

**BEFORE THE DELAWARE STATE
FIRE PREVENTION COMMISSION**

IN RE:)
) **ORDER**
MESSIAH’S ANGELS,)
FOUNDATION, LLC)
WILMINGTON, DELAWARE)

Pursuant to 16 *Del. C.* §§6609 and 6610, and Delaware State Fire Prevention Regulation 701 Section 7.0, the State Fire Prevention Commission (“the Commission”) held a properly noticed public hearing on September 19, 2023, to hear the Appeal and Request for Alternative from Messiah’s Angels Foundation, LLC (“Messiah’s Angels”).

Messiah’s Angels seeks to defer installation of a sprinkler system for approximately 18 months due to a planned renovation. Messiah’s Angels has not yet purchased the building at issue but intends to purchase the build and conduct extensive renovations.

A quorum of the Commission members deliberated and voted on the appeal. Messiah’s Angels was present and represented by Richard Abbott, Esq. Deputy Fire Marshal John Rudd was present and represented the Office of the State Fire Marshal. Nicole Hartman, Deputy Attorney General, advised the Commission.

SUMMARY OF THE EVIDENCE

Messiah’s Angels filed the present appeal on four grounds. First, there was no specific reason articulated in the denial from the Office of the Fire Marshal. Second, Messiah’s Angels allege similar applications were approved in the past. Third, Messiah’s Angels claim the safety concern is *de minimis* because there have not been fire related issues for more than 60 years. Fourth, the current code, requiring a sprinkler system, does not apply to the building because there is not

change in occupancy proposed.

The Commission heard testimony from Michael Higgin, Director of Messiah's Angels. Messiah's Angels currently leases the building at issue from Our Lady of Fatima Parish; the parties have a purchase agreement which is contingent on necessary government approvals. After purchasing, Messiah's Angels plans to renovate the building. The renovation will be funded through fundraising efforts or traditional bank financing, if necessary, with a hopeful completion date before the end of 2025. Mr. Higgin said the sprinkler system would be very expensive and likely have to be re-done after renovations. Messiah's Angels currently provides religious educational programs for children and adult education for certifications, such as CPR, AED, etc. The building also allows rentals to the community for celebrations or other gatherings. The building contains a kitchen, which is mostly used for light meals, snacks, and coffee. Mr. Higgin testified the building previously had been used as a religious elementary school.

Mr. Higgin detailed for the Commission his efforts in obtaining appropriate government approvals for his proposed uses of the building. The building currently has a fire alarm system, which is updated every year. The kitchen also has a fire suppression system.

According to the timeline entered as a Fire Marshal Exhibit, Messiah's Angels first met with Fire Protection Specialist II Tony Eoppolo on February 10, 2023. During this meeting, Fire Protection Specialist Eoppolo conveyed the need for a fire sprinkler system in this building. The Office of the State Fire Marshal conducted research on past occupancy uses of this building and found no evidence of prior day care occupancy. The request for an alternative was received on May 2, 2023. This request was denied by letter dated June 30, 2023. The present appeal followed.

THE LAW

The issue at hand rests in the intersection among Delaware's Regulations and the National

Fire Protection Association (“NFPA”) standards¹. The Commission’s authority to promulgate regulations is found in 16 *Del. C.* §6604(1). Specifically Regulation 701, chapter 2 Definitions defines,

“‘Occupancy Change’ An alteration by change of use (as defined and determined under the Life Safety Code, NFPA 101, Chapter 4) in an existing building to a new occupancy classification which imposes other provisions of law governing building construction, features of fire protection, and means of egress.”

Regulation 701, chapter 1, Section 1.2 explains the requirements when an occupancy classification changes.

“Any existing occupancy hereinafter converted to another occupancy shall meet the provisions of the Regulation. All changes in occupancies shall comply with Regulation 702, Chapters 4 and 5.” Section 1.3 addresses mixed occupancies: “Where two or more occupancies occur in the same building or structure, and are so intermingled that separate safeguards are impracticable, means of egress facilities, construction, protection, and other safeguards shall comply with the most restrictive code requirements of the occupancies involved.

Finally, Regulation 702, Chapter 4, section 1.0 outlines when automatic sprinkler systems are required,

1.0 Automatic Sprinkler Systems.

1.1 This chapter shall apply to all new buildings and this chapter shall apply to all existing buildings that undergo a change in occupancy.

1.2.1 In all buildings exceeding 10,000 square feet of aggregate, gross floor area.

FINDINGS OF FACT

Based upon the testimony and evidence presented, the Commission finds the following facts to be supported by the evidence.

1. The Commission finds that an occupancy change will trigger the requirement of a fire sprinkler system.
2. The Commission finds the *addition* of an adult day care to the previous educational uses in

¹ The NFPA was adopted into the Delaware Regulations pursuant to Regulation Part 1, Chapter 1, Section 1-3.5.1.

the building constitutes a change in occupancy. When a building contains more than one occupancy classification, it must conform to the stricter fire requirements.

3. While the denial letter from the Fire Marshal could have been more fulsome, Messiah's Angels was fully prepared for the hearing and presented the case well.
4. The fortunate history of fire safety within the building at issue does not negate the need for a fire sprinkler system. The Commission notes, as of the date of the hearing, Delaware had suffered 18 fire deaths in 2023. None of those deaths occurred with fire sprinklers.

ORDER

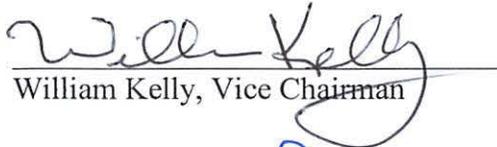
NOW, THEREFORE, the Commission hereby orders the appeal taken by Messiah's Angels is DENIED by a unanimous vote.

IT IS SO ORDERED this 17th day of October, 2023.

DELAWARE STATE FIRE PREVENTION COMMISSION



Ronald H. Marvel, Chairman



William Kelly, Vice Chairman



Lynn Truitt, Commissioner



Joseph Leonetti, Sr., Commissioner



Richard Perillo, Commissioner



Jeffrey Eisenbrey, Commissioner

Date Mailed: 10/17/2023