

**NC Department of Insurance
Office of State Fire Marshal, Engineering Division**

RE: Appeal of the May 29, 2019)
 Denial of an Alternate Material,) NCDOI DECISION
 Design, or Method issued by)
 the City of Raleigh.

In accordance with GS 160A-434, Ashley Cameron of Lisle Architecture & Design has appealed the City of Raleigh's decision regarding the method for calculating occupancy from a NCDOI interpretation for a business named Western Blvd Gaming located at 5512 Western Blvd, Raleigh, NC 27606.

GS 160A-434 allows general appeals from any order, decision, or determination by a member of a local inspection department pertaining to the State Building Code or other State laws to the NC Department of Insurance, Office of State Fire Marshal, Engineering Division.

PARTIES

Appellants: Ashley Cameron
 Lisle Architecture & Design, Inc.

Appellee: City of Raleigh Inspections Department
 1 Exchange Plaza, Suite 400
 Raleigh, NC 27601

BACKGROUND

The project in which the design is in question is changing an existing building from mercantile to an internet sweepstakes business. Lisle Architecture & Design designed plans for the building at 5521 Western Blvd. in Raleigh, NC and submitted an alternative material, design, or method using a NCDOI interpretation for calculating the occupancy of the building. On May 6, 2019, the City of Raleigh denied the method of calculating the number of people.

ISSUE RAISED IN APPEAL

The following issue is raised in Appellants' appeal:

"Based on the NCDOI interpretation we feel the occupant load of 127 is correct and should apply to all aspects of the building (life safety, restrooms, sprinklers, etc.)"

FINDINGS

Based on information submitted by the appellant, the following findings are made:

1. The Denial of the Alternative Material, Design, or Method was included in the appeal.
 - i. The code section with the 2018 Building Code states that an occupant load of 1 per 11 gross sf is to be used for Casino/Gaming floor.
 - ii. The proposed alternate is to a code interpretation from NCDOT on Internet Sweepstakes Cafes. This interpretation is dated September 5, 2018.
2. E-mail exchanges dated March 25, 2019 through May 13, 2019, the appellant contacted the Department of Insurance, Engineering Division to Mr. Carl Martin and Barry Gupton outlined the situation where the City of Raleigh calculated a different occupancy for the building.
3. "Internet Sweepstakes Café Occupancy Classifications" interpretation is posted here: [www.ncdoi.com/OSFM/Engineering and Codes/Documents/Interpretations5/2018%20Building/0303%20-%20Internet%20Sweepstakes%20Cafe%20Occupancy%20Classification.pdf](http://www.ncdoi.com/OSFM/Engineering_and_Codes/Documents/Interpretations5/2018%20Building/0303%20-%20Internet%20Sweepstakes%20Cafe%20Occupancy%20Classification.pdf)
4. For Internet sweepstakes cafes, NCDOT's interpretation details the occupancy calculations. For this building, the architect stated, "You enter a waiting area, go to a window and are assigned a machine." Further, on the submitted plans there is a "Waiting" area. The occupancy of this building based upon the interpretation and code are as follows (sf has been taken from appeal):
 - i. Business Area: $187/100 =$ 2 occupants
 - ii. Waiting Area: $130/15 =$ 9 occupants
 - iii. Storage Area: $259/300 =$ 1 occupant
 - iv. Gaming Area (machines and seating): $116 =$ 116 occupants
128 occupants
5. For this building, the new occupancy would be a Business (B). This change would require that all NC Codes are met including the number of plumbing fixtures, exits, etc. for a business occupancy.

CONCLUSIONS

Based on the forgoing findings of fact, the following conclusions are made:

Pursuant to G.S. 160A-434, the appellant is correct in that the number of occupants is to be based on the number of machines and not 1 occupant per 11 sf given that a receptionist controls access to the machines. The interpretation is based on the ability for a person to limit the number of occupants to the maximum occupant load posted.

APPEAL DECISION

Based on the above findings and conclusions:

The decision to deny the use of an alternate material, design, or method in this case is overturned.

This 30th day of May 2019.

North Carolina Department of Insurance

FURTHER APPEAL RIGHTS

You have the right to appeal this decision to the NC Building Code Council. Please refer to GS 160A-434 and the NC Administrative Code and Policies, Section 202.9.2 for further appeal rights. You have 30 days in which to appeal this decision.

Cc:
Leon Skinner, City of Raleigh