Board finds that the appellant's proposed use of the educational wing as a school and daycare represents a continued use, and not

a change of occupancy as defined above, primarily due to a lack of a certificate of occupancy to indicate otherwise. Moreover, the historical documentation (e.g. a newspaper clipping) provided by the appellant demonstrated that the long accepted use of the educational wing for short-term child care, is consistent with the use proposed by Verville and Operation Restore Dreams. In effect, the occupancy classification of the educational wing has not changed. Additionally, § 116.4 provides that buildings or structures constructed prior to being subject to the initial edition of the USBC, and lacking a certificate of occupancy, shall not be prevented from continuous use.

IV. FINAL ORDER

The appeal hearing has been given due regard, and for the reasons set out herein, the Review Board orders the decision of the City of Portsmouth building official and the City appeals board to be, and hereby is, overturned.

Chairman, State Technical Review Board

Date Entered

As provided by Rule 2A:2 of the Supreme Court of Virginia, you have thirty (30) days from the date of service (the date you actually received this decision or the date it was mailed to you, whichever occurred first) within which to appeal this decision by filing a Notice of Appeal with Alan W. McMahan, Acting Secretary of the Review Board. In the event that this decision is served on you by mail, three (3) days are added to that period.

VIRGINIA:

BEFORE THE
STATE BUILDING CODE TECHNICAL REVIEW BOARD

IN RE: Appeal of International Technology Industry, Inc. (ITI)
Appeal No. 15-10

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VIRGINIA:

BEFORE THE
STATE BUILDING CODE TECHNICAL REVIEW BOARD (REVIEW BOARD)

IN RE: Appeal of International Technology Industry, Inc.
 Appeal No. 15-10

REVIEW BOARD STAFF DOCUMENT

Suggested Statement of Case History and Pertinent Facts

1. On March 12, 2015, the Fairfax County Fire Marshal's Office (FCFMO), the County agency responsible for the enforcement of the State Fire Prevention Code (SFPC), conducted an inspection of a commercial building owned by International Technology Industry, Inc. (ITI), at 8245 Backlick Road, Suites C & D, in Lorton, Virginia; ITI is engaged in the wholesale of essential oils. As a result of the inspection, the FCFMO issued a notice of violation to ITI under the 2012 edition of the SFPC regarding Section 301.2 (Permits), Section 301.3 (Occupancy), Section 3201.2 (Construction documents), Section 5001.5.2¹ (Hazardous Materials Inventory Statement), and Section 5003.5¹ (Hazard identification signs).

2. Later in March of 2015, ITI filed an appeal of the notice to the Fairfax County Board of Building Code Appeals (County appeals board) which conducted a hearing in May of 2015 and ruled to uphold the notice.

4. ITI then further appealed to the Review Board in June of 2015.

5. This staff document was drafted and distributed to the parties and timeframes were established for the submittal of objections; corrections or additions to the staff document;

¹ This violation is not included in ITI's "Statement of Relief Sought," and is therefore, not part of ITI's appeal to the Review Board.

the submittal of additional documents for the record; and written arguments to be included in the record of the appeal prepared for the hearing before the Review Board.

Suggested Issues for Resolution by the Review Board

1. Whether to overturn the decision of the County appeals board and issuance of the notice of violation by the FCFMO that a violation of the 2012 SFPC Section 301.2 does exist.
2. Whether to overturn the decision of the County appeals board and issuance of the notice of violation by the FCFMO that a violation of the 2012 SFPC Section 301.3 does exist.
3. Whether to overturn the decision of the County appeals board and issuance of the notice of violation by the FCFMO that a violation of the 2012 SFPC - SFPC Section 3201.2 does exist.

¹ This violation is not included in ITI's "Statement of Relief Sought," and is therefore, not part of ITI's appeal to the Review Board.

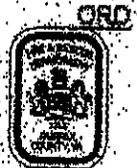
REVIEW BOARD APPEAL 15-10
INTERNATIONAL TECHNOLOGY
INDUSTRY, INC. (ITI)
VS. COUNTY OF FAIRFAX

COMBINED DOCUMENTS



COUNTY OF FAIRFAX
 OFFICE OF THE FIRE MARSHAL
 FIRE PREVENTION DIVISION
 10700 PAGE AVENUE
 FAIRFAX, VIRGINIA 22030
 www.fairfaxcounty.gov/fire/prevention

Phone (703) 248-4849 Fax (703) 248-4872
 FIRE INSPECTIONS: 248-4821 248-8173
 ACCEPTANCE TESTING: 248-4830 267-8716
 RETESTING: 248-4830 267-8716
 HAZMAT SERVICES: 248-4380 385-7591



REPORT OF INSPECTION NOTICE OF VIOLATION TEST BILLING FORM

1 of 2

AP#	L 22222	Inspector#	8687844	Scheduled Inspection Date/Time	3/12/15 000	PRI	0	
Work Type	COMBUSTIBLE LIQUIDS			Inspection Type	FRCP INSPECTION			
Project Address	8245D Backlick Rd Lorton					Suite		
Project/Business Name	INTERNATIONAL TECH INDUSTRY							
Contact Name						Phone#		
Contractor	INTERNATIONAL TECHNOLOGY INDUS			ID: 867144	Phone#	(703)330-5365		
Address	8245D BACKLICK RD LORTON, VA 22070							
Non RUP#	12202011A			Usage Codes				
Number of Inspectors	4	Start Time	0955	Stop Time	1115	Total Time	1hr 20min	
Additional Inspection/Test Required	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		Pass	<input type="checkbox"/>	Partial Pass	<input checked="" type="checkbox"/>	Fail	<input type="checkbox"/>
Inspector	M LONG		Where to Report	MR. BILL WANG 703-339-6384 0530				

Conducted a meeting and inspection to gathering information on the business process. An inventory statement was given to Investigator Burgess.

① SFR 3201.2 - Shall submit for a Fire Code Permit for high piled Combustible Storage by following the plan submittal guide and SFR 3201.3 of lower storage no higher than 12ft.

② SFR 301.2 - If storage is lowered below 12 feet, then a Combustible storage fire permit shall be obtained.

FOLLOW UP INSPECTION DATE * Right of Appeal reference Section 11.2

Approved Approved with P/L Rejected Sticker Issued Approved Pending System/Final FRCP Issued Other

Violations of the Fire Prevention Code or the Building Code listed in this report shall be corrected in accordance with the applicable code provisions and all other applicable provisions. System has been corrected.

By the order of: Michael Long Fire Marshal

Bill Wang Manager

CUSTOMER PRINTED NAME TITLE/POSITION SIGNATURE

FRD Form # White - Fire Marshal File Yellow - Customer Copy Pink - Inspector Copy Blue - Review and Reports



COUNTY OF FAIRFAX
 OFFICE OF THE FIRE MARSHAL
 FIRE PREVENTION DIVISION
 10700 PAGE AVENUE
 FAIRFAX, VIRGINIA 22030
 www.fairfaxcounty.gov/fr/prevention

Phone: (703) 246-4849 Fax: (703) 246-4872
 FIRE INSPECTIONS: 246-4821 246-9173
 ACCEPTANCE TESTING: 246-4830 267-6716
 RETESTING: 246-4830 267-6716
 HAZMAT SERVICES: 246-4386 268-9476



REPORT OF INSPECTION NOTICE OF VIOLATION TEST BILLING FORM

2 of 2

APR# L 22222	Inspection # 6567844	Inspection Date 3/12/15
Project Address 8245-D Backlick Rd		Suite
Inspector SEE PG 1		

③ SFRC 5001.5.2 - Shall provide an additional inventory statement that identifies the amount of products in storage and open-use (SEE 5001.5.2 # 7-11.8)

④ SFRC 5003.5 - Shall provide an NFPA 704 placard at the front address - front of the building.

⑤ SFRC 301.3 - Shall not change the use of a structure without approval of the building official.
 Inventory statement provided for storage exceeds the maximum allowable quantity for S-use group. Shall lower Flammable / Combustible liquids below thresholds provided in SFRC 5003.1.1.

Violations of the Fire Prevention Code or the Building Code listed in this notice shall be corrected immediately or as otherwise specified. No occupancy inspections will be made until all deficiencies regarding the Fire Protection Systems have been corrected.

By the order of Michael J. Joy Fire Marshal
Bill Wang Manager
 CUSTOMER PRINTED NAME TITLE / POSITION SIGNATURE

FRD Form # White - Fire Marshal File Yellow - Customer Copy Pink - Inspector Copy Blue - Revenue and Records



COUNTY OF FAIRFAX
 OFFICE OF THE FIRE MARSHAL
 FIRE PREVENTION DIVISION
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 RETESTING: 246-4830 267-6716
 HAZMAT SERVICES: 246-4386 293-9476



REPORT OF INSPECTION NOTICE OF VIOLATION TEST BILLING FORM

1 of 3

A/P#	L 22222	Inspection #	6671577	Scheduled Inspection Date/Time	04/09/2015
Work Type	COMBUSTIBLE LIQUIDS		Inspection Type	FPCP INSPECTION	
Project Address	8245D Backlick Rd, Lorton 22079-1416				Suite
Project/Business Name	INTERNATIONAL TECH INDUSTRY		BLD #	FLR #	
Contact Name	Mr. Bill Wang			Phone #	
Contractor	INTERNATIONAL TECHNOLOGY INDUS ID: 607144		Phone #	(703)339-5388 x	
Address	8245D BACKLICK RF LORTON, VA 22079-				
Non RUP#	Usage Codes				
Number of Inspectors	2	Start Time	9:00 am	Stop Time	9:40 am
		Total Time	40.0 min	Total Fees	N/C
Additional Inspection/Test required	<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO	Pass <input type="checkbox"/>	<input checked="" type="checkbox"/> Partial Pass	<input type="checkbox"/> Fail <input type="checkbox"/> Closed
Inspector	C. PERRY Where to Report MR. BILL WANG 703-339-5388 0900				

COMMENT: An investigative visit was conducted at this location by Insp. Long and myself. Measurements and a few pictures were taken of the storage. During this visit, it was discovered that Mr. Wang had posted his NFPA 704 signs and he had lowered all of his storage to 12 feet or less. The high-piled storage issue is no longer a violation. Also, Mr. Wang stated that he does not keep any product open for any length of time. When he does, it is only at 5 gallons at a time.
 FIDO completed 4/9/2015 cperyy

NO VIOLATIONS VIOLATIONS, see next

FOLLOW UP INSPECTION DATE ON OR ABOUT 5-20-2015

Approved Approved with P/L Rejected Sticker Issued Approved Pending System Final FPCP Issued Other

Evacuation Order Issued: Yes No Violation Corrected: Yes No Spot Check: Yes No

RIGHT OF APPEAL. The owner of this building or structure, the owner's agent, or any other person involved in the use of this building or structure has the right to appeal this notice of violation. Virginia Construction Code appeals must be filed within 30 days and Virginia Fire Prevention Code appeals within 14 days from the date you receive this notice. Appeal information and forms may be obtained from the Secretary to the Local Board of Building Code Appeals (703) 324-1780 or at http://www.fairfaxcounty.gov/dpwes/publications/code-mods_appeals.htm. Failure to submit an application for appeal within the specified timeframe shall constitute acceptance of the notice of violation written by the Code Official. Appeal of any listed violation does not relieve responsibility for immediately, or as specified, correcting all other violations noted.

No occupancy inspections will be made until all deficiencies regarding the Fire Protection Systems have been corrected.

By the order of [Signature], FM# 414, Assistant Fire Marshal.

[Signature]
 CUSTOMER PRINTED NAME

Manager
 TITLE / POSITION

[Signature]
 SIGNATURE

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Building Code Appeal Request

PROJECT INFORMATION

Project Name: Fire Code inspection
 Project Address: 8245 Backlick Rd, Ste D and C, Lorton VA 22079
 Permit or case number: 6567844 Tax map number: _____

APPLICANT INFORMATION

Applicant Name: ITI Owner Owner's agent
 Address: 8245 Backlick Rd, Ste D,C, Lorton VA 22079
 City: Lorton VA 22079 State: VA ZIP: 22079
 Phone: 703-339-5388 Email: billw@iti-group.com

OWNER INFORMATION

See applicant Information
 Owner Name: _____
 Address: _____
 City: _____ State: _____ ZIP: _____
 Phone: _____ Email: _____

APPEAL INFORMATION

Appealing decision made on the date of by Building Official Fire Official Property Maintenance Official
 entered on the following date: -
 Code(s) (IBC, IMC, IPMC, etc.) and year-edition: Virginia Statewide Fire Prevention Code
 Section(s): 3201.2, 301.2, 301.3, 5003.1.1,

REQUEST/SOLUTION

Describe the code or design deficiency and practical difficulty in complying with the code provision:

The four inspectors visited our building on March 12, 2015. It is the 6th time of same inspections in 6 months. They had meeting with us request full inspection with measuring and calculating themselves. After reviewing their inspection report and VSFPC, it is clear they made same mistakes as before, request three wrong permits and contrary to the correct Permit issued Fire Marshal.

1. SFPC 3201.2, and 301.2. inspectors wrongly classified "Glass bottle packed in an ordinary corrugated carton with or without single-thickness dividers, or in ordinary paper wrappings with without on wooden pallets are combustible products". They concluded the total Combustible products storage exceed 2500 cubic feet maximum quantity, request a Combustible Storage fire Permit. The fact is our combustible storage is less than 700 cubic feet.

2. SFPC 3201.2. Since the storage are mostly noncombustible products, there is no high-piled permit requested by code.

3. SFPC 301.3. The inspector identified the building was S-use group, but request us to follow H use-group Maximum allowable quantity of combustible liquids, moreover they never provide us with S-use group Maximum allowable quantity of combustible liquids.

4. The request of SFPC 301.3. of inspectors is contrary to our Permit F3CLQ1 (issued by Fire Marshal) of Combustible Liquids, Class II or IIIA: Store, Use or handle - 26+ Gallons inside a Building or 61 + Gallons outside up to 100,000 gallons. This unreasonable request of following H-use Group (less than 240 gallons) has cost us lost business to MD, NY, NJ etc.

Attention: Secretary to the Board -
buildingofficial@fairfaxcounty.gov

International Technology Industries
8245 Backlick Rd Suite C&D
Lorton, VA 22079
Local Board of Appeals
May 13, 2015

1

Overview of Appeals

1. Mr. Wang states in his appeal that,
 - a. "SFPC 3201.2, and 301.2. inspectors wrongly classified "Glass bottle packed in an ordinary corrugated carton with or without single-thickness dividers, or in ordinary paper wrappings with without on wooden pallets are combustible products". They concluded the total Combustible products storage exceed 2500 cubic feet maximum quantity, request a Combustible Storage fire Permit. The fact is our combustible storage is less than 700 cubic feet."
 - b. "SFPC 3201.2. Since the storage are mostly noncombustible products, there is no high-piled permit requested by code."

Appeal of 3201.2

1. SFPC 3201.2

- SFPC 3201.2 states, “A permit shall be required as set forth in Section 107.2.”
- Section 107.2 references Table 107.2, as amended by the Fairfax County Code Chapter 62.
- Notice the permit threshold is for exceeding 500 square feet not 2,500 cubic feet.

74	108.1.1	High Piled Storage: Use a Building or a Portion Thereof as a High-piled Storage Area Exceeding 500 Square Feet.
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Screenshot from Table 107.2 in the Fairfax County Code Chapter 62.

Appeal of 3201.2

1. What is high-piled combustible storage?

“Storage of combustible materials in closely packed piles or combustible materials on pallets, in racks or on shelves where the top of storage is greater than 12 feet in height. When required by the fire code official, high-piled combustible storage also includes certain high-hazard commodities, such as rubber tires, Group A plastics, flammable liquids, idle pallets and similar commodities, where the top of storage is greater than 6 feet in height.” – High-Piled Combustible Storage as defined in Chapter 2 of the SFPC.

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Appeal of 3201.2

2. What part of a space is determined to be calculated as high-piled combustible storage?

“An area within a building which is designated, intended, proposed or actually used for high-piled combustible storage.” – High-Piled Storage Area as defined in Chapter 2 of the SFPC.

NOTE: IFC commentary states that this area must also contain the aisles as required by NFPA 13, *Standard for the Installation of Sprinkler Systems*.

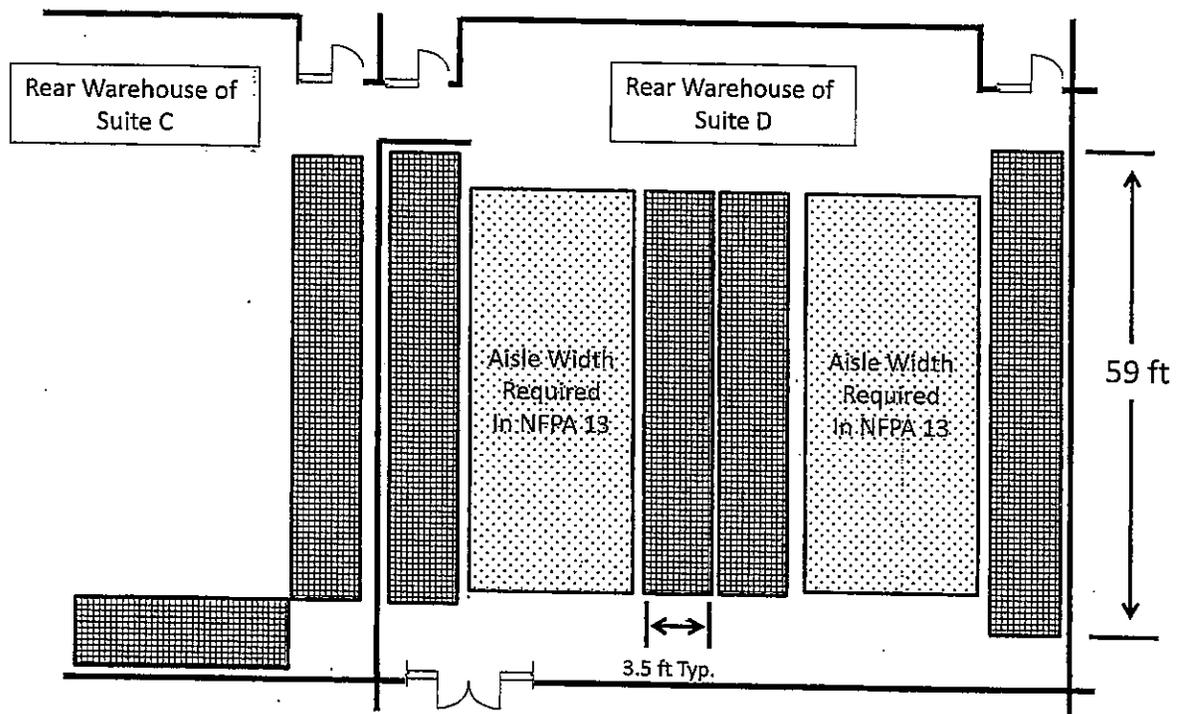
Commentary: “Therefore, any aisles required by NFPA 13 would be required to be included when determining the actual high-piled storage area involving rack storage.”

Appeal of 3201.2

- Example of NFPA 13 aisle width requirements

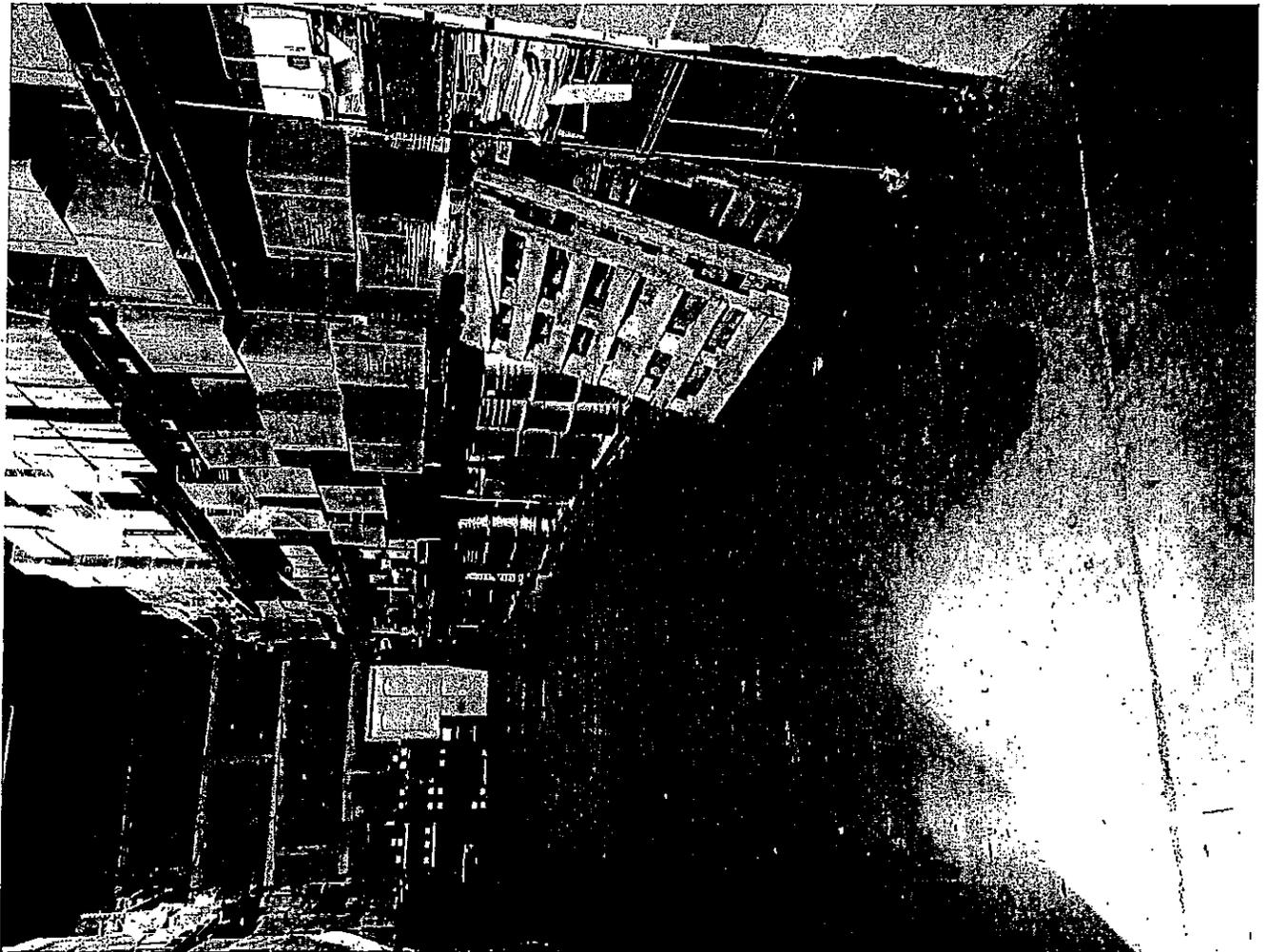
Height	Commodity Class	Encapsulated	Aisles*		Sprinklers Mandatory In-Rack	Ceiling Sprinkler Water Demand							
						With In-Rack Sprinklers			Without In-Rack Sprinklers				
						Figure	Curves	Apply Figure 16.2.1.3.4.1	Figure	Curves	Apply Figure 16.2.1.3.4.1		
Over 12 ft (3.7 m), up to and including 20 ft (6.1 m)	I	No	4	1.2	No	16.2.1.3.2(a)	C and D	Yes	16.2.1.3.2(a)	F and H	Yes		
			8	2.4			A and B			E and C			
		Yes	4	1.2	No		16.2.1.3.2(c)			C and D		16.2.1.3.2(c)	G and H
			8	2.4						A and B			E and F
	II	No	4	1.2	No	16.2.1.3.2(b)			C and D	16.2.1.3.2(b)	G and H		Yes
			8	2.4					A and B		E and F		
		Yes	4	1.2	No		16.2.1.3.2(c)		C and D		16.2.1.3.2(c)	G and H	
			8	2.4					A and B			E and F	
	III	No	4	1.2	No	16.2.1.3.2(c)			C and D	16.2.1.3.2(c)		G and H	Yes
			8	2.4					A and B			E and F	
		Yes	4	1.2	No		16.2.1.3.2(c)		C and D		16.2.1.3.2(c)	G and H	
			8	2.4					A and B			E and F	

Appeal of 3201.2



Approximately 1,840 square feet of high-piled combustible storage area.

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Appeal of 3201.2

3. What is considered commodity?

“A combination of products, packaging materials and containers.” – Commodity as defined in Chapter 2 of the SFPC.

Everything is evaluated not just the product.

Appeal of 3201.2

4. Is all combustible commodities the same?

No, combustible commodities are classified the SFPC and NFPA 13. This provides the bases of understanding what level of fire protection features are required for a storage facility.

Appeal of 3201.2

Classification	Pallet	Packaging	Product	Example of Products
Class I	With wooden or without pallets	Ordinary Corrugated Cartons	Noncombustible	Cement in bags, Frozen foods, Glass
Class II	With or without pallets	Slatted wooden crates, boxes, paperboard cartons, or other combustible packaging; includes limited amount of plastic	Noncombustible	Foods in combustible containers, Light bulbs in cartons
Class III	With or without pallets	Same as above with more plastics allowed	Combustible	Lumber, Plywood, Bagged sugar,
Class IV	With or without pallets	Same as above with higher level of plastics allowed	Combustible and Noncombustible	Furniture, Rugs, Asphalt shingles, Foam rubber
High-Hazard	This classification serves the highest level of commodities			Higher quantity of plastics, tires, or flammable/combustible liquids.

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Appeal 3201.2

- Alternative compliance methods suggested:
 - Storage lowered to 12 feet would not require a high-piled combustible storage plan or permit. If this method is used then a permit for combustible storage is required.

① SFPC 3201.2 - Shall submit for a fire code permit for high-piled combustible storage by following the plan submittal guide and SFPC 3201.3 OR lower storage no higher than 12 ft.
② SFPC 301.2 - If storage is lowered below 12 feet, then a Combustible Storage Fire permit shall be obtained.

Screenshot of the NOV issued 3/12/15

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Appeal 3201.2

- Request the Board to uphold the Notice of Violation based on:
 - Chapter 32, *High-Piled Combustible Storage* has defined the type of storage in the facility, at minimum, as Class I commodity falling within the permit threshold.
 - Commodity is defined by evaluating more than just the product.
 - Non-combustible glass product, stored on wooden pallets, and packaged in ordinary corrugated cardboard falls within the scope of Chapter 32, *High-Piled Combustible Storage*.

Appeal 301.2

- This appears to reference item number 2 in the NOV. This item was appealed and heard by the Board on February 11, 2015. The Board upheld the Notice of Violation and decision of the Fire Marshal's Office.

① SFPC 3201.2 - Shall submit for a Fire Code Permit for high-piled Combustible Storage by following the plan submittal guide and SFPC 3201.3 OR lower storage no higher than 12 ^{ft} .
② SFPC 301.2 - IF storage is lowered below 12 feet, then a Combustible Storage Fire Permit shall be obtained.

Appeal 301.3

- Mr. Wang stated on the appeal's application,
“The inspector identified the building was S-use group, but request us to follow H use-group Maximum allowable quantity of combustible liquids, moreover they never provide us with S-use group Maximum allowable quantity of combustible liquids.”

Appeal 301.3

- SFPC 301.3

“Occupancy. The occupancy of a structure shall be continued as originally permitted under and in full compliance with the codes in force at the time of construction or alteration. The occupancy of a structure shall not change to another occupancy that will subject the structure to any special provisions of this code or the USBC without approval of the building official.”

Appeal 301.3

Building Application

A/P # 143030063 Type NON-RUP NON-RESIDENTIAL USE PERMIT

Address
0245C BACKLICK RD
LORTON VA 22079-1416 Parcel

Location

Valuation Review

A/P # 143030063

Calculated Valuation 0.00 Actual Valuation 1.00

Use Group	Construction Type	Square Footage	Sub Valuation	Comments
S1	3B	1.00	0.00	

Insert
Modify
Remove

Screenshot showing use group classification.

Appeal 301.3

- A copy of Table 5003.1.1 (1) was provided to Mr. Wang and explained in detail what the table means.
- This table identifies the maximum allowable quantities allowed for all use groups. As column 3 states "Group when the maximum allowable quantity is exceeded."
- When the quantity in the table has been exceeded then the use group has changed to an H use group.

TABLE 5003.1.1(1)
 MAXIMUM ALLOWABLE QUANTITY PER CONTROL AREA OF HAZARDOUS MATERIALS POSING A PHYSICAL HAZARD^{a, b, c, d, e}

MATERIAL	CLASS	GROUP WHEN THE MAXIMUM ALLOWABLE QUANTITY IS EXCEEDED	STORAGE ^a			USE-CLOSED SYSTEMS ^b			USE-OPEN SYSTEMS ^c	
			Solid pounds (cubic feet)	Liquid gallons (pounds)	Gas cubic feet at NTP	Solid pounds (cubic feet)	Liquid gallons (pounds)	Gas cubic feet at NTP	Solid pounds (cubic feet)	Liquid gallons (pounds)
Combustible dust	Not Applicable	H-2	See Note q	Not Applicable	Not Applicable	See Note q	Not Applicable	Not Applicable	See Note q	Not Applicable
Combustible fiber	Loose Balck ^d	H-3	(100) (1,000)	Not Applicable	Not Applicable	(100) (1,000)	Not Applicable	Not Applicable	(20) (200)	Not Applicable
Combustible liquid ^e	II IIIA IIIB	H-2 or H-3 H-2 or H-3 Not Applicable	Not Applicable	120 ^f 330 ^g 13,200 ^h	Not Applicable	Not Applicable	120 ⁱ 330 ^j 13,200 ^k	Not Applicable	Not Applicable	30 ^l 80 ^m 3,300 ⁿ
Cryogenic Flammable	Not Applicable	H-2	Not Applicable	45 ^o	Not Applicable	Not Applicable	45 ^p	Not Applicable	Not Applicable	10 ^q
Consumer fireworks	1.4G	H-3	125 ^r	Not Applicable	Not Applicable	Not Applicable	Not Applicable	Not Applicable	Not Applicable	Not Applicable
Permissible fireworks	1.4G	H-3	125 ^s	Not Applicable	Not Applicable	Not Applicable	Not Applicable	Not Applicable	Not Applicable	Not Applicable
Cryogenic Oxidizing	Not Applicable	H-3	Not Applicable	45 ^t	Not Applicable	Not Applicable	45 ^u	Not Applicable	Not Applicable	10 ^v
Explosives	Division 1.1	H-1	1 ^w	(1) ^x	Not Applicable	0.25 ^y	(0.25) ^z	Not Applicable	0.25 ^{aa}	(0.25) ^{ab}
	Division 1.2	H-1	1 ^{ac}	(1) ^{ad}		0.25 ^{ae}	(0.25) ^{af}		0.25 ^{ag}	(0.25) ^{ah}
	Division 1.3	H-1 or H-2	5 ^{ai}	(5) ^{aj}		1 ^{ak}	(1) ^{al}		1 ^{am}	(1) ^{an}
	Division 1.4	H-3	50 ^{ao}	(50) ^{ap}		50 ^{aq}	(50) ^{ar}		Not Applicable	Not Applicable
	Division 1.4G	H-3	125 ^{as}	Not Applicable		0.25 ^{at}	(0.25) ^{au}		Not Applicable	Not Applicable
	Division 1.5	H-1	1 ^{av}	(1) ^{aw}		Not Applicable	Not Applicable		0.25 ^{ax}	(0.25) ^{ay}
Division 1.6	H-1	1 ^{az}	Not Applicable	Not Applicable	Not Applicable	Not Applicable	Not Applicable			
Flammable gas	Gaseous Liquefied	H-2	Not Applicable	Not Applicable (150) ^{ba}	1,000 ^{bb} Not Applicable	Not Applicable	Not Applicable (150) ^{bc}	1,000 ^{bd} Not Applicable	Not Applicable	Not Applicable
Flammable liquid ^e	IA IB and IC	H-2 or H-3	Not Applicable	30 ^{be} 120 ^{bf}	Not Applicable	Not Applicable	30 ^{bg} 120 ^{bh}	Not Applicable	Not Applicable	10 ^{bi} 30 ^{bj}
Flammable liquid combination (IA, IB, IC)	Not Applicable	H-2 or H-3	Not Applicable	120 ^{bk}	Not Applicable	Not Applicable	120 ^{bl}	Not Applicable	Not Applicable	30 ^{bm}
Flammable solid	Not Applicable	H-3	125 ^{bn}	Not Applicable	Not Applicable	125 ^{bo}	Not Applicable	Not Applicable	25 ^{bp}	Not Applicable

Appeal 301.3

- Quantity as provided by Mr. Wang to our office on 3/12/15.

Class II (100-140)	1068
Class IIIA (140-200)	1431.3
Total	2499.3

Class IIIB (200+)	1207.25
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Appeal 301.3

- The appeal application also states,
“The request of SFPC 301.3. of inspectors is contrary to our Permit F3CLQ1(issued by Fire Marshal) of Combustible Liquids, Class II or IIIA: Store, Use or handle - 26+ Gallons inside a Building or 61 + Gallons outside up to 100,000 gallons. This unreasonable request of following H-use Group (less than 240 gallons) has cost us lost business to MD, NY, NJ etc.”

Appeal 301.3

- The number identified on the permit is the minimum permitted threshold (the minimum quantity where a permit is required).
- The maximum allowable quantities for flammable and combustible liquids are restricted based on how the product is being used, stored and which fire protection features are provided.

Appeal 5003.1.1

- Section 5003.1.1 is stated as a section that is being appealed. The Notice of Violation issued does not include Section 5003.1.1. This is referenced in the Change of Use violation of Section 301.3.
- As previously stated, Section 5003.1.1 establishes the maximum allowable quantity for flammable and combustible liquids for all use groups. Only when these numbers have been exceeded does the facility change its use group, as indicated in column three of Table 5003.1.1.

Appeal 301.3

- Request the Board to uphold the Notice of Violation based on:
 - The quantities allowed for an S-use group have been exceeded in accordance with Table 5003.1.1 (1). Column three indicates that the use group has changed to an H-use group.
 - Table 5003.1.1 (1) is the maximum allowable quantity of flammable and combustible liquids storage within Mr. Wang's business.

Appeals for Fire Code Inspection on March 12 2015

May 5, 2015

Fairfax County Board of Building Code Appeals
12055 Government Center Parkway, Suite 444
Fairfax, VA 22035
May 5, 2015

Background:

Since Oct 3, 2014 initial inspection, ITI has disputes for Fire code explanations with these inspectors. During the first Appeal hearing on February 11, 2015, inspector said they did not have time to calculate the quantity of Combustible materials. After that inspectors had additional two inspections with 6 experts and sophisticated measuring equipment and completed all measurements. Therefore the inspectors have whatever they should have and should not be excused for any reasons again. There are four disputes as following: the first one has been closed by inspector:

Issue 1. SFPC 3201.2 - "Shall submit for a Fire Code Permit for high-piled Combustible Storage by following the plan submittal guide and SFPC 3201.3 or lower storage no higher than 12 ft.

Case Closed: Since storage lowered than 12 ft, on April 09, 2015 inspection, the Inspector closed the case: HI-PILE STORAGE PERMITS, Violation date: 03/12/2015 Status F CLOSED. (See Inspection report 04/09/2015)

Issue 2. SFPC 301.2 If storage is lowered below 12 feet, then a Combustible Storage Fire Permit shall be obtained.

On inspector's 04-09-2015 report, "the only permit that would be required is the Combustible Storage Permit for storage that exceeds 2500 cubic feet (See Michael Long, Fire Inspector III's Statement April 15, 2015)"

Dispute and Appeals:

1. **The Combustible Storage Permit request is invalid.** The inspector's Combustible Storage Permit requirements are totally self-contradictory. The Fire Prevention Code Permit (FPCP) shall require, when

"Combustible Storage: store inside Any Building/Upon Any Premises - 2501 + Cubic Feet." (See page 1 of 5, FPCP).

However on inspector Mr. Long's statement (April 15, 2015) said: "The permit threshold is for exceeding 500 square feet not 2500 cubic feet." Since Mr Long's statement declined and against FPCP official threshold requirement of Combustible Storage Permit, therefore the Combustible Storage Permit requests on March 12, 2015 and April 9, 2015 are invalid.

2. **Shall not request "Combustible Storage Permit" now.** If the FPCP requires: 2501+Cubic Feet is the correct threshold, then our Combustible materials Storage is less than 700 Cubic Feet. The Combustible Storage Permit requirement shall wait until our

And the SFPC Table 5704.3.6.3(1) Maximum Storage Height in Contained Area

Type of Liquid	Nonsprinklered area (feet)	Springklered area (feet)	Sprinklered with in-rack protection
Combustible Liquid			
Class II	6	8	12
Class IIIA	8	12	16
Class IIIB	8	12	20

(See Page 57-18 SFPC)

Conclusion:

1. The inspector's Combustible Storage Permit requests are invalid and declined by themselves, and do not comply with SFPC.
2. The Combustible Storage Permit requests has no facts and no SFPC Code base.

Issue 3 SFPC 301.3 - Shall not change the use of a structure without approval of the building official.

Disputes and Appeals

1. ITI never change and does not need change any use of a structure.
2. Since 2011, ITI has signed lease agreements with the landlord and official of the building and agreed this Occupancy Purpose for Wholesale and sales business. It was approved by landlord and Building official.
3. ITI got the wholesale trade establishment Occupancy approval from County of Fairfax on July 20, 2012 for Building Unit D, and got same Occupancy approval for Unit C from County Fairfax on October 30, 2014.
4. ITI get approvals for wholesale business license of Business Professional and Occupancy License(BPOL) from Fairfax County every years for about 20 years.
5. Inspection Statement during Board of Appeals Hearing on February 11, 2015 states: "The nature of this business, as a retailer of aromatherapy oils." (See Summary).
6. According to OCCUPANCY CLASSIFICATION of SFPC (See page 2-17, SFPC), ITI Occupancy is **Mercantile Group M, or and Storage Group S**, see following:

"**Mercantile Group M.** Mercantile Group M occupancy includes, among others, the use of a building or structure or a portion thereof, for the display and sale of merchandise, and involves stocks of goods, wares or merchandise incidental to such purpose and accessible to public. Mercantile occupancies shall include, but not be limited to, the following:...**Retail or wholesale stores, Sales room...**" (See page 2-22, SFPC)

Storage Group S-1. Building occupancy for storage uses..." (See page 2-23, SFPC)

Conclusion:

1. ITI occupancy has got approvals from building official and County Government since 2012 and has no any changes.
2. ITI occupancy classification is **Group M or and Group S**

Issue 4 Inventory statement provided for storage exceeds the maximum allowable quantity for S-use group. Shall lower Flammable/Combustible liquids bellow thresholds

sales and storage or Use Group M and S is in SFPC Chapter 57 Flammable and Combustible Liquid:

“5704.3.4.1 Maximum allowable quantity per control area. For Group M occupancy wholesale and retail sales uses, indoor storage of flammable and combustible liquids shall not exceed the maximum allowable quantities per control area indicated in Table 5704.3.4.1 (See page 57-16 SFPC):

“Maximum allowable quantity per control area of flammable and combustible liquids in wholesale and retail sales occupancies” (See page 57-17 SFPC). **The allowable maximum quantity of combustible liquid per control area for wholesale and retail sale is 7000 Gallons to 15000 gallons.**

TABLE 5704.3.4.1 MAXIMUM ALLOWABLE QUANTITY PER CONTROL AREA OF FLAMMABLE AND COMBUSTIBLE LIQUIDS IN WHOLESALE AND RETAIL SALES OCCUPANCIES^a

TYPE OF LIQUID	MAXIMUM ALLOWABLE QUANTITY PER CONTROL AREA (gallons)		
	Sprinklered ^b in accordance with footnote densities and arrangements	Sprinklered in accordance with Tables 5704.3.6.3(4) through 5704.3.6.3(8) and Table 5704.3.7.5.1	Nonsprinklered
Class IA	60	60	30
Class IB, IC, II and IIIA	7,500 ^c	15,000 ^c	1,600
Class IIIB	Unlimited	Unlimited	13,200

For SI: 1 foot = 304.8 mm, 1 square foot = 0.0929 m², 1 gallon = 3.785 L, 1 gallon per minute per square foot = 40.75 L/min/m².

- a. Control areas shall be separated from each other by not less than a 1-hour *fire barrier*.
- b. To be considered as sprinklered, a building shall be equipped throughout with an approved automatic sprinkler system with a design providing minimum densities as follows:
 1. For uncartoned commodities on shelves 6 feet or less in height where the ceiling height does not exceed 18 feet, quantities are those allowed with a minimum sprinkler design density of Ordinary Hazard Group 2.
 2. For cartoned, palletized or racked commodities where storage is 4 feet 6 inches or less in height and where the ceiling height does not exceed 18 feet, quantities are those allowed with a minimum sprinkler design density of 0.21 gallon per minute per square foot over the most remote 1,500-square-foot area.
- c. Where wholesale and retail sales or storage areas exceed 50,000 square feet in area, the maximum allowable quantities are allowed to be increased by 2 percent for each 1,000 square feet of area in excess of 50,000 square feet, up to a maximum of 100 percent of the table amounts. A control area separation is not required. The cumulative amounts, including amounts attained by having an additional control area, shall not exceed 30,000 gallons.

Conclusion:

1. Inspector wrongfully understand occupancy Use Group classification; wrongfully identify ITI as Group H; wrongfully identify maximum allowable quantity of combustible liquid for wholesale, retail sale and storage.
2. ITI has correct permit for storage of combustible liquids.

FAIRFAX COUNTY, VIRGINIA MEMORANDUM

DATE: April 23, 2015

TO: Chairman, Members
Fairfax County Board of Building Code Appeals

FROM: Carla Guerra-Moran
Secretary to the Board

SUBJECT: Board of Appeals Hearing 10:00 a.m., Wednesday, May 13, 2015, in Room 941 (9th Floor) of the Herrity Building, 12055 Government Center Parkway, Fairfax, VA 22035.

The following appeals are scheduled to be considered at the above referenced meeting:

- **9091 Wexford Dr. (141215.0AP)**
Sara J. Ross, Chadwick Washington – Concord Village Community Association
Chapter 62 Code of Fairfax County, Sections 502.1, 503.1 and 503.2-503.9
- **8245 Backlick Road, Suite D&C (150524.0AP)**
Bill Wang – ITI
VSFPC, Sections 3201.2, 301.2, 301.3, 5003.1.1
- **7010 Old Dominion Drive (150330.0AP)**
M. Rashid
VUSBC 2012, Part III (VMC), Sections 301.3, 304.4, & 304.7

Attachment: Documentation for the appeals listed above.

cc: Chris McArtor, Acting Building Official
Brian Foley, Deputy Building Official
Richard Grace, Building Code Services Manager / Liaison to the Board of Building Code Appeals
Paul Shirey, Director, Code Development and Compliance, Land Development Services (LDS)
Manuel Barrero, Deputy Chief, Fire and Rescue Department (FRD)
George Hollingsworth, Captain II, FRD
John Walser, Captain II, FRD
Rocco Alvaro, Captain I, FRD
Marlene Moran, Inspector, FRD
Michael B. Long, Inspector, FRD
Jeffrey Blackford, Director, Department of Code Compliance (DCC)
Elizabeth Perry, Code Authority/Strategic Initiative Manager, DCC
Karen McClellan, Operations Manager, DCC
Susan Epstein, Supervisor, DCC
Victoria Dzierzek, Code Compliance Investigator, DCC
Appellants: Sara J. Ross, Esq., Bill Wang, M. Rashid



County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County

April 15, 2015

Fairfax County Board of Building Code Appeals
c/o Secretary to the Board of Building Code Appeals
12055 Government Center Parkway, Suite 444
Fairfax, VA 22035

Members of the Board of Building Code Appeals:

The purpose of this letter is to provide a statement of position of the appeals for ITI located at 8245 Backlick Rd Suite C & D Lorton, VA. The items below are in order from the application of appeals. The appeal is in reference to the alleged violations of the Statewide Fire Prevention Code (SFPC) and the Notice of Violation issued on March 12, 2015.

Appeal Comment 1 & 2

Mr. Wang states in his appeal that, "SFPC 3201.2, and 301.2. inspectors wrongly classified "Glass bottle packed in an ordinary corrugated carton with or without single-thickness dividers, or in ordinary paper wrappings with without on wooden pallets are combustible products". They concluded the total Combustible products storage exceed 2500 cubic feet maximum quantity, request a Combustible Storage fire Permit. The fact is our combustible storage is less than 700 cubic feet." "SFPC 3201.2. Since the storage are mostly noncombustible products, there is no high-piled permit requested by code."

Position Statement

SFPC 3201.2 states, "A permit shall be required as set forth in Section 107.2." Section 107.2 references Table 107.2, as amended by the Fairfax County Code Chapter 62. The permit threshold is for exceeding 500 square feet not 2,500 cubic feet.

74	108.1.1	High Piled Storage: Use a Building or a Portion Thereof as a High-piled Storage Area Exceeding 500 Square Feet.
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NOTE: Screenshot from Table 107.2 in the Fairfax County Code Chapter 62.

First, to answer the question, "What is high-piled combustible storage?" The fire code defines what is considered high-piled combustible storage.

Proudly Protecting and
Serving Our Community

Fire and Rescue Department
Fire Prevention Division
10700 Page Avenue
Fairfax, Virginia 22030
703-246-4800
www.fairfaxcounty.gov/fire



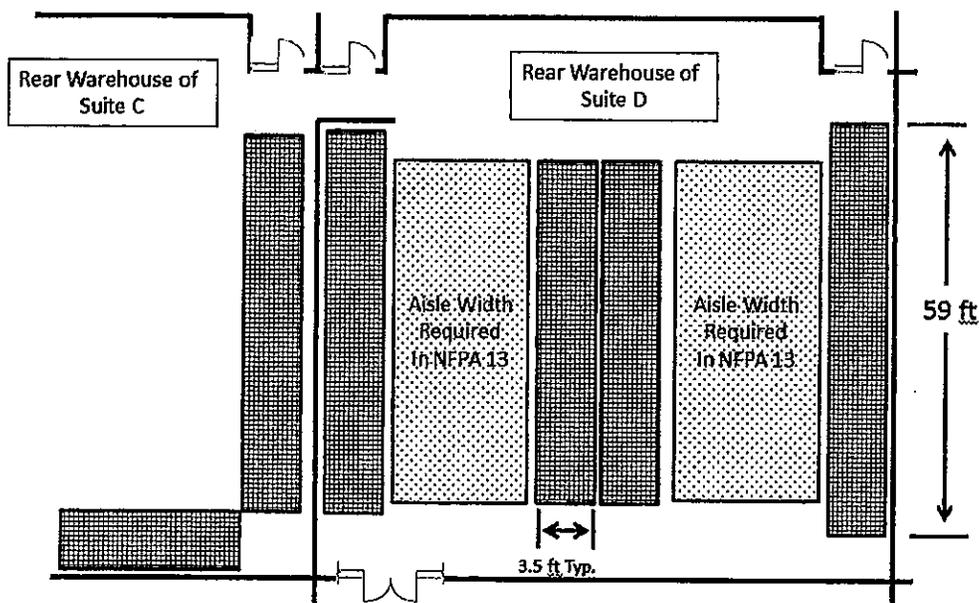
“Storage of combustible materials in closely packed piles or combustible materials on pallets, in racks or on shelves where the top of storage is greater than 12 feet in height. When required by the fire code official, high-piled combustible storage also includes certain high-hazard commodities, such as rubber tires, Group A plastics, flammable liquids, idle pallets and similar commodities, where the top of storage is greater than 6 feet in height.” – High-Piled Combustible Storage as defined in Chapter 2 of the SFPC.

In order to determine how much of an area is used for high-piled combustible storage, we need to define what part of an area is considered high-piled combustible storage. The fire code and the International Fire Code (IFC) Commentary provide clarification on identifying the area. The area of high-piled storage is the designated and actual area of storage. The IFC commentary states that this area must also contain the aisles as required by NFPA 13, *Standard for the Installation of Sprinkler Systems*. With few exceptions, the aisle width requirement will either be four or eight feet between racks. Figure 1 shows the sketch of ITI’s high-piled combustible storage area.

“An area within a building which is designated, intended, proposed or actually used for high-piled combustible storage.” – High-Piled Storage Area as defined in Chapter 2 of the SFPC.

“Therefore, any aisles required by NFPA 13 would be required to be included when determining the actual high-piled storage area involving rack storage.” – IFC Commentary of the definition of high-piled storage area (excerpt).

Figure 1. ITI’s High-Piled Combustible Storage Area.



Approximately 1,840 square feet of high-piled combustible storage area.

The next step is to identify what is considered as combustible materials. The SFPC Section 3203 describes how to determine the commodity classification. The term *commodity* is defined in the fire code as evaluating everything that is part of the storage arrangement. Since the concern would be what would be able to catch on fire, it tells us that we must evaluate not only the product but also the packaging materials and the containers.

“A combination of products, packaging materials and containers.” – Commodity as defined in Chapter 2 of the SFPC.

Not all commodities are the same. Obviously, depending on the type of material that is being stored would have different heat release rates (HRR) - plastics versus a cardboard box, for example. The higher the HRR the more amount of water is required from the building's fire sprinkler system. Figure 2 provides a quick look at the different classifications

Figure 2. Example of Commodity Classifications.

Classification	Pallet	Packaging	Product	Example of Products
Class I	With wooden or without pallets	Ordinary Corrugated Cartons	Noncombustible	Cement in bags, Frozen foods, Glass
Class II	With or without pallets	Slatted wooden crates, boxes, paperboard cartons, or other combustible packaging; includes limited amount of plastic	Noncombustible	Foods in combustible containers, Light bulbs in cartons
Class III	With or without pallets	Same as above with more plastics allowed	Combustible	Lumber, Plywood, Bagged sugar,
Class IV	With or without pallets	Same as above with higher level of plastics allowed	Combustible and Noncombustible	Furniture, Rugs, Asphalt shingles, Foam rubber
High-Hazard	This classification serves the highest level of commodities			Higher quantity of plastics, tires, or flammable/ combustible liquids.

NOTE: This information is broken down from SFPC Section 3203.

Mr. Wang appears to have concern over the classification of the products that he stores in his warehouse. Mr. Wang had shown me that one box contained empty glass bottles. I do not dispute that glass bottles are not combustible. The concern is how the arrangement of the packaging is used. As mentioned above, a commodity classification includes more than just the product. We have to evaluate all parts of the storage to come to the determination that the storage arrangement, as a whole, is defined as combustible storage.

An alternative to complying with SFPC 3201.2 was provided to Mr. Wang – as noted on the inspection report. If storage is lowered to heights not to exceed 12 feet then he does not need to apply for a high-piled combustible storage permit. The only permit that would be required is the combustible storage permit for storage that exceeds 2,500 cubic feet (as appealed on April 11, 2015 and upheld by the Board, See Attached).

Appeal Comment 3 & 4

Mr. Wang stated on the appeal's application, "The inspector identified the building was S-use group, but request us to follow H use-group Maximum allowable quantity of combustible liquids, moreover they never provide us with S-use group Maximum allowable quantity of combustible liquids."

Also, the appeal application states, "The request of SFPC 301.3. of inspectors is contrary to our Permit F3CLQ1 (issued by Fire Marshal) of Combustible Liquids, Class II or IIIA: Store, Use or handle - 26+ Gallons inside a Building or 61 + Gallons outside up to 100,000 gallons. This unreasonable request of following H-use Group (less than 240 gallons) has cost us lost business to MD, NY, NJ etc."

Position Statement

SFPC 301.3 explains that the use group of a building is required to be maintained under the original use group that was approved. If there are any changes of use in the structure, the change in use group shall be approved by the building official.

"Occupancy. The occupancy of a structure shall be continued as originally permitted under and in full compliance with the codes in force at the time of construction or alteration. The occupancy of a structure shall not change to another occupancy that will subject the structure to any special provisions of this code or the USBC without approval of the building official." – SFPC 301.3

I had previously asked Mr. Wang to provide me a copy of his inventory statement of hazardous materials to determine if the quantities exceed the maximum allowed for an S use group. We had provided Mr. Wang with a copy of SFPC Table 5003.1.1 (1) which provides the list of maximum allowable quantities for a business. This table applies to all use groups except for H use groups. When the quantity in the table has been exceeded then the use group has changed to an H use group. Column three explains, "Group when the maximum allowable quantity is exceeded."

On our visit on March 12, 2015, Mr. Wang provided us with a copy of his inventory statement of amounts of flammable and combustible liquids in storage only. His inventory statement stated that his amount of Class II combustible liquids were at 1,068 gallons and Class IIIA combustible liquids were at 1,431.3 gallons. The amounts in SFPC Table 5003.1.1 (1) require the maximum amount of Class II in storage is 240 gallons and Class IIIA is 660 gallons; this includes the allowed fire sprinkler increase. The amount of

combustible liquids far exceeds the maximum allowable quantities. As stated above, when these amounts are exceeded then a change in use has occurred. Mr. Wang was asked to reduce his amount of combustible liquids. An approval for a change of use may be requested, through plans and permits, from the building official to allow for higher quantities of storage.

ITI currently has one permit for the storage, use and handling of Class II and Class IIIA combustible liquids. The threshold amount in order to require a permit is 26+ gallons inside of a building. An issued permit should not be construed as to allow an unrestricted use of the building for a particular process. In this case, the permit does not allow ITI to violate the provisions of SFPC Table 5003.1.1 (1) by exceeding the maximum allowable quantities. This table has not been changed through County amendment and remains unchanged from the Commonwealth requirement.

Appealed Section 500.1.1

No comment provided by Mr. Wang on the application other than as stated in number 4.

Position Statement

SFPC Section 5003.1.1 is stated as a section that is being appealed. The Notice of Violation issued does not include Section 5003.1.1. This is referenced in the Change of Use violation of Section 301.3. As previously stated, Section 5003.1.1 establishes the maximum allowable quantity for flammable and combustible liquids for all use groups. Only when these numbers have been exceeded does the facility change its use group, as indicated in column three of Table 5003.1.1.

Conclusion

Thank you for your time and consideration of these items. I request the Board to uphold the Notice of Violation that was issued on March 12, 2015 for the following reasons:

Appeal Comment 1 & 2

~~FCLOSED~~ →

Chapter 32, *High-Piled Combustible Storage* has defined the type of storage in the facility, at minimum, as Class I commodity falling within the permit threshold.

- Commodity is defined by evaluating more than just the product.
- Non-combustible glass product, stored on wooden pallets, and packaged in ordinary corrugated cardboard falls within the scope of Chapter 32, *High-Piled Combustible Storage*.

Appeal Comment 3 & 4

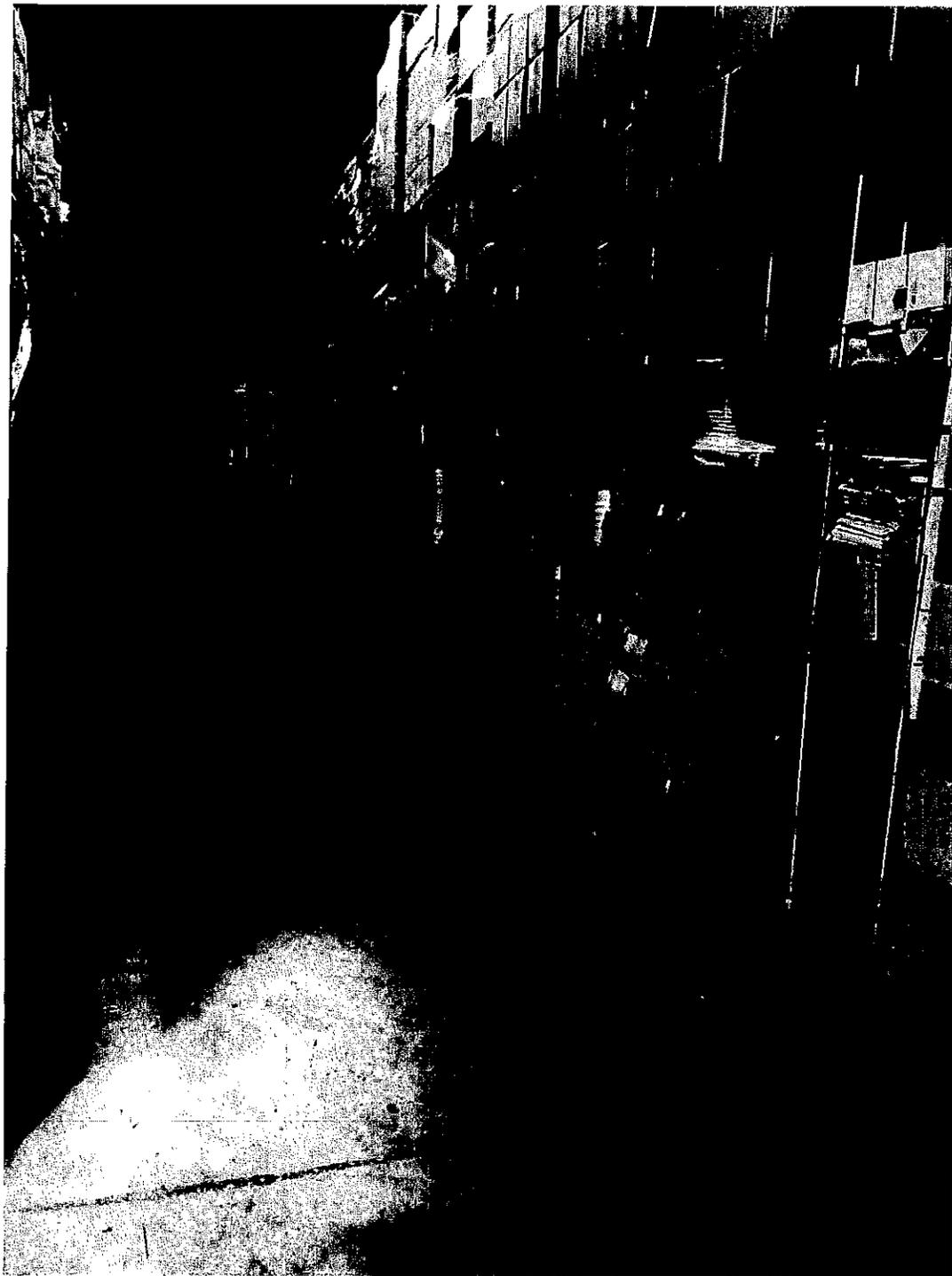
- The quantities allowed for an S-use group have been exceeded in accordance with Table 5003.1.1 (1). Column three indicates that the use group has changed to an H-use group.
- Table 5003.1.1 (1) is the maximum allowable quantity of flammable and combustible liquids storage within Mr. Wang's business.

Sincerely,

Michael Long, Fire Inspector III
Fairfax County Fire Prevention Division
Fire Inspections Branch

Attached:

Two pictures representing the overall storage configuration.
Resolution to the Board's decision from the previous appeal on February 11, 2015.





RESOLUTION

WHEREAS, the Fairfax County Board of Building Code Appeals (the Board) is duly appointed to resolve disputes arising out of the enforcement of the VSFPC, 2012 edition and The Code of the County of Fairfax, Chapter 62.

and

WHEREAS, an appeal has been timely filed and brought to the attention of the Board, and
WHEREAS, a hearing has been duly held to consider the aforementioned appeal, and
WHEREAS, the Board has fully deliberated this matter; now, therefore, be it

RESOLVED, That the matter of

Appeal No. 150524.0AP

In RE: Mr. Bill Wang

International Tech Industry

8245 Backlick Road, Suites D & C

Lorton, VA 22709

County of Fairfax, Office of the
Marshal

The appeal is hereby denied by a vote of 4-0.

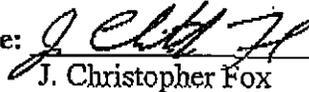
FURTHER, be it known that:

1. This decision is solely for this case and its surrounding circumstances.
2. This decision does not serve as a precedent for any future cases or situations, regardless of how similar they may appear.

Date:

5/15/2015

Signature:



J. Christopher Fox

Chairman, Board of Building Code Appeals

Note: Upon receipt of this resolution, any person who was a party to the appeal may appeal to the State Building Code Technical Review Board within twenty-one (21) days of receipt of this resolution. Application forms are available from the Virginia Department of Housing and Community Development, 600 East Main Street, Suite 300, Richmond, VA 23219 or by calling 804-371-7150.

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Bill Wang
8245 Backlick St D & C
Lorton, VA 22079

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X M. H. Bell

6/12/15 3:07pm

- Agent
- Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? Yes

If YES, enter delivery address below: No

5/22 resolution

3. Service Type

- Certified Mail
- Registered
- Insured Mail
- Express Mail
- Return Receipt for Merchandise
- C.O.D.

4. Restricted Delivery? (Extra Fee)

Yes

2. Article Number

(Transfer from service label)

7005 3110 0003 4933 3242

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

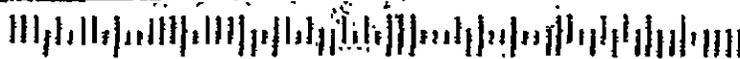
UNITED STATES POSTAL SERVICE



First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

• Sender: Please print your name, address, and ZIP+4 in this box •

Fairfax County Board of Building Code Appeals
Carla Guerra-Moran, Secretary to the Board
12055 Government Center Parkway, Suite 444
Fairfax, VA 22035-5504



McMahan, Alan (DHCD)

From: Guerra-Moran, Carla C. <Carla.Guerra-Moran@fairfaxcounty.gov>
Sent: Tuesday, September 15, 2015 8:36 AM
To: McMahan, Alan (DHCD)
Subject: RE: Appeal of ITI (Bill Wang)

Dear Mr. McMahan,
The NOV issued by the Fire Department was issued on 3/12/15.
Mr. Wang appealed on 3/24/15.
Thank you,
Carla

From: McMahan, Alan (DHCD) [<mailto:Alan.McMahan@dhcd.virginia.gov>]
Sent: Monday, September 14, 2015 4:11 PM
To: Guerra-Moran, Carla C.
Subject: [Caution: Message contains Redirect URL content] Appeal of ITI (Bill Wang)

Hi Carla. Would you please tell me when ITI filed its appeal to your board? ITI's address is 8245 Backlick Rd., Ste. D and C, Lorton, Va. 22079.
The appeal was heard in May of this year.

Thanks!

Alan

Alan McMahan, C.B.O., CLGM
*Senior Construction Inspector II and
Staff - State Building Code Technical Review Board
Department of Housing & Community Development
Division of Building & Fire Regulation
State Building Code Office
600 East Main Street, Suite 300
Richmond, Virginia 23219
(804) 371-7175
(804) 371-7092 - fax
alan.mcmahan@dhcd.virginia.gov
Code Connection Blog <http://dhcdcodeconnection.wordpress.com>
Click and "follow" our Blog*

FAX 804-371-7092

Total 58

Attn: Appeal Board

June 16, 2015

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
 State Building Codes Office and Office of the State Technical Review Board
 Main Street Centre, 600 E. Main Street, Suite 300, Richmond, Virginia 23219
 Tel: (804) 371-7150, Fax: (804) 371-7092, Email: alan.mcmahan@dhed.virginia.gov

APPLICATION FOR ADMINISTRATIVE APPEAL

Regulation Serving as Basis of Appeal (check one):

- Uniform Statewide Building Code
- Statewide Fire Prevention Code
- Industrialized Building Safety Regulations
- Amusement Device Regulations

RECEIVED
 JUN 16 2015
 BY: _____

Appealing Party Information (name, address, telephone number and email address):

International Technology Industry Inc.
 8245D Backlick Road, Lorton VA 22079
 Tel: 703-339-5388
 billw@iti-group.com

Opposing Party Information (name, address, telephone number and email address of all other parties):

Fairfax Fire Department, William J. Burkholder Administrative Building
 10700 Page Avenue, Fairfax, VA 22030, Tel: 703-691-2131

Additional Information (to be submitted with this application)

- Copy of enforcement decision being appealed
- Copy of record and decision of local government appeals board (if applicable and available)
- Statement of specific relief sought

CERTIFICATE OF SERVICE

I hereby certify that on the 16 day of June, 2015, a completed copy of this application, including the additional information required above, was either mailed, hand delivered, emailed or sent by facsimile to the Office of the State Technical Review Board and to all opposing parties listed.

Note: This application must be received by the Office of the State Technical Review Board within five (5) working days of the date on the above certificate of service for that date to be considered as the filing date of the appeal. If not received within five (5) working days, the date this application is actually received by the Office of the Review Board will be considered to be the filing date.

Signature of Applicant: 

Name of Applicant: Bill Wang (ITI)
 (please print or type)

Statement of Specific relief Sought
June 16, 2015

On March 12, 2015 four inspectors visited our building and did inspection. It is the 6th time of same inspections in 6 months. They had meeting with us request full inspection with measuring and calculating themselves. After reviewing their inspection report and VSFPC, it is clear they made same mistakes as before, request three wrong permits and contrary to the correct Permit issued themselves Fire Marshal.

1. SFPC 3201.2, and 301.2. inspectors wrongly classified "Glass bottle packed in an ordinary corrugated carton with or without single-thickness dividers, or in ordinary paper wrappings with without on wooden pallets are combustible products". They concluded the total Combustible products storage exceed 2500 cubic feet maximum quantity, request a Combustible Storage fire Permit. The fact is our combustible storage is less than 700 cubic feet.
2. SFPC 3201.2. Since the storage are mostly noncombustible products, there is no high-piled permit requested by code.
3. SFPC 301.3. The inspector identified the **building** was S-use group, (not Occupancy Use Group) but request ITI to follow H use-group Maximum allowable quantity of combustible liquids, moreover they never provide us with S-use group and M-use Group (since ITI is wholesale licensed) Maximum allowable quantity of combustible liquids.
4. The request of SFPC 301.3. of inspectors is contrary to ITI's Permit F3CLQ1 (issued by Fire Marshal) of Combustible Liquids, Class II or IIIA: Store, Use or handle - 26+ Gallons inside a Building or 61 + Gallons outside up to 100,000 gallons. This unreasonable request of following H-use Group (less than 240 gallons) has cost us lost business to MD, NY, NJ etc.

ITI appealed to Fairfax Code board, they deny our appeal without any reason. Therefore, I am submit our appeal to Virginia State Building Codes Office and Office of the State Technical Review board for further review.

Thanks


Bill Wang
International Technology Industry Inc. (ITI)
8245 Backlick Road
Unit D
Lorton VA 2207
Tel: 703-339-5388
Fax: 703-339-1999

39

Swick & Shapiro, P.C.
Attorneys at Law
1101 15th Street, N.W., Suite 205
Washington, D.C. 20005

TEL (202) 842-0300
FAX (202) 842-1418

June 16, 2015

Via U.S. Mail and Fax: 703-324-3570

Richard R. Bowers, Jr.
Fire Chief / Fire Marshal
10700 Page Avenue
Fairfax, Virginia 22030

RE: ITI Group - Business Owner Bill Wang

Dear Chief Bowers:

I am writing regarding a local business owner, Bill Wang. He owns the small business, ITI Group, in Fairfax County. ITI Group is engaged in the wholesale sale of essential oils. It has two large warehouses which are strictly for this use. No areas of ITI's warehouses are used for residential purposes.

The reason I am writing to you about Mr. Wang is that he and his business have been subjected to numerous erroneous failed inspection reports by the Fairfax County Fire Marshal's office to the point that it has become harassing and threatens his livelihood. In addition, comments by the inspectors from the Fire Marshal's office suggest that Mr. Wang is being targeted because of national origin/race/ethnicity. Mr. Wang is a United States citizen, and he is originally from China. During the frequent and hugely disruptive inspections by your office, the inspectors have asked Mr. Wang and his daughter where they are from. When the Wangs respond that they are Virginians, which they most certainly are, the inspectors have pressed them and asked where they're "really" from. There is no legitimate reason the inspectors need to know this information. Their job is to inspect businesses for fire hazards, not interrogate a business owner about his national origin for no good reason. The inspectors have then proceeded to issue inspection reports with erroneous violations listed. As such, I believe Mr. Wang has a valid claim against the County under 42 U.S.C. Section 1983 for violation of his right to equal protection under the Fourteenth Amendment to the Constitution. Under the color of state law, your office has subjected Mr. Wang and his business to harassment with constant and disruptive inspections, and bogus inspection reports. Be advised that both the County and the inspectors in their personal capacities are subject to liability under Section 1983.

The reason the inspection reports alleging Fire Code violations are bogus is that they have treated Wang's business as though it were a residence. However, ITI is a wholesaler, and Mr. Wang has shown the

inspectors these permits, as well as the pertinent sections of the Fairfax County Fire Code, they have continued to issue erroneous inspection reports, which Mr. Wang has then been forced to appeal. Perhaps the inspectors think Mr. Wang cannot read the Code because he is originally from China, but I assure you he can. This harassment and disruption in business has cost Mr. Wang approximately three million dollars in revenue. ITI has been in full compliance with the Fire Code, yet Mr. Wang has been harassed with constant, unannounced inspections and baseless inspection reports citing violations his business is not committing.

Mr. Wang is reasonable and simply wishes to conduct his business without undue disruption. I am writing to offer an opportunity for the County to engage in discussions with a view toward reaching an agreement which would address any concerns you as the Fire Marshal may have about ITI, while permitting Mr. Wang to run his business free from harassment. Mr. Wang currently has an appeal of an inspection report pending, and if the Fire Code is applied correctly, he will prevail. He is certainly amenable to addressing this current appeal in these discussions. I hope to hear from you or your representative soon.

Sincerely,

A handwritten signature in black ink, appearing to read "J. C. Watson", with a double horizontal line underneath the name.

J. Cathryne Watson
Legal Counsel to Mr. Wang



Report Date 05/13/2015 06:19 AM

Submitted By

Page 1

Inspection # 5759954 A/P # 201205410 Insp Type F INITIAL F INITIAL INSPECTION

1

Property Information

Address 8245D BACKLICK RD
 LORTON VA 22079-1416
 Location

Application Information

Type F GENERAL FPD MISCELLANEOUS COMPLAINTS Priority F MD A/P Name ITI
 Desc of Case HAZ MAT monitoring

Initial Inspection

Call Date/Time 07/20/2012 10:00 System Generated Assigned To
 Schedule Date/Time Order/Group 0 Preference
 Waived
 Location UNIT D WAREHOUSE

Inspection Results

Inspected By WBURGE Same Trip as Insp # 0 Actual Time 0.30
 Start Date/Time 07/20/2012 10:00 Odometer Start 0 Partial Inspection
 Completed Date/Time 07/20/2012 10:30 Odometer Stop 0 Status Closed

Comments

Assisting ITI ref coming into compliance with the fire code. Business had a fire in the warehouse and packaging area back in June. Fire investigators found numerous fire code violations including no FPCP, large quantities of Class II & IIIA combustible liquids above the MAQ being stored and used in the warehouse area along with high rack storage problems. Assisting owner, Mr. Bill Wang with correcting these violations before opening business back up. WTB/IV418 4/26/13, Case being closed. Fire Inspections Section has issued new FPCP for this location after ITI moved back in to this location in early 2013, after rebuilding from major fire damage that occurred in June 2012. Advised Fire Inspection section to monitor amount of combustible liquid storage and use at this facility. case closed 4/26/13 WTB/IV418

Code Violations

No Code Violation



Report Date 05/13/2015 06:21 AM

Submitted By

Page 2

Code Violations

Violation F BLANK Description 1. BLANK NO PREPRINTED TEXT
Violation Date 03/12/2015 Status Status Date
Location General.

Comments SFPC 301.2 - If storage is lowered below 12 feet, then a combustible storage fire permit shall be obtained.

Code Violation Text

Violation F BLANK Description 1. BLANK NO PREPRINTED TEXT
Violation Date 03/12/2015 Status Status Date
Location Inventory Statement

Comments SFPC 5001.5.2 - Shall provide an additional inventory statement that identifies the amount of products in storage and open-use

Code Violation Text

Violation FIN12 5003 B Description HM NFPA 704 ID SIGNS
Violation Date 03/12/2015 Status F CLOSED Status Date 04/09/2015
Location NFPA 704 Placard

Comments Shall provide an NFPA 704 placard at the address-front of the building.

Code Violation Text SFPC-2012: 5003.5. Hazardous materials-general provisions. General requirements. Hazard identification signs.

Unless otherwise exempted by the fire code official, visible hazard identification signs as specified in NFPA 704 for the specific material contained shall be placed on stationary containers and above-ground tanks and at entrances to locations where hazardous materials are stored, dispensed, used or handled in quantities requiring a permit and at specific entrances and locations designated by the fire code official.

Violation FIN12 301.3 Description OCCUPANCY
Violation Date 03/12/2015 Status Status Date
Location Change of Use

Comments Shall not change the use of the structure without approval of the building official. Inventory statement provided for storage exceeds the maximum allowable quantity for S-Use group. Shall lower flammable/combustible liquids below threshold provided SFPC

Code Violation Text SFPC-2012: 301.3. General requirements. General. Occupancy.

The occupancy of a structure shall be continued as originally permitted under and in full compliance with the codes in force at the time of construction or alteration. The occupancy of a structure shall not change to another occupancy that will subject the structure to any special provisions of this code or the USBC without the approval of the building official.

Conditions

No Conditions

History

Inspection # 5751891 Inspection Type FPCP 2013 FPCP INSPECTION # 1 Status Closed Waived
Inspected By MSMITH Order/Group 0 Scheduled 08/03/2012 00:00 Started 08/03/2012 09:15 Completed 08/03/2012 09:30

Location

Comments

the business is closed & the space is going to be occupied by a new business when the spaced is finished. *close fpcp. msmith 8-3-12

----- Reviewed by Captain I Michael S. Snapp on 08/15/2012 -----



Report Date 05/13/2015 06:21 AM

Submitted By

Page 1

Inspection # 6671577 A/P # 22222 Insp Type FPCP 2015FPCP INSPECTION # 5

Property Information

Address 8245D BACKLICK RD
LORTON VA 22079-1416
Location

Application Information

Type FPCP LIC FPCP LICENSE Priority A/P Name INTERNATIONAL TECH INDUSTRY
Comments

Initial Inspection

Call Date/Time System Generated Assigned To CPERRY
Schedule Date/Time 04/09/2015 09:42 Order/Group 0 Preference
 Waived
Location MR. BILL WANG 703-339-5388 0900

Inspection Results

Inspected By CPERRY Same Trip as Insp # 0 Actual Time 0.00
Start Date/Time 04/09/2015 09:00 Odometer Start 0 Partial Inspection
Completed Date/Time 04/09/2015 09:42 Odometer Stop 0 Status Partial Passed

Comments

An investigative visit was conducted at this location by Insp. Long and myself. Measurements and a few pictures were taken of the storage. During this visit, it was discovered that Mr. Wang had posted his NFPA 704 signs and he had lowered all of his storage to 12 feet or less. The high-piled storage issue is no longer a violation. Also, Mr. Wang stated that he does not keep any product open for any length of time. When he does, it is only at 5 gallons at a time. **FIDO completed 4/9/15
5 cperry**

FIDO reviewed by Insp III M.Long. No charge to take measurements of storage arrangment. mlong 4/14/15

Code Violations

Violation	FFA	Description	RIGHT OF APPEAL
Violation Date	10/03/2014	Status	Status Date
Location	For information only.		

Comments

Code Violation Text RIGHT OF APPEAL. The owner of a building or structure, the owner's agent or any other person involved in the use of this building or structure has the right to appeal this notice of violation. Appeals shall be filed within 14 days of the notice of violation. Appeal information and forms may be obtained from the Secretary to the Local Board of Building Code Appeals (703) 324-1780 or at http://www.fairfaxcounty.gov/dpwes/publications/codemods_appeals.htm.

Failure to submit an application for appeal within 14 days shall constitute acceptance of the notice of violation written by the Code Official.

Appeal of any listed violation does not relieve responsibility for immediately, or as specified, correcting all other violations noted.

Violation	FIN12 3201.2	Description	HI-PILE STORAGE PERMITS
Violation Date	03/12/2015	Status	F CLOSED Status Date 04/09/2015
Location	General		

Comments Shall submit for a fire code permit for high-piled combustible storage by following the plan submittal guide and SFPC 3201.3 OR lower storage no higher than 12 feet.

Code Violation Text SFPC-2012: 3201.2. High-piled combustible storage. General. Permits.

Permits shall be required as set forth in Sections 107 and 108.



COUNTY OF FAIRFAX
 OFFICE OF THE FIRE MARSHAL
 FIRE PREVENTION DIVISION
 10700 PAGE AVENUE
 FAIRFAX, VIRGINIA 22030
 www.fairfaxcounty.gov/fr/prevention

Phone (703) 246-4849 Fax (703) 246-4872
 FIRE INSPECTIONS: 246-4849 246-4872
 ACCEPTANCE TESTING: 246-4821 246-9173
 RETESTING: 246-4830 267-6716
 HAZMAT SERVICES: 246-4386 293-9476



REPORT OF INSPECTION **NOTICE OF VIOLATION** **TEST BILLING FORM** 1 of 2

A/P# <u>22222</u>		Inspection # <u>6699418</u>		Scheduled Inspection Date/Time <u>5-20-2015</u>		
Work Type			Inspection Type <u>Follow-up</u>			
Project Address <u>8245 D BACKLICK ROAD, LORTON VA 22079</u>						Suite <u>D+C</u>
Project/Business Name <u>INTERNATIONAL TECH. INDUSTRY</u>						
Contact Name <u>MS. SHELLEY FAN + MR. MIKE HUBER</u>					Phone # <u>703-339-5388</u>	
Contractor					Phone #	
Address						
Non RUP#			Usage Codes <u>V.#6</u>			
Number of Inspectors <u>1</u>	Start Time <u>1415</u>	Stop Time: <u>1430</u>	Total Time <u>15 M</u>	Total Fees \$ <u>39.00</u>		
Additional Inspection/Test required <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		Pass <input type="checkbox"/>	<input checked="" type="checkbox"/> Partial Pass <input type="checkbox"/>	Fail <input type="checkbox"/>	Closed <input type="checkbox"/>	
Inspector <u>PERRY / LONG</u>		Where to Report				
<p><u>A Follow-up INSPECTION WAS CONDUCTED. WE SPOKE WITH MRS. FAN AND MR. HUBER ABOUT THE REMAINING ISSUES IN THEIR INSPECTION CYCLE.</u></p> <p><u>THE CORRECTIONS SHALL BE MADE PRIOR TO CLOSE OF BUSINESS 6-17-2015.</u></p> <p><u>1) SHALL OBTAIN A COMBUSTIBLE STORAGE PERMIT (APPLICATION GIVEN) (35.2)</u></p> <p><u>2) SHALL LOWER THE STORAGE QUANTITIES OF YOUR CLASS II AND CLASS IIIA COMBUSTIBLES - AND SHALL NOT EXCEED THE MAXIMUM ALLOWABLE QUANTITIES FOR YOUR BUILDING USE GROUP (240 GALLONS FOR CLASS II WITH SPRINKLERS, 660 GALLONS FOR CLASS IIIA WITH SPRINKLERS)</u></p> <p><u>FOLLOW UP INSPECTION DATE ON OR ABOUT 6-18-2015 (301.9)</u></p>						
Approved <input type="checkbox"/>	<input checked="" type="checkbox"/> Approved with P/L	Rejected <input type="checkbox"/>	Sticker Issued <input type="checkbox"/>	Approved Pending System Final <input type="checkbox"/>	FPCP Issued <input type="checkbox"/>	Other <input type="checkbox"/>
Evacuation Order Issued: Yes <input type="checkbox"/> No <input type="checkbox"/>		Violation Corrected: Yes <input type="checkbox"/> <input checked="" type="checkbox"/> No		Spot Check: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>		

RIGHT OF APPEAL. The owner of this building or structure, the owner's agent, or any other person involved in the use of this building or structure has the right to appeal this notice of violation. Virginia Construction Code appeals must be filed within 30 days and Virginia Fire Prevention Code appeals within 14 days from the date you receive this notice. Appeal information and forms may be obtained from the Secretary to the Local Board of Building Code Appeals (703) 324-1780 or at http://www.fairfaxcounty.gov/dpwes/publications/codemods_appeals.htm. Failure to submit an application for appeal within the specified timeframe shall constitute acceptance of the notice of violation written by the Code Official. Appeal of any listed violation does not relieve responsibility for immediately, or as specified, correcting all other violations noted.

****No occupancy inspections will be made until all deficiencies regarding the Fire Protection Systems have been corrected.****

By the order of [Signature] FM# 414, Assistant Fire Marshal.
Michael Huber CUSTOMER PRINTED NAME Warehouse MANAGER TITLE / POSITION [Signature] SIGNATURE



COUNTY OF FAIRFAX
 OFFICE OF THE FIRE MARSHAL
 FIRE PREVENTION DIVISION
 10700 PAGE AVENUE
 FAIRFAX, VIRGINIA 22030
 www.fairfaxcounty.gov/fr/prevention

Phone (703) Fax (703)
 FIRE INSPECTIONS: 246-4849 246-4872
 ACCEPTANCE TESTING: 246-4821 246-9173
 RETESTING: 246-4830 267-6716
 HAZMAT SERVICES: 246-4386 385-7591



REPORT OF INSPECTION NOTICE OF VIOLATION TEST BILLING FORM

2 of 2

AVP# 22222 Inspection # 6699418 Inspection Date 5-20-2015

Project Address 8245 D BACKLICK ROAD, LORTON VA 22079 Suite D+C

Inspector PERRY / LONG

CONT. THE LISTED QUANTITIES ABOVE INCLUDES THE TOTAL AMOUNT IN STORAGE AND OPEN USE TOGETHER.

THE AMOUNT OF OPEN USE FOR A CLASS II IS A MAXIMUM OF 60 GALLONS AT ONE TIME. THE AMOUNT OF OPEN USE FOR A CLASS IIIA IS 160 GALLONS AT ONE TIME.

REMINDERS: KEEP OILY RAGS/TRASH IN A CLOSED METAL CONTAINER. (SELF-CLOSING METAL)

KEEP STORAGE AWAY FROM CEILING AND SPRINKLER HEADS IN THE MEDIUM AND OFFICE AREAS.

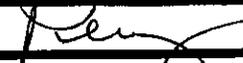
KEEP AS MUCH PRODUCT CLOSED AS POSSIBLE WHEN NOT USING IT TO MEET THE QUANTITIES.

KEEP ITEMS AWAY FROM ELECTRIC PANELS.

KEEP PALLET STORAGE TO A VERY MINIMUM INSIDE.

304.3.1 - Remember - Materials susceptible to spontaneous ignition, such as oily rags, shall be stored in a listed disposal container. Contents shall be removed and disposed of daily.

Violations of the Fire Prevention Code or the Building Code listed in this notice shall be corrected immediately or as otherwise specified. No occupancy inspections will be made until all deficiencies regarding the Fire Protection Systems have been corrected!

By the order of  FM# 414 Assistant Fire Marshal.


 CUSTOMER PRINTED NAME

Warehouse Manager
 TITLE / POSITION


 SIGNATURE



Report Date 08/05/2015 12:18 PM Submitted By mlong Page 1

Inspection # 6745118 A/P # 22222 Insp Type FPCP 2015FPCP INSPECTION # 7

Property Information

Address 8245D BACKLICK RD
 LORTON VA 22079-1416
 Location

Application Information

Type FPCP LIC FPCP LICENSE Priority A/P Name INTERNATIONAL TECH INDUSTRY
 Comments

Initial Inspection

Call Date/Time System Generated Assigned To MLONG6
 Schedule Date/Time 08/05/2015 00:00 Order/Group 0 Preference FFPCPU
 Waived
 Location MR. BILL WANG 703-339-5388 0900 /MR. MIKE HUBER/MRS. SHELLEY FAN

Inspection Results

Inspected By MLONG6 Same Trip as Insp # 0 Actual Time 0.00
 Start Date/Time 08/05/2015 10:00 Odometer Start 0 Partial Inspection
 Completed Date/Time 08/05/2015 11:00 Odometer Stop 0 Status Failed

Comments

Documentallon about inspection only - No inspection report issued.

Today, Aug 5, 2015, an onsite meeting was held at 8245 Backlick Rd Lorton, VA. Those in attendance were Deputy Chief Barrero, Captain Alvaro, Captain Wilson, e Burgess, assistant county attorney, Mr. Wang, Mr. Wang's attorney, and myself. The purpose of the meeting was to identify if Mr. Wang had complied with previously issued notices and answer any questions anyone may have. He had not complied with any of the notices.

There were four summons issued to Mr. Wang - 1) SFPC 301.2 - Operating without a permit, 2) SFPC 301.3 - Change of Use, 3) SFPC 5704.3.4.2 - Occupancy Quantity Limits, and 4) SFPC 5001.5.2 - Inventory Statement.

Court date is set for September 22, 2015 at 0900.

mlong 8/5/15

REVIEW BOARD APPEAL 15-10
INTERNATIONAL TECHNOLOGY
INDUSTRY, INC. (ITI)
VS. COUNTY OF FAIRFAX

ADDITIONAL DOCUMENTS
SUBMITTED BY ITI

COUNTY OF FAIRFAX
Department of Planning and Zoning
Zoning Administration Division
NON-RESIDENTIAL USE PERMIT

THIS PERMIT SHALL BE CONSPICUOUSLY POSTED AT ALL TIMES IN THE ESTABLISHMENT

Non-RUP #: 122020118

Issued July 20, 2012

Permission is hereby granted to INTERNATIONAL TECHNOLOGY INDUSTRY INC. to use 5,000 square feet of floor area, on Bldg: N/A, floor: 1; Suite # N/A of the building located at: 8245D BACKLICK RD, LORTON VA 22079-1416 Tax Map No: 0993 01 0032 which property is located in the Zoning District: I-6 for the following purpose: WHOLESALE TRADE ESTABLISHMENT

Must comply with Zoning Case No.:

This Non-Residential Use Permit is issued subject to the following limitations and conditions:

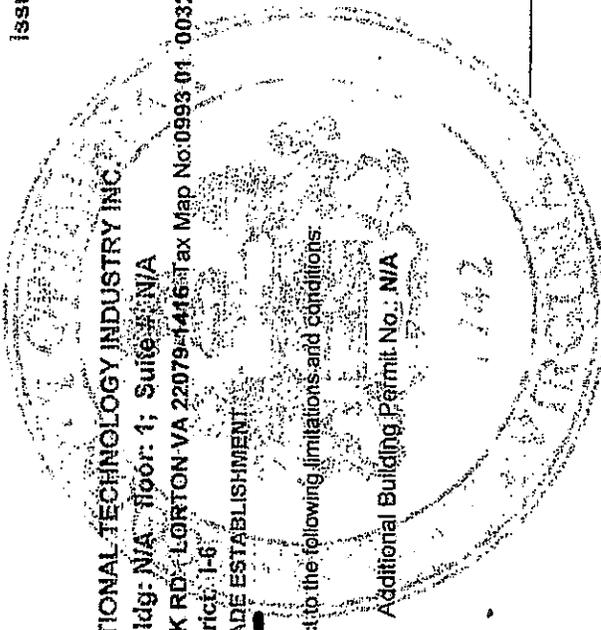
Building Permit No.: N/A

Additional Building Permit No.: N/A

Type of Construction
N/A

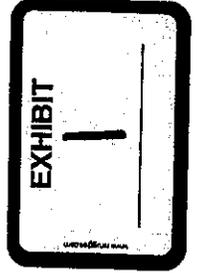
Use Group
N/A

Eileen McNamee
Zoning Administrator



Printed on July 20, 2012

Note: Occupancy approval requires a final inspection by the Fairfax County Fire Marshal's office. Please call 703 246-4849 to schedule the final occupancy inspection, regular inspection fees apply. This permit does not take the place of any license or other permit required by law. Any change in the use, occupancy or proprietorship, or any enlargement or expansion of the premises for which this permit is issued shall require the application and approval of a new Non-Residential Use Permit.



4 1-11

COUNTY OF FAIRFAX
Department of Planning and Zoning
Zoning Administration Division
NON-RESIDENTIAL USE PERMIT

THIS PERMIT SHALL BE CONSPICUOUSLY POSTED AT ALL TIMES IN THE ESTABLISHMENT

Non-RUP #: 143030063

Issued October 30, 2014

Tenant Name: INTERNATIONAL TECHNOLOGY INDUSTRIES INC
Address: 8245C BACKLICK RD
Bldg: N/A
LORTON VA 22079-1416
Tax Map: 0993 01 0032

Floor: N/A
Suite #: N/A

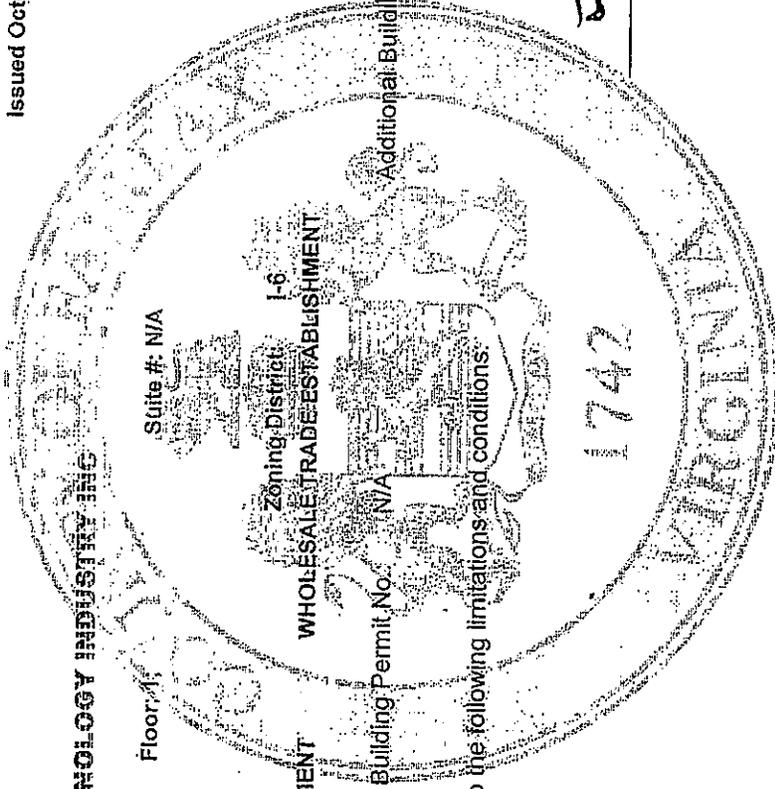
Square Footage: 6000
Use: WAREHOUSING ESTABLISHMENT
Zoning District: I-6
WHOLESALE TRADE ESTABLISHMENT

Must comply with Zoning Case No. :

Const. Type Use Group
3B B
3B S1

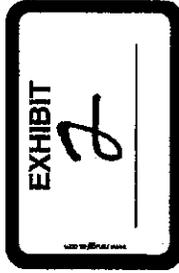
Building Permit No.: N/A
Additional Building Permit No.: N/A

This Non-Residential Use Permit is issued subject to the following limitations and conditions:



Debi Johnson

Zoning Administrator



Note: Occupancy approval subject to final inspection by the Fairfax County Fire Marshall's office. Please call 703 246-4849 to schedule final occupancy inspection. This permit does not take the place of any license or other permit required by law. Any change in the use, occupancy or proprietorship, or any enlargement or expansion of the premises for which this permit is issued shall require the application and approval of a new Non-Residential Use Permit.

Printed on 10/30/2014

2015

BUSINESS, PROFESSIONAL AND OCCUPATIONAL LICENSE
COUNTY OF FAIRFAX, DEPARTMENT OF TAX ADMINISTRATION (DTA)
PHONE: 703-222-8234 TTY: 703-222-7594 WEBSITE: www.fairfaxcounty.gov/dta

2015

INTL TECHNOLOGY INDUSTRY
INTL TECHNOLOGY INDUSTRY
8245 BACKLICK RD D
LORTON VA 22079-1462

Notice: This is your 2015 Business, Professional and Occupational License (BPOL). The bottom-half is perforated to allow you to tear off and post this license in your establishment. Please note, if your check is not honored by the bank, this license shall be invalid.

2015 LICENSE INFORMATION

ACCOUNT #: 000-26-5194	LICENSE PERIOD: 01/01/2015 - 03/01/2016
ORDINANCE CODE: 47230-00	LICENSE BASIS: \$1,329,017
NAICS: 424990	LICENSE RATE: \$04 per \$100
LOCATION: 8245 BACKLICK RD D LORTON VA 22079	FED. I.D. OR E.I.N.: 54-1793890
CLASSIFICATION: <u>WHOLESALE MERCHANT</u>	LICENSE NUMBER: 1533742
DATE PAYMENT RECEIVED: 03/02/2015	INSTALLMENT(S):

For any questions concerning this license, please call 703-222-8234 between the hours of 8:00 a.m. and 4:30 p.m. Monday - Friday (Hearing impaired persons may call TTY: 703-222-7594), or send us an e-mail through our website, www.fairfaxcounty.gov/dta.

As with all taxes, our goal is to administer the BPOL tax fairly and in accordance with State and County Codes. Our staff strives to provide professional assistance and quality customer service. Please let us know if we are not meeting your needs. Your satisfaction is important to us and your comments are always welcome.

Juan B. Rengel, Director
Personal Property and Business License Division
Department of Tax Administration

CC: Kevin C. Greenlief, Director
Department of Tax Administration

FAIRFAX COUNTY DEPARTMENT OF TAX ADMINISTRATION
2015 BUSINESS, PROFESSIONAL AND OCCUPATIONAL LICENSE
(BPOL) FOR ORDINANCE 47230-00 : WHOLESALE MERCHANT

THIS LICENSE HAS BEEN ISSUED BY THE FAIRFAX COUNTY DEPARTMENT OF TAX ADMINISTRATION (DTA) AND IS GRANTED TO:

533742



INTL TECHNOLOGY INDUSTRY
INTL TECHNOLOGY INDUSTRY
8245 BACKLICK RD D
LORTON VA 22079-1462



THIS LICENSE IS VALID THRU
03/01/2016

Dept. Tax Administration, Suite 223
12000 Government Center Parkway
Fairfax, Va. 22035, Phone: 703-222-8234
Website: www.fairfaxcounty.gov/dta



Michael T. Reilly
Deputy Chief
Fire Prevention Division

County of Fairfax
Fire and Rescue Department
Fire Prevention Division
(703) 246-4800

Account Number: L 22222

Non RUP Number: 122020118

FIRE PREVENTION CODE PERMIT

SFPC-108.1 Virginia Statewide Fire Prevention Code Section 27-98 Code of Virginia

The fire official has approved the listed business, firm or person to conduct the following use:

COMBUSTIBLE LIQUIDS

F3CLQ1

Location:

INTERNATIONAL TECH INDUSTRY
8245D Backlick Rd
LORTON VA 22079-1416

Phone: (703)339-5388 x

Emergency Ph:



Signed: _____

Deputy Fire Chief, Fire Prevention Division

2015

Issued By: *Reilly*

Date 10-3-2014

Fire Station: 437

Batt: 405

Permit Expires: 07/31/2015

FP_Permit_License
FSA 7339, 09/06

EXHIBIT
4

13 2300 P

International Technology 03-12
Industry Inc
8245 Backlick Rd Ste V
Lorton, VA 22079
703-339-5388

1483

65-7198/2550

Pay to the Order of County of Fairfax June 11 2015
One Hundred Fifty & 00/100 Only \$ 150.00
Capital One Bank Dollars

Capital One Bank
Springfield, VA 22153

For A/N L 22222

Jan [Signature]

⑈001483⑈ ⑆25507198⑆ 1360442728⑈



Fire Station: 437
Battalion: 405

County of Fairfax
Fire Prevention Division
10700 Page Avenue
Fairfax, Virginia 22030
(703) 246-4803

Account Number: L 22222
Permit Expires: 07/31/2015

REMINDER NOTICE

Renewal Application for Fire Prevention Code Permit

Application is hereby made by the undersigned for a Permit(s) to conduct the following industry, trade, occupation, storage or use.

Fire Prevention Code(s) Applying For:
COMBUSTIBLE LIQUIDS

Business Name: INTERNATIONAL TECH INDUSTRY
Location: 8245D Backlick Rd
LORTON VA 22079-1416
Phone: (703)339-5388 x Emergency Phone:

AMOUNT DUE
\$ 150.00

RETURN WITH
PAYMENT. MAKE CHECK
PAYABLE TO "COUNTY
OF FAIRFAX"

All conditions, surroundings and arrangements are to be in accordance with the Fire Prevention Code. I hereby accept full responsibility for the adherence to all requirements of the Virginia Statewide Fire Prevention Code and the County of Fairfax Fire Prevention Code pertaining to the above application.

Signature: _____
Printed Name: _____

Bill To: INTERNATIONAL TECHNOLOGY INDUS
8245D BACKLICK RF
LORTON VA 22079-

REMINDER

PERMIT EXPIRES 07/31/2015

If business no longer exists, please notify the Fire Prevention Division

EXHIBIT
5



COUNTY OF FAIRFAX
 OFFICE OF THE FIRE MARSHAL
 FIRE PREVENTION DIVISION
 10700 PAGE AVENUE
 FAIRFAX, VIRGINIA 22030
 www.fairfaxcounty.gov/fr/prevention

Phone (703) 246-4849
 FIRE INSPECTIONS: 246-4849
 ACCEPTANCE TESTING: 246-4821
 RETESTING: 246-4830
 HAZMAT SERVICES: 246-4386

Fax (703) 246-4872
 246-9173
 267-6716
 293-9476



REPORT OF INSPECTION **NOTICE OF VIOLATION** **TEST BILLING FORM**

1 of 1

A/P#	143030063	Inspection #	6549129	Scheduled Inspection Date/Time	07/09/2015				
Work Type	CHANGE TENANT/NAME/OWNER			Inspection Type	FIRE POST OCCUPANCY INSPECTION				
Project Address	8245C Backlick Rd, Lorton 22079-1416				Suite	N/A			
Project/Business Name	INTERNATIONAL TECHNOLOGY INDUS		BLD #	N/A	FLR #	1			
Contact Name				Phone #					
Contractor	ID:			Phone #					
Address									
Non RUP#	143030063		Usage Codes						
Number of Inspectors	2	Start Time	12:00 pm	Stop Time	12:15 pm	Total Time	15.0 min	Total Fees	\$ 79.00
Additional Inspection/Test required	YES	NO	Pass	Partial Pass	Fail	Closed			
Inspector	F. KECK		Where to Report						

COMMENT: POST - OCC INSPECTION, NO VIOLATIONS, STICKER ISSUED AND INSTALLED ONTO THE PANEL.
 FKECK0 7-9-15

FOLLOW UP INSPECTION DATE **VIOLATIONS, see next**

Approved Approved with P/L Rejected **Sticker Issued** Approved Pending System Final FPCP Issued Other

Evacuation Order Issued: Yes No **Violation Corrected:** Yes No Spot Check: Yes No

RIGHT OF APPEAL. The owner of this building or structure, the owners agent, or any other person involved in the use of this building or structure, has the right to appeal this notice of violation. Virginia Construction Code appeals must be filed within 30 days and Virginia within 11 days from the date you receive this notice. Appeal information and forms may be obtained from the Secretary Code Appeals (703) 324-1780 or at http://www.fairfaxcounty.gov/dowes/publications/codemods_appeals.html. Failure to file within the specified timeframe shall constitute acceptance of the notice of violation written by the Code Official. Appeals do not relieve responsibility for immediately, or as specified, correcting all other violations noted.

No occupancy inspections will be made until all deficiencies regarding the Fire Protection Systems have been corrected.



By the order of: M. HUBE [Signature] [Signature]

CUSTOMER PRINTED NAME TITLE SIGNATURE

3



International Code Council
Central Regional Office
4051 Flossmoor Road
Country Club Hills IL 60478
t: 888 ICC-SAFE (422 7233)
f: 708.799.4981
www.iccsafe.org

September 2, 2015

Mr Bill Wang
International Technology Industry Inc.
8245 Backlick Road
Unit D
Lorton, VA 22079

RE: Sections 202, 3203, 5004.1 and 5004.2.2 and Tables 3206.2, 5003.1.1(1) and 5704.3.4.1 of the 2012 Virginia Statewide Fire Prevention Code

Dear Mr Wang:

This letter is in response to your original e-mail correspondence of March 17, 2015 and your subsequent follow-up e-mail of August 24, 2015. All comments are based on the 2012 Virginia Statewide Fire Prevention Code (VSFPC) which is derived from the 2012 International Fire Code (IFC). All responses refer directly to the numbered questions in your original e-mail of March 17, 2015. The questions, in some cases, were slightly modified to more accurately reflect their intent.

Question 1: Is the International Fire Code the same as the Virginia Statewide Fire Prevention Code?

Answer: While not completely identical, the 2012 Virginia Statewide Fire Prevention Code (VSFPC) is based on and essentially the same as the 2012 International Fire Code. Please note, however, that double vertical lines in the margins of the 2012 VSFPC indicate state amendments to the 2012 IFC.

Question 2: For occupancy classification, is the use group classified by use and purpose or by building and something else? What is the use group classification for wholesale and retail sales?

Answer: Buildings or portions of buildings are classified with respect to the actual use/occupancy of the space in question. Chapter 2 of the VSFPC contains the occupancy classifications regulated by the code. All buildings/structures should be classified in the occupancy or occupancies they most nearly resemble.

Wholesale and retail sales areas are classified as Group M occupancies.





International Code Council
Central Regional Office
4051 Flossmoor Road
Country Club Hills IL 60478
t: 888.ICC.SAFE (422 7233)
f: 708.799.4981
www.iccsafe.org

September 2, 2015
Page 2

Question 3: If a building occupancy is for both wholesale and retail sales, what is the use group classification for this occupancy?

Answer: As indicated in the answer to Question #2, wholesale and retail sales areas are most appropriately classified as Group M occupancies. Large storage/stockroom areas within such facilities are typically classified as Group S-1. As such, most major wholesale and retail stores are potentially mixed use occupancies of Group M and S-1.

Question 4: For Group M and S occupancies, what is the maximum allowable quantity per control area of flammable and combustible liquids in a wholesale or retail sale occupancy?

Answer: Under the definition for high-hazard Group H in Section 202 of the VSFPC, Exception #2 specifically exempts the wholesale and retail sales and storage of flammable and combustible liquids in mercantile occupancies from a Group H occupancy classification provided they conform to Chapter 57 and more specifically Table 5704.3.4.1. Therefore, in accordance with Table 5704.3.4.1, depending on the specific class of flammable/combustible liquid, significant quantities may be within a Group M wholesale and retail sales occupancy without warranting a Group H occupancy classification. The MAQ permitted per control area is dependent on the level of sprinkler protection and specific storage arrangements specified in Chapter 57. As such, the use of Table 5704.3.4.1 is an acceptable alternative to the more restrictive maximum allowable quantities per control area specified in Table 5003.1.1(1) for flammable/combustible liquids without warranting a Group H occupancy classification.

Question 5: Does Table 5003.1.1(1) apply to Group M or Group S occupancies?

Answer: Table 5003.1.1(1) specifies the maximum allowable quantities of hazardous materials permitted per control area before warranting a Group H occupancy classification. When the storage or use of hazardous materials involves less than the MAQ per control area, the occupancy classification would be the occupancy group the building most nearly resembles.

As indicated in the answer to Question #5, the use of Table 5704.3.4.1 for the storage of flammable and combustible liquids in Group M occupancies is a specific design alternative to the use of Table 5003.1.1(1). As noted earlier, the use of Exception #2 to the high-hazard Group H definition in Section 202 exempts wholesale and retail sales in mercantile occupancies from having to comply with the more restrictive MAQ per control area listed in Table 5003.1.1(1).



International Code Council
Central Regional Office
4051 Flossmoor Road
Country Club Hills, IL 60478
t: 888.ICC.SAFE (422 7233)
f: 708.799 4981
www.iccsafe.org

September 2, 2015

Page 3

Question 6: What is the applicability of Section 5004 2.2 for secondary containment?

Answer: Section 5004.2.2 in conjunction with Table 5004 2 2 specifies when secondary containment is required for certain hazardous materials. The reference to Chapter 57 in Table 5004.2.2 is intended to only require secondary containment for flammable and combustible liquids where a section in Chapter 57 specifically refers back to Section 5004.2 for spill control and/or secondary containment. Please note that the provisions of Section 5004, including secondary containment, do not apply unless the permitted MAQ per control area is exceeded and a Group H occupancy classification is present. Therefore, the secondary containment provisions of Section 5004 2 2 would not, in my opinion, apply to the wholesale and retail sales of flammable and combustible liquids designed in accordance with Table 5704.3 4.1.

Question 7: Is Section 3203 of the Virginia Statewide Fire Prevention Code the same as Fairfax Fire Code Section 3203?

Answer: Since I am not sure what the Fairfax Fire Code is, all I can say for sure is that Section 3203 of the 2012 VSFPC for commodity classification is identical to Section 3203 of the 2012 IFC.

Question 8: Are glass bottles packed in ordinary corrugated cartons, with or without single-thickness dividers, or in ordinary paper wrappings, with or without wooden pallets, considered noncombustible products? Or are the glass bottles considered a combustible product since they are packed in a corrugated box?

Answer: Even though glass bottles may be considered a "noncombustible" product, it is the extent of packaging which determines the appropriate commodity classification. As such, glass bottles in the aforementioned packaging conditions would, in my opinion, still be classified as a Class I commodity and therefore be subject to the high-piled storage provisions of Chapter 32 where applicable.

Question 9: For combustible materials, the storage limitation is 2,500 cubic feet. If more than 2,500 cubic feet, the storage will follow high-piled combustible requirements.

Answer: I'm not sure of your question for several reasons but I'll try to answer it the best that I can.

First of all, storage limitations with respect to the size of the high-piled storage are typically in square feet as opposed to cubic feet. Cubic feet is the typical measurement for pile volume.



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September 2, 2015

Page 4

The 2,500 square feet high-piled storage area limitation is a specific threshold in Table 3206.2 which may dictate additional requirements if exceeded depending on the commodity classification. The high-piled storage provisions of Chapter 32 are applicable to all commodities when stored at heights in excess of 12 feet.

Code opinions issued by ICC staff are based on ICC published codes and do not include local, state or federal codes, policies or amendments. This opinion is based on the information which you have provided. We have made no independent effort to verify the accuracy of this information nor have we conducted a review beyond the scope of your question. This opinion does not imply approval of an equivalency, specific product, specific design or specific installation and cannot be published in any form implying such approval by the International Code Council. As this opinion is only advisory, the final decision is the responsibility of the designated authority charged with the administration and enforcement of this code.

Sincerely,

A handwritten signature in cursive script that reads "Christopher R. Reeves".

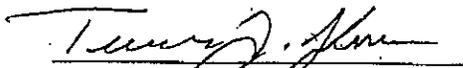
Christopher R. Reeves, P.E.
Manager, Plan Review Services

CRR/rt

RELEASE

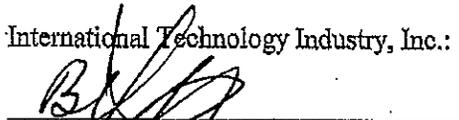
1. On or about June 15, 2012, a fire occurred on the premises of International Technology Industry, Inc. (ITI), at its place of business, 8245-D Backlick Road, Lorton, Virginia.
2. The Fairfax County Fire Department (FCFD) responded to that fire.
3. During the course of performing their duties at the scene of the fire, FCFD's equipment was damaged.
4. Three (3) criminal charges were brought against ITI, case numbers GC13128545-00, GC13128546-00, and GC13128547-00
5. Pursuant to § 15.2-900, *Code of Virginia*, other provisions of the *Code of Virginia* and Fairfax County code, the County has notified ITI of its claim against ITI for the damage to the FCFD equipment
6. The County and ITI have reached an agreement, with the concurrence of the Commonwealth's Attorney, by the terms of which the Commonwealth's Attorney has agreed to dismiss the criminal charges with prejudice, ITI, has agreed to pay the County the sum of \$9,000, and the County has agreed to, through its Fire Marshal, and hereby does release and forever discharge ITI and its officers, directors, employees and assigns, from any all other civil liability in this matter.

Fairfax County Fire Marshal:



 Captain Terry Jenkins

International Technology Industry, Inc.:



 Xinhua (Bin) Wang



COMPRESSED GASES (Chapter 30)

	FEE	TYPE
• Compressed Gas, Inert/Simple Asphyxiant: Storage, Use & Handling - 6001+ Cubic Feet <i>(Exception: Vehicles equipped for using compressed gas a fuel for propelling the vehicle)</i>	\$125.....	F3CGS4

CORROSIVE MATERIALS (Chapter 31)

• Corrosive Liquids: Store, Transport on Site, Dispense, Use, or Handle - 55+ Gallons	\$125.....	F3CRS1
• Corrosive Solids: Store, Transport on Site, Dispense, Use, or Handle - 1001+ Pounds	\$125.....	F3CRS2
• Compressed Gas, Corrosive: Storage, Use or Handling - 201+ Cubic Feet..... <i>(Exception: Vehicles equipped for using compressed gas a fuel for propelling the vehicle)</i>	\$125.....	F3CGS1

CRYOGENIC FLUIDS (Chapter 32)

• Cryogenic Fluids, Flammable: Produce, Store, Transport, Use, Handle, or Dispense 1+ Gallons Inside a Building or 61+ Gallons Outside a Building	\$125.....	F3CRY1
• Cryogenic Fluids, Inert: Produce, Store, Transport, Use, Handle, or Dispense 60+ Gallons Inside a Building or 500+ Gallons Outside a Building	\$125.....	F3CRY2
• Cryogenic Fluids, Oxidizing: Produce, Store, Transport, Use, Handle, or Dispense 60+ Gallons Inside a Building or 500+ Gallons Outside a Building	\$125.....	F3CRY3
• Cryogenic Fluids, Physical or Health Hazard Not Otherwise Specified: Produce, Store, Transport, Use, Handle, or Dispense Any Amount Inside or Outside a Building	\$125.....	F3CRY4

EXPLOSIVES (Chapter 33)

• Explosives: Explosives Use, Each Site or Location (6 Month Permit).....	\$150.....	F3BLS1
• Explosives: Transportation, Each Vehicle (6 Month Permit)	\$65.....	F3BLS2
• Explosives: Firm or Company License.....	\$125.....	F3BLS3
• Explosives: Storage & Display of Black Powder/Smokeless Powder Indoors.....	\$125.....	F3BLKP
• Explosives: Approved Overnight Storage, Any Quantity (One Day Permit)	\$500.....	F3BLS5
• Explosives: Laboratory Use (6 Month Permit).....	\$125.....	F3LABS

FIREWORKS & PYROTECHNICS (Chapter 33)

• Fireworks: Retail Sales of Permissible Fireworks, Outside Stand (45 Day Permit)	\$600.....	F3FW1
• Fireworks: Retail Sales of Permissible Fireworks, Mercantile Occupancy (45 Day Permit).....	\$600.....	F3FW5
• Fireworks: Wholesale of Permissible Fireworks, Any Amount (45 Day Permit).....	\$600.....	F3FW2
• Fireworks: Outdoor Fireworks Display (Aerial/Proximate Audience (One Day Permit)	\$400.....	F3FW3
• Pyrotechnics: Indoor Pyrotechnic Display & Special Effects (One Day Permit).....	\$400.....	F3FW4

FLAMMABLE AND COMBUSTIBLE LIQUIDS (Chapter 34)

• Combustible Liquids, Class II or IIIA: Store, Use, or Handle - 26+ Gallons inside a Building or 61+ Gallons Outside	\$125.....	<u>F3CLQ1</u>
<i>(Exception: Fuel Oil Used in Connection w/ Oil-Burning Equipment)</i>		
• Flammable Liquids, Class I: Store, Use, or Handle 6+ Gallons inside a Building or 11+ Gallons Outside	\$125.....	F3F_LQ
<i>(Exceptions: 1. Storage or use in the fuel tank of a motor vehicle, aircraft, motorboat, mobile power plant, or mobile heating plant, unless such storage, in the opinion of the fire official, would cause an unsafe condition; 2. Storage or use of paints, oils, varnishes, or similar flammable mixture when such liquids are stored for maintenance, painting, or similar purposes of a period of not more than 30 days.)</i>		
• Flammable/Combustible Liquids: Bulk Storage Facility - 100,001+ Gallons	\$500.....	F3TK05
• Flammable/Combustible Liquids: Manufacture, Process, Blend, or Refine.....	\$250.....	F3FCLQ
• Tank, Flammable/Combustible Liquid: Above-ground Storage Only.....	\$125.....	F3TK03
• Tank, Flammable/Combustible Liquid: Above-ground Storage w/ Dispensing Equipment.....	\$125.....	F3TK04
• Tank, Flammable/Combustible Liquid: Above-ground Removal - Commercial (90 Day Permit)...	\$125.....	F3TK11
• Tank, Flammable/Combustible Liquid: Alter or Relocate an Existing Tank (90 Day Permit)	\$125.....	F3TK14
• Tank, Flammable/Combustible Liquid: Installation, Above/Below Ground (90 Day Permit).....	\$125.....	F3TK12
• Tank, Flammable/Combustible Liquid: Install Product Lines/Dispensing Equipment	\$125.....	F3TK13
• Tank, Flammable/Combustible Liquid: Placed Temporarily Out of Service	\$125.....	F3TK06
• Tank, Flammable/Combustible Liquid: Underground Abandonment (90 Day Permit)	\$125.....	F3TK08
• Tank, Flammable/Combustible Liquid: Underground Removal - Commercial (90 Day Permit) ...	\$125.....	F3TK09
• Tank, Flammable/Combustible Liquid: Underground Removal - Residential (90 Day Permit)....	\$125.....	F3TK10
• Tank, Flammable/Combustible Liquid: Underground Storage Only	\$125.....	F3TK01
• Tank, Flammable/Combustible Liquid: Underground Storage w/ Dispensing Equipment.....	\$125.....	F3TK02



Five or fewer children. A facility having five or fewer children receiving such care shall be classified as part of the primary occupancy.

Five or fewer children in a dwelling unit. A facility such as the above within a dwelling unit and having five or fewer children receiving such care shall be classified as a Group R-3 occupancy or shall comply with the *International Residential Code*.

Factory Industrial Group F. Factory Industrial Group F occupancy includes, among others, the use of a building or structure, or a portion thereof, for assembling, packaging, fabricating, finishing, manufacturing, staging, repair or processing operations that are not classified as a Group H high-hazard or Group S storage occupancy.

Factory Industrial F-1 Moderate-hazard occupancy. Factory industrial uses which are not classified as Factory Industrial F-2 Low Hazard shall be classified as F-1 Moderate Hazard and shall include, but not be limited to, the following:

- Aircraft (manufacturing, not to include repair)
- Appliances
- Athletic equipment
- Automobiles and other motor vehicles
- Bakeries
- Beverages; over 16-percent alcohol content
- Bicycles
- Boats
- Brooms or brushes
- Business machines
- Cameras and photo equipment
- Canvas or similar fabric
- Carpets and rugs (includes cleaning)
- Clothing
- Construction and agricultural machinery
- Disinfectants
- Dry cleaning and dyeing
- Electric generation plants
- Electronics
- Engines (including rebuilding)
- Food processing and commercial kitchens not associated with restaurants, cafeterias and similar dining facilities
- Furniture
- Hemp products
- Jute products
- Laundries
- Leather products
- Machinery
- Metals
- Millwork (sash and door)
- Motion pictures and television filming (without spectators)
- Musical instruments
- Optical goods
- Paper mills or products
- Photographic film
- Plastic products
- Printing or publishing

- Refuse incineration
- Shoes
- Soaps and detergents
- Textiles
- Tobacco
- Trailers
- Upholstering
- Wood; distillation
- Woodworking (cabinet)

[B] Factory Industrial F-2 Low-hazard Occupancy. Factory industrial uses involving the fabrication or manufacturing of noncombustible materials which, during finishing, packaging or processing do not involve a significant fire hazard, shall be classified as Group F-2 occupancies and shall include, but not be limited to, the following:

- Beverages; up to and including 16-percent alcohol content
- Brick and masonry
- Ceramic products
- Foundries
- Glass products
- Gypsum
- Ice
- Metal products (fabrication and assembly)

High-hazard Group H. High-hazard Group H occupancy includes, among others, the use of a building or structure, or a portion thereof, that involves the manufacturing, processing, generation or storage of materials that constitute a physical or health hazard in quantities in excess of those allowed in control areas complying with Section 5003.8.3, based on the maximum allowable quantity limits for control areas set forth in Tables 5003.1.1(1) and 5003.1.1(2). Hazardous occupancies are classified in Groups H-1, H-2, H-3, H-4 and H-5 and shall be in accordance with this code and the requirements of Section 415 of the *International Building Code*. Hazardous materials stored or used on top of roofs or canopies shall be classified as outdoor storage or use and shall comply with this code.

Exceptions: The following shall not be classified as Group H, but shall be classified as the occupancy that they most nearly resemble.

1. Buildings and structures occupied for the application of flammable finishes, provided that such buildings or areas conform to the requirements of Chapter 24 of this code and Section 416 of the *International Building Code*.
2. Wholesale and retail sales and storage of flammable and combustible liquids in mercantile occupancies conforming to Chapter 57.
3. Closed piping system containing flammable or combustible liquids or gases utilized for the operation of machinery or equipment.
4. Cleaning establishments that utilize combustible liquid solvents having a flash point of 140°F (60°C) or higher in closed systems employing equipment listed by an approved testing agency, provided that this occupancy is separated from

Group R-4 occupancies shall meet the requirements for construction as defined for Group R-3, except as otherwise provided for in the *International Building Code*.

Residential Group R-5. Detached one- and two-family dwellings and multiple single-family dwellings (townhouses) not more than three stories high with separate means of egress and their accessory structures. The terms "R-5" and "one- and two-family dwelling" where used in this code shall be interchangeable.

[B] Storage Group S. Storage Group S occupancy includes, among others, the use of a building or structure, or a portion thereof, for storage that is not classified as a hazardous occupancy.

Moderate-hazard storage, Group S-1. Buildings occupied for storage uses that are not classified as Group S-2, including, but not limited to, storage of the following:

- Aerosols, Levels 2 and 3
- Aircraft hangar (storage and repair)
- Bags: cloth, burlap and paper
- Bamboos and rattan
- Baskets
- Belting: canvas and leather
- Books and paper in rolls or packs
- Boots and shoes
- Buttons, including cloth covered, pearl or bone
- Cardboard and cardboard boxes
- Clothing, woolen wearing apparel
- Cordage
- Dry boat storage (indoor)
- Furniture
- Furs
- Glues, mucilage, pastes and size
- Grains
- Horns and combs, other than celluloid
- Leather
- Linoleum
- Lumber
- Motor vehicle repair garages complying with the maximum allowable quantities of hazardous materials listed in Table 5003.1.1(1) (see Section 406.8 of the *International Building Code*)
- Photo engravings
- Resilient flooring
- Silks
- Soaps
- Sugar
- Tires, bulk storage of
- Tobacco, cigars, cigarettes and snuff
- Upholstery and mattresses
- Wax candles

Low-hazard storage, Group S-2. Includes, among others, buildings used for the storage of noncombustible materials such as products on wood pallets or in paper cartons with or without single thickness divisions; or in paper wrappings. Such products are permitted to have a negligible amount of plastic trim, such as knobs, handles or film

wrappings. Storage uses shall include, but not be limited to, storage of the following:

- Asbestos
- Beverages up to and including 16-percent alcohol in metal, glass or ceramic containers
- Cement in bags
- Chalk and crayons
- Dairy products in nonwaxed coated paper containers
- Dry cell batteries
- Electrical coils
- Electrical motors
- Empty cans
- Food products
- Foods in noncombustible containers
- Fresh fruits and vegetables in nonplastic trays or containers
- Frozen foods
- Glass
- Glass bottles, empty or filled with noncombustible liquids
- Gypsum board
- Inert pigments
- Ivory
- Meats
- Metal cabinets
- Metal desks with plastic tops and trim
- Metal parts
- Metals
- Mirrors
- Oil-filled and other types of distribution transformers
- Parking garages, open or enclosed
- Porcelain and pottery
- Stoves
- Talc and soapstones
- Washers and dryers

[B] Miscellaneous Group U. Buildings and structures of an accessory character and miscellaneous structures not classified in any specific occupancy shall be constructed, equipped and maintained to conform to the requirements of this code commensurate with the fire and life hazard incidental to their occupancy. Group U shall include, but not be limited to, the following:

- Agricultural buildings
- Aircraft hangar, accessory to a one- or two-family residence (see Section 412.5 of the *International Building Code*)
- Barns
- Carports
- Fences more than 6 feet (1829 mm) high
- Grain silos, accessory to a residential occupancy
- Greenhouses
- Livestock shelters
- Private garages
- Retaining walls
- Sheds
- Stables
- Tanks
- Towers

3.3.13 Safety audits. Safety audits shall be conducted on a periodic basis to verify compliance with the requirements of this section.

3.3.14 Retail and wholesale storage and display. For retail storage and display of nonflammable solid and flammable or noncombustible liquid hazardous materials in Group S occupancies and storage in Group S occupancies, see 5003.11.

3.3.15 Permits. Permits shall be required as set forth in Section 5003.11.

3.3.16 Hazardous Materials Management Plan. Where required by the *fire code official*, an application for a permit shall include a Hazardous Materials Management Plan (HMMP). The HMMP shall include a facility site designating the following:

1. Access to each storage and use area.
 2. Location of emergency equipment.
 3. Location where liaison will meet emergency responders.
 4. Facility evacuation meeting point locations.
 5. The general purpose of other areas within the building.
 6. Location of all above-ground and underground tanks and their appurtenances including, but not limited to, sumps, vaults, below-grade treatment systems and piping.
 7. The hazard classes in each area.
 8. Locations of all control areas and Group H occupancies.
 9. Emergency exits.
- The HMMP shall be maintained onsite for use by emergency responders, and shall be updated not less than annually.

3.3.17 5.2 Hazardous Materials Inventory Statement (HMIS). Where required by the *fire code official*, an application for a permit shall include an HMIS, such as the Superfund Amendments and Reauthorization Act of 1986 (SARA) Title III, Tier II Report or other *approved* statement. The HMIS shall include the following information:

1. Product name.
2. Component.
3. Chemical Abstract Service (CAS) number.
4. Location where stored or used.
5. Container size.
6. Hazard classification.
7. Amount in storage.
8. Amount in use—*closed systems*.
9. Amount in use—*open systems*.

The HMIS shall be maintained onsite or readily available through another means where approved by the *fire code official* for use by temporary responders, and shall be updated not less than annually.

5001.5.3 Repository container. When an HMMP is required, the owner or operator shall provide a repository container (lock box) or other approved means for the storage of items required in Sections 5001.5.1 and 5001.5.2 so as to be readily available to emergency response personnel.

5001.5.3.1 Location and identification. The repository container (lock box) shall be located, installed and identified in an approved manner.

5001.5.3.2 Keying. All repository containers (lock boxes) shall be keyed as required by the fire code official.

5001.6 Facility closure. Facilities shall be placed out of service in accordance with Sections 5001.6.1 through 5001.6.3.

5001.6.1 Temporarily out-of-service facilities. Facilities that are temporarily out of service shall continue to maintain a permit and be monitored and inspected.

5001.6.2 Permanently out-of-service facilities. Facilities for which a permit is not kept current or is not monitored and inspected on a regular basis shall be deemed to be permanently out of service and shall be closed in an *approved* manner. When required by the *fire code official*, permittees shall apply for approval to close permanently storage, use or handling facilities. The *fire code official* is authorized to require that such application be accompanied by an *approved* facility closure plan in accordance with Section 5001.6.3.

5001.6.3 Facility closure plan. When a facility closure plan is required in accordance with Section 5001.5 to terminate storage, dispensing, handling or use of hazardous materials, it shall be submitted to the *fire code official* at least 30 days prior to facility closure. The plan shall demonstrate that hazardous materials which are stored, dispensed, handled or used in the facility will be transported, disposed of or reused in a manner that eliminates the need for further maintenance and any threat to public health and safety.

SECTION 5002 DEFINITIONS

5002.1 Definitions. The following terms are defined in Chapter 2:

- BOILING POINT.
- CEILING LIMIT.
- CHEMICAL.
- CHEMICAL NAME.
- CLOSED CONTAINER.
- CONTAINER.
- CONTROL AREA.
- CYLINDER.
- DAY BOX.
- DEFLAGRATION.
- DESIGN PRESSURE.

VIRGINIA:

BEFORE THE
STATE BUILDING CODE TECHNICAL REVIEW BOARD (REVIEW BOARD)

IN RE: Appeal of International Technology Industry, Inc.
Appeal No. 15-10

Appellant's Written Statement of Appeal

Appellant International Technology Industry, Inc. (ITI), by and through below-signed counsel, hereby submits the following in support of his appeal of the Fairfax County Board of Building Code Appeals ruling upholding the Fairfax County Fire Marshall's Office's issuance of notices of violations to ITI under the 2012 edition of the State Fire Prevention Code regarding Section 301.2 (Permits), Section 301.3 (Occupancy), and Section 3201.2 (Construction).

I. Section 301.2 (Permits)

Attached to this appeal are ITI's permits, and a copy of the Fire Prevention Code Permit Requirements and Fees. The County did not provide all of ITI's permits in its submission of documents in connection with this appeal. ITI has permits to operate as a wholesale trade establishment, and a warehousing establishment. ITI also has a F3CLQ1 permit, allowing it to store, use or handle 26+ gallons of Class II or IIIA combustible liquids inside the building or 61+ gallons outside the building.

The inspector has requested that ITI obtain an additional permit for Combustible Storage in accordance with a permit requirement for "miscellaneous types of combustible materials" in excess of "500 square feet." However, this requirement does not apply to the storage in ITI's warehouse for the following reasons.

1. The applicable minimum permit requirement is 2500 cubic feet, not 500 square feet.

In a January 20, 2015 memorandum, Captain Rocco Alvaro stated to ITI, "Combustible storage in excess of 2500 cubic feet inside any building or upon any premises shall require an operational permit." However, shortly thereafter, on April 15, 2015, Fire Inspector III Michael Long issued ITI a written statement saying, "Section 107.2 references Table 107.2, as amended by Fairfax County Code Chapter 62. The permit threshold is for exceeding 500 square feet, not 2500 cubic feet." Two months later, ITI passed inspection on July 9, 2015. *See* Exhibit 6. Then, on August 5, 2015, when summonses was issued, Mr. Wang was advised that the 500 square feet threshold was not the applicable code, but rather the 2500 cubic threshold was feet was. ITI measured the storage at issue in its warehouse with the Messrs. Alvaro and Long present, and the total is currently about 1400 cubic feet. As such, this permit is not required at this time.

2. The storage at issue is not Combustible Storage within the meaning of the SFPC.

The inspectors have stated this permit is "required only for miscellaneous types of combustible materials." This refers to "combustible empty packing cases, boxes, barrels or similar combustible materials," per the SFPC p. 1-8. However, this is not the type of storage at issue in ITI's warehouse. The type of storage at issue at ITI is empty glass bottles and empty aluminum bottles stored in cardboard boxes on wooden pallets. The County has acknowledged glass bottles are non-combustible. The Definitions section on page 2-23 of the SFPC defines low-hazard storage, Group S-2 as,

[B]uildings used for the storage of noncombustible materials such as products on wood pallets or in paper cartons with or without single thickness divisions; or in paper wrappings...Storage uses shall include, but not be limited to, storage of the

following...Cement in bags...Empty cans...Glass, Glass bottles, empty or filled with noncombustible liquids.

The storage at ITI meets this definition: it is glass bottles and aluminum bottles/cans in cardboard cartons on wood pallets. As such, these boxes are "noncombustible materials," per the SFPC. Therefore, the requested permit is not required.

II. Section 301.3 (Occupancy)

Section 301.3 provides that the occupancy of a structure shall continue as originally permitted. Per its permits and business occupational license, ITI's use is and always has been for wholesale, retail, and warehousing. See Exhibits 1-3. ITI was incorporated in 1996, and obtained a Business Professional Occupancy License from Fairfax County which it has renewed every year. The County approved ITI's classification as a "wholesale merchant." In 2012, ITI leased a new warehouse, Unit D of a commercial building. ITI obtained a Non-residential Occupancy Permit. The Fairfax County Planning and Zoning Department issued an occupancy permit for Unit D which states it is for the following purpose: "Wholesale Trade Establishment." In 2014, ITI leased an additional warehouse, Unit C of the same building. Fairfax County issued a Non-residential Occupancy Permit for Unit C for the following purpose: "Warehouse Establishment, Wholesale Trade Establishment." The Fire Marshal conducted an inspection of ITI at that time and approved the wholesale occupancy and issued no violations.

The SFPC's Table 5704.3.4.1, by its text, applies to all wholesale uses. This Table does not purport to apply only to certain use groups but not to others. As such, this Table applies to ITI as a wholesaler. Per Table 5704.3.4.1, the maximum allowable storage of combustible and flammable liquid in a wholesale and retail sales occupancy is 7,500 to 15,000 gallons, depending on the sprinkler systems in place. ITI stores less than 3,000 gallons of essential oils.

The inspectors have applied Table 5003.1.1(1) to ITI, which allows much lower quantities. However, as a wholesaler, ITI is a Group M occupancy. The SFPC provides that a Mercantile Group M Occupancy includes “the use of a building or structure or portion thereof, for the display and sale of merchandise, and involves stocks of goods, wares or merchandise incidental to such purposes and accessible to the public.” This includes but is not limited to “department stores...[and] retail or wholesale stores.” See SFPC p. 2-22. Because ITI is a wholesaler and a Group M occupancy, Table 5003.1.1(1) is not the applicable table. Section 5704.3.4.2(6) provides:

Group M occupancies: Quantities in dining, office, and school uses within Group M occupancies shall not exceed that necessary for demonstration, laboratory work, maintenance purposes and operation of equipment, and shall not exceed quantities set forth in Table 5003.1.1(1). **The maximum allowable quantities for storage in wholesale and retail sales areas shall be in accordance with Section 5704.3.4.1.**

As explained, ITI stores far less than the allowable amount of combustible liquid provided for in Table 5704.3.1, which allows for as much as 7,500 to 15,000 gallons.

Mr. Wang has consulted with Christopher R. Reeves, PE, of the International Code Council (ICC) on this issue. Mr. Reeves is ICC’s leading authority on the fire code. We have attached a letter from Mr. Reeves to Mr. Wang wherein Mr. Reeves answered specific questions raised by Mr. Wang. See Exhibit 7. Mr. Reeves explained that, while not identical, the Virginia Statewide Fire Prevention Code is based on the 2012 International Fire Code and it is “essentially the same.” Per Mr. Reeves,

[W]holesale and retail sales areas are most appropriately classified as Group M Occupancies. Large storage/stockroom areas within such facilities are typically classified as Group S-1. As such, most major wholesale and retail stores are potentially mixed use occupancies of Group M and S-1.

This describes ITI – a wholesaler and retailer with a stockroom.

The County's position is that ITI changed its use group to a high hazard Group H because of the quantity of essential oil being stored. However, Mr. Reeves explained in his letter that wholesale and retail sales and storage uses are specifically exempted from the limits the inspectors seek to apply from Table 5003.1.1.(1), and from changing their use group classification to Group H. Mr. Reeves stated,

Under the definition for high-hazard Group H in Section 202 of the VSFPC, Exception #2 specifically exempts the wholesale and retail sales and storage of flammable and combustible liquids in mercantile occupancies from a Group H occupancy classification provided they conform to Chapter 57 and more specifically Table 5704.3.4.1. Therefore, in accordance with Table 5704.3.4.1, depending on the specific class of flammable/combustible liquid, significant quantities may be within a Group M wholesale and retail sales occupancy without warranting a Group H occupancy classification. The [maximum allowable quantity] permitted per control area is depended on the level of sprinkler protection and specific storage arrangements specified in Chapter 57. As such, the use of Table 5704.3.4.1 is an acceptable alternative to the more restrictive maximum allowable quantities per control area specified in Table 5003.1.1(1) for flammable/combustible liquids without warranting a Group H occupancy classification.

Per Mr. Reeves's expert analysis, ITI fits into the wholesale exemption from Group H occupancy classification, and the limits in Table 5704.3.1 apply to it. ITI has well under the 7500-gallon limit provided for in that Table. As such, it is in compliance with the SFPC.

In addition, ITI obtained a Fire Prevention Code Permit – Combustible Liquids F3C1Q1, the renewal of which ITI requested in June 2015. See Exhibits 4 and 5. Because of its wholesale exemption explained above, ITI was not required to obtain this permit. However, it should be noted nonetheless. The F3C1Q1 permit is required to store more than 26 gallons of combustible liquid. The next level of permit which applies to the quantity of combustible liquid storage is a F3TK05 permit for bulk storage. That permit is required for storing more than 100,001 gallons

of combustible liquid. The implication from this is that for storage of between 26 gallons and 100,000 gallons, the F3C1Q1 permit is applicable. ITI has obtained this permit and requested its renewal.

III. Section 3201.2 (Construction)

This item is closed as ITI reduced the height of its storage below 12 feet. However, because the storage addressed in this section is noncombustible storage, the height reduction ITI has implemented is voluntary rather than mandatory.

IV. Section 5001.5.2 (Hazardous Materials Inventory Statement)

It should be noted that ITI submitted a Hazardous Materials Inventory Statement in March 2015, of which the County confirmed receipt. Per the SFPC, such a statement is required to be submitted annually, and it has been less than a year since ITI fulfilled this required.

V. The County has provided a false "Arrest Report" which should be disregarded.

Among the documents submitted by the County in connection with this appeal is an unsigned, unapproved "Arrest Report" and "Narrative Supplemental Report" dated June 15, 2012. It relates to a fire that occurred on ITI's premises in June 2012. The "Arrest Report" states, "Case was heard, pled guilty to all three charges, suspended for 1 year, null pross after one year. \$9000.00 resitution [sic] fro [sic] damaged turnout gear." However, this "Arrest Report" is totally false, raising the question of why the County provided it - presumably the purpose is to put Mr. Wang and ITI in a bad light. We have included a copy of the signed Release agreement reached between ITI and the County which refutes this "Arrest Report." Per the terms of this agreement,

The County and ITI have reached an agreement, with the concurrence of the Commonwealth's Attorney, by the terms of which the Commonwealth's Attorney has agreed to dismiss the criminal charges with prejudice, ITI has agreed to pay the County the sum of \$9,000, and the County has agreed to, through its Fire Marshal, and hereby does release and forever discharge ITI and its officers, directors, employees and assigns, from any and all other civil liability in this matter.

Contrary to the false "Arrest Report" provided by the County, the case was not "heard," neither Mr. Wang nor ITI pled guilty to any charges, there was no sentence so no sentence was suspended for one year pending null pross, and the \$9,000 payment was not restitution but rather a settlement amount ITI agreed to pay. The "Arrest Report" has no credibility or evidentiary value and should be disregarded entirely.

Conclusion

For the foregoing reasons, ITI's appeal of the above Notices of Violation should be granted.

Respectfully submitted October 5, 2015,

J. Cathryne Watson

J. Cathryne Watson
Attorney for Mr. Wang / ITI

Exhibits

1. Non-Residential Use Permit – Wholesale Trade Establishment
2. Non-Residential Use Permit – Warehousing Establishment, Wholesale Trade Establishment
3. Business, Professional and Occupational License – Wholesale Merchant
4. Fire Prevention Code Permit – Combustible Liquids F3CIQ1
5. Renewal Application and check for F3CIQ1 permit
6. July 9, 2015 Report of Inspection
7. Letter from Christopher R. Reeves, PE, Manager, Plan Review Services, International Code Council
8. Signed Release Agreement
8. Excerpts from the Virginia Statewide Fire Prevention Code