



December 28, 2018
By Electronic Mail and U.S. Postal Mail

Daniel P. McInerny, Esq.
Bose McKinney & Evans, LLP
111 Monument Circle, Suite 2700
Indianapolis, IN 46204
dmcinerny@boselaw.com

Re: Petition for Administrative Review – Inspection Report Order(s) State Numbers BU29678, BU29680, BU29681, BU29682, BU29683, BU29684, BU29685, BU29686, BU29688, BU29689, BU29690, BU29691, BU29692, BU29693, BU29694, BU29695, BU29696, BU29697, BU29698, BU29701, BU29702, BU29703, and BU29704 – Beech Meadow Apartments, LLC

Dear Mr. McInerny:

The Commission is in receipt of your petition for administrative review of Inspection Report Order(s) State Numbers BU29678, BU29680, BU29681, BU29682, BU29683, BU29684, BU29685, BU29686, BU29688, BU29689, BU29690, BU29691, BU29692, BU29693, BU29694, BU29695, BU29696, BU29697, BU29698, BU29701, BU29702, BU29703, and BU29704 – Beech Meadow Apartments, LLC, dated 12/28/2018. The petition for review is timely and has been granted by the Commission. The petition has been assigned to the Commission's administrative law judge.

The judge's office will contact you to make arrangements for further proceedings. Should you have any questions, you may contact our staff attorney assigned to the matter, Justin Guedel at JGuedel@dhs.in.gov or (317) 234-9515.

Sincerely,

Douglas J. Boyle, Director
Fire Prevention and Building Safety Commission
Indiana Department of Homeland Security
302 W. Washington Street, Room E-208
Indianapolis, IN 46204
doboyle@dhs.in.gov
(317) 650-7720

Enclosure

cc: Justin Guedel, IDHS Staff Attorney (by personal service and electronic mail)
The Honorable Chelsea E. Smith, Administrative Law Judge (by personal service and electronic mail)
File

**STATE OF INDIANA
BEFORE THE FIRE PREVENTION AND BUILDING
SAFETY COMMISSION**

IN RE:) ADMINISTRATIVE CAUSE NO.
)
)
BEECH MEADOW APARTMENTS, LLC;)
OBJECTIONS TO FIRE AND BUILDING)
CODE ENFORCEMENT INSPECTION)
REPORT ORDERS)



*Hand-delivered
- DJB*

PETITION FOR ADMINISTRATIVE REVIEW AND STAY OF EFFECTIVENESS

Beech Meadow Apartments, LLC (“Beech Meadow”), by counsel, pursuant to I.C. 4-21.5-3-7, petitions for administrative review of twenty three (23) Fire and Building Code Enforcement Code Inspection Report Orders, Identification Numbers BU29678, 680, 681, 682, 683, 684, 685, 686, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 701, 702, 703, and 704 (the “Orders”). Copies of the Orders are attached as Exhibit 1. The Orders were issued to Beech Meadow by the Division of Fire and Building Safety, Indiana Department of Homeland Security. Beech Meadow also petitions for a stay of effectiveness of the Orders. In support of this Petition, Beech Meadow states as follows:

1. Beech Meadow owns the Beech Meadow Apartments, the entity to which the Orders were specifically directed.
2. The Orders were received on December 14, 2018, as evidenced by the signature and date on each order.
3. Beech Meadow is represented by: Bose McKinney & Evans LLP, 111 Monument Circle, Suite 2700, Indianapolis, Indiana 46204. All communications regarding this appeal should be sent to the attention of Daniel P. McInerny at the address above or at dmcinerny@boselaw.com or (317) 684-5102.
4. Beech Meadow is aggrieved and adversely affected by the issuance of the Orders, as set forth in detail below:
 - a. Beech Meadow has owned the Beech Meadow Apartments for approximately eleven (11) years.

b. Subsequent to its purchase, the Beech Meadow Apartments have been inspected on multiple occasions, and no building code violations were found.

c. The Orders all contain the same alleged violation - "Required rear exit was eliminated. Restore and maintain the rear exit." See the Orders.

d. Beech Meadow has eliminated no rear exits subsequent to its purchase of the Apartments. Therefore, Beech Meadow did not eliminate any rear exits from the Apartment buildings.

e. The Orders state that the violation must be corrected by January 14, 2019. Even if the Orders are valid, which Beech Meadow does not admit, the required corrective action for twenty three (23) buildings cannot be accomplished by January 14, 2019. Therefore, Beech Meadow is petitioning for a stay of effectiveness of that corrective action deadline.

5. Beech Meadow is requesting administrative review of the entirety of each of the Orders.

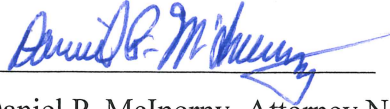
6. Beech Meadow did not engage in the conduct which serves as the basis for each of the Orders. Beech Meadow has engaged in no activity which violates any applicable building code. The issuance of the Order is arbitrary and capricious, an abuse of discretion, or otherwise not in accordance with law. For these reasons, it requests that the Orders be overturned.

7. Pursuant to I.C. 4-21.5-3-7(d), Beech Meadow requests the opportunity to conduct informal proceedings to settle the matter to the extent allowed by law.

8. Pursuant to I.C. 4-21.5-3-7(a)(3)(A), this Petition for Administrative Review and Stay of Effectiveness is timely filed.

WHEREFORE, Beech Meadow Apartments, LLC, by counsel, respectfully requests that its Petition for Administrative Review and Stay of Effectiveness be granted, that the Orders be overturned, or in the alternative, the parties be allowed to conduct informal proceedings to settle the matter, and that all other just and proper relief be granted.

Respectfully submitted,



Daniel P. McInerny, Attorney No. 10337-71

BOSE MCKINNEY & EVANS LLP

111 Monument Circle, Suite 2700

Indianapolis, IN 46204

Telephone: (317) 684-5000

Facsimile: (317) 684-5173

dmcinerny@boselaw.com

ATTORNEYS FOR BEECH MEADOW APARTMENTS, LLC

3557183_1

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing document has been served this 28th day of December, 2018, via ~~First Class U.S. Mail~~ to the following:

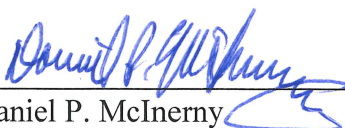
personal hand-delivery

Curtis T. Hill, Jr., Attorney General
Indiana Office of Attorney General
Indiana Government Center South
302 West Washington Street, Fifth Floor
Indianapolis, IN 46204

Indiana Department of Homeland Security
Division of Fire and Building Safety
c/o James L. Greeson, Indiana State Fire Marshall
302 W. Washington Street
Room E241
Indianapolis, IN 46204

Justin Guedel, Esquire
Department of Homeland Security
Legal Services Branch
302 W. Washington Street
Room E208
Indianapolis, IN 46204

3557183_1



Daniel P. McNerny

EXHIBIT 1

Inspection Report Orders

Please note - page 2 of Order BU29678 has been included for representative purposes.
Because page 2 is identical for each Order, it has not been included with the remainder of the Orders.



FIRE AND BUILDING CODE ENFORCEMENT INSPECTION REPORT ORDER

DIVISION OF FIRE AND BUILDING SAFETY
INDIANA DEPARTMENT OF HOMELAND SECURITY
302 WEST WASHINGTON STREET, RM E241
INDIANAPOLIS, IN 46204
TELEPHONE: 317-232-2222
WEB ADDRESS: WWW.IN.GOV/DHS

Identification Number BU29678	Name of the facility BEECH MEADOW APARTMENTS	County MARION
Address of Property 109 DIPLOMAT CT BEECH GROVE IN 46107		Name of the Contact TRACY HOUSAND
Telephone Number (317) 788-1535		Inspection Date 12/11/2018
Email tracy@csregroup.com		Inspection Status: VIOLATION
Inspection Category OTHER	Inspection Type PARTIAL	Inspection Status: VIOLATION
Name of the inspector ANTHONY CONNER		Phone: 3174173699
Email: anconner@dhs.in.gov		

Violations

VIO-LATION NUMBER	RULE OR INDIANA CODE SECTION VIOLATED	DESCRIPTION OF VIOLATION	DATE BY WHICH VIOLATION MUST BE CORRECTED
1	675 IAC 12-4-9(a)	All buildings and structures, and any part of the permanent heating, ventilating, air conditioning, electrical, plumbing, sanitary, emergency detection, emergency communication, or fire or explosion systems, and all parts thereof, shall be maintained in conformance with the applicable rules of the commission, or applicable rules of its predecessor agencies, in effect when constructed, installed, or altered. <u>Required rear exit was eliminated. Restore and maintain the rear exit.</u>	01/14/2019

Inspection Notes:

Anthony Conner was called to this apartment complex by Mark Rihm of the Beech Grove Fire Department for a consultation. Mark Rihm had found that the rear exit from most of the apartment buildings had been eliminated approximately 10 to 15 years ago. Anthony Conner checked for a variance and could not locate any for the apartment complex or its addresses. Mark Rihm advised that Beech Grove had nothing on file regarding the closure of the rear exits. Anthony Conner went to the code library at the DFBS Office and researched the code of record for the time that the apartment buildings were built. According to code two exits were required. The building was originally built with an exit in the front and rear. Anthony Conner took pictures and notified his supervisor Robert Miller.

Facility Id BU29678	Received By Name Kristina Cordova (Agent for Owner)	Signature and Date <i>Kristina Cordova 12/14/18</i>
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APPEAL RIGHTS

Please be advised that if you desire administrative review of this Order and **this Order was delivered by hand**, you must file a written petition for review with the Fire Prevention and Building Safety Commission at 302 West Washington Street, Rm. W246, Indianapolis, IN 46204, identifying the violations for which you seek review no later than 15 calendar days from the hand delivery date of this Order unless such date is a Saturday, Sunday, legal holiday under state statute, or day that the Department of Homeland Security's offices are closed during regular business hours, in which case the deadline would be the first calendar day thereafter that is not a Saturday, Sunday, legal holiday under state statute, or day that the Department of Homeland Security's offices are closed during regular business hours. If you do so, your petition for review will be granted and an administrative proceeding will be conducted by an administrative law judge appointed by the Fire Prevention and Building Safety Commission. If you do not file a petition for review, this Order will be **FINAL** and you **MUST** comply with its requirements.

Please be advised that if you desire administrative review of **this Order and this Order was delivered by first class U.S. mail**, you must file a written petition for review with the Fire Prevention and Building Safety Commission at 302 West Washington Street, Rm. W246, Indianapolis, IN 46204, identifying the violations for which you seek review no later than 18 calendar days from the mailing date of this Order unless such date is a Saturday, Sunday, legal holiday under state statute, or day that the Department of Homeland Security's offices are closed during regular business hours, in which case the deadline would be the first calendar day thereafter that is not a Saturday, Sunday, legal holiday under state statute, or day that the Department of Homeland Security's offices are closed during regular business hours. If you do so, your petition for review will be granted and an administrative proceeding will be conducted by an administrative law judge appointed by the Fire Prevention and Building Safety Commission. If you do not file a petition for review, this Order will be **FINAL** and you **MUST** comply with its requirements.

Please be further advised that you may request an opportunity to informally discuss this Order prior to filing a petition for review. Such informal discussion, or a request therefor, does not extend the deadline for filing a petition for review and, therefore, any request for an informal discussion should be made promptly, preferably by telephone, upon receipt of this Order.



FIRE AND BUILDING CODE ENFORCEMENT INSPECTION REPORT ORDER

DIVISION OF FIRE AND BUILDING SAFETY
INDIANA DEPARTMENT OF HOMELAND SECURITY
302 WEST WASHINGTON STREET, RM E241
INDIANAPOLIS, IN 46204
TELEPHONE: 317-232-2222
WEB ADDRESS: WWW.IN.GOV/DHS

Identification Number BU29680	Name of the facility BEECH MEADOW APARTMENTS	County MARION
Address of Property 125 DIPLOMAT CT BEECH GROVE 46107		Name of the Contact TRACY HOUSAND
Telephone Number (317) 788-1535		Inspection Date 12/11/2018
Email tracy@csregroup.com	Inspection Category OTHER	Inspection Type PARTIAL
Inspection Status: VIOLATION		
Name of the inspector ANTHONY CONNER	Phone: 3174173699	
Email: anconner@dhs.in.gov		

Violations

VIO-LATION NUMBER	RULE OR INDIANA CODE SECTION VIOLATED	DESCRIPTION OF VIOLATION	DATE BY WHICH VIOLATION MUST BE CORRECTED
1	675 IAC 12-4-9(a)	All buildings and structures, and any part of the permanent heating, ventilating, air conditioning, electrical, plumbing, sanitary, emergency detection, emergency communication, or fire or explosion systems, and all parts thereof, shall be maintained in conformance with the applicable rules of the commission, or applicable rules of its predecessor agencies, in effect when constructed, installed, or altered. <u>Required rear exit was eliminated. Restore and maintain the rear exit.</u>	01/14/2019

Inspection Notes:

Anthony Conner was called to this apartment complex by Mark Rihm of the Beech Grove Fire Department for a consultation. Mark Rihm had found that the rear exit from most of the apartment buildings had been eliminated approximately 10 to 15 years ago. Anthony Conner checked for a variance and could not locate any for the apartment complex or its addresses. Mark Rihm advised that Beech Grove had nothing on file regarding the closure of the rear exits. Anthony Conner went to the code library at the DFBS Office and researched the code of record for the time that the apartment buildings were built. According to code two exits were required. The building was originally built with an exit in the front and rear. Anthony Conner took pictures and notified his supervisor Robert Miller.

Facility Id BU29680	Received By Name Kristina Cordova (Agent for Owner)	Signature and Date <i>Kristina Cordova 12/14/18</i>
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FIRE AND BUILDING CODE ENFORCEMENT INSPECTION REPORT ORDER

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INDIANA DEPARTMENT OF HOMELAND SECURITY
302 WEST WASHINGTON STREET, RM E241
INDIANAPOLIS, IN 46204
TELEPHONE: 317-232-2222
WEB ADDRESS: WWW.IN.GOV/DHS

Identification Number BU29681	Name of the facility BEECH MEADOW APARTMENTS	County MARION
Address of Property 105 DIPLOMAT CT BEECH GROVE IN 46107		Name of the Contact TRACY HOUSAND
Telephone Number (317) 788-1535		Inspection Date 12/11/2018
Email tracy@csregroup.com	Inspection Category OTHER	Inspection Type PARTIAL
Inspection Status: VIOLATION		Name of the inspector ANTHONY CONNER
Phone: 3174173699		Email: anconner@dhs.in.gov

Violations

VIO-LATION NUMBER	RULE OR INDIANA CODE SECTION VIOLATED	DESCRIPTION OF VIOLATION	DATE BY WHICH VIOLATION MUST BE CORRECTED
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Inspection Notes:

Anthony Conner was called to this apartment complex by Mark Rihm of the Beech Grove Fire Department for a consultation. Mark Rihm had found that the rear exit from most of the apartment buildings had been eliminated approximately 10 to 15 years ago. Anthony Conner checked for a variance and could not locate any for the apartment complex or its addresses. Mark Rihm advised that Beech Grove had nothing on file regarding the closure of the rear exits. Anthony Conner went to the code library at the DFBS Office and researched the code of record for the time that the apartment buildings were built. According to code two exits were required. The building was originally built with an exit in the front and rear. Anthony Conner took pictures and notified his supervisor Robert Miller.

Facility Id BU29681	Received By Name Kristina Cordova (Agent for Owner)	Signature and Date <i>Kristina Cordova 12/14/18</i>
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INDIANA DEPARTMENT OF HOMELAND SECURITY
302 WEST WASHINGTON STREET, RM E241
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TELEPHONE: 317-232-2222
WEB ADDRESS: WWW.IN.GOV/DHS

Identification Number BU29682	Name of the facility BEECH MEADOW APARTMENTS	County MARION
Address of Property 113 DIPLOMAT CT BEECH GROVE IN 46107		Name of the Contact TRACY HOUSAND
Telephone Number (317) 788-1535		Inspection Date 12/11/2018
Email tracy@csregroup.com	Inspection Category OTHER	Inspection Type PARTIAL
Inspection Status: VIOLATION		
Name of the inspector ANTHONY CONNER	Phone: 3174173699	
Email: anconner@dhs.in.gov		

Violations

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Inspection Notes:

Anthony Conner was called to this apartment complex by Mark Rihm of the Beech Grove Fire Department for a consultation. Mark Rihm had found that the rear exit from most of the apartment buildings had been eliminated approximately 10 to 15 years ago. Anthony Conner checked for a variance and could not locate any for the apartment complex or its addresses. Mark Rihm advised that Beech Grove had nothing on file regarding the closure of the rear exits. Anthony Conner went to the code library at the DFBS Office and researched the code of record for the time that the apartment buildings were built. According to code two exits were required. The building was originally built with an exit in the front and rear. Anthony Conner took pictures and notified his supervisor Robert Miller.

Facility Id BU29682	Received By Name Kristina Cordova (Agent for Owner)	Signature and Date <i>Kristina Cordova 12/14/18</i>
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TELEPHONE: 317-232-2222
WEB ADDRESS: WWW.IN.GOV/DHS

Identification Number BU29683	Name of the facility BEECH MEADOW APARTMENTS	County MARION
Address of Property 133 DIPLOMAT CT BEECH GROVE IN 46107	Name of the Contact TRACY HOUSAND	Telephone Number (317) 788-1535
Email tracy@csregroup.com	Inspection Date 12/11/2018	
Inspection Category OTHER	Inspection Type PARTIAL	Inspection Status: VIOLATION
Name of the inspector ANTHONY CONNER	Phone: 3174173699	
Email: anconner@dhs.in.gov		

Violations

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Inspection Notes:

Anthony Conner was called to this apartment complex by Mark Rihm of the Beech Grove Fire Department for a consultation. Mark Rihm had found that the rear exit from most of the apartment buildings had been eliminated approximately 10 to 15 years ago. Anthony Conner checked for a variance and could not locate any for the apartment complex or its addresses. Mark Rihm advised that Beech Grove had nothing on file regarding the closure of the rear exits. Anthony Conner went to the code library at the DFBS Office and researched the code of record for the time that the apartment buildings were built. According to code two exits were required. The building was originally built with an exit in the front and rear. Anthony Conner took pictures and notified his supervisor Robert Miller.

Facility Id BU29683	Received By Name Kristina Cordova (Agent for Owner)	Signature and Date <i>Kristina Cordova 12/14/18</i>
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302 WEST WASHINGTON STREET, RM E241
INDIANAPOLIS, IN 46204
TELEPHONE: 317-232-2222
WEB ADDRESS: WWW.IN.GOV/DHS

Identification Number BU29684	Name of the facility BEECH MEADOW APARTMENTS	County MARION
Address of Property 104 DIPLOMAT CT BEECH GROVE IN 46107		Name of the Contact TRACY HOUSAND
		Telephone Number (317) 788-1535
Email tracy@csregroup.com		Inspection Date 12/11/2018
Inspection Category OTHER	Inspection Type PARTIAL	Inspection Status: VIOLATION
Name of the inspector ANTHONY CONNER		Phone: 3174173699
Email: anconner@dhs.in.gov		

Violations

VIO-LATION NUMBER	RULE OR INDIANA CODE SECTION VIOLATED	DESCRIPTION OF VIOLATION	DATE BY WHICH VIOLATION MUST BE CORRECTED
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Inspection Notes:

Anthony Conner was called to this apartment complex by Mark Rihm of the Beech Grove Fire Department for a consultation. Mark Rihm had found that the rear exit from most of the apartment buildings had been eliminated approximately 10 to 15 years ago. Anthony Conner checked for a variance and could not locate any for the apartment complex or its addresses. Mark Rihm advised that Beech Grove had nothing on file regarding the closure of the rear exits. Anthony Conner went to the code library at the DFBS Office and researched the code of record for the time that the apartment buildings were built. According to code two exits were required. The building was originally built with an exit in the front and rear. Anthony Conner took pictures and notified his supervisor Robert Miller.

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302 WEST WASHINGTON STREET, RM E241
INDIANAPOLIS, IN 46204
TELEPHONE: 317-232-2222
WEB ADDRESS: WWW.IN.GOV/DHS

Identification Number BU29685	Name of the facility BEECH MEADOW APARTMENTS	County MARION
Address of Property 120 DIPLOMAT CT BEECH GROVE IN 46107		Name of the Contact TRACY HOUSAND
Telephone Number (317) 788-1535		Inspection Date 12/11/2018
Email tracy@csregroup.com	Inspection Category OTHER	
Inspection Type PARTIAL		Inspection Status: VIOLATION
Name of the inspector ANTHONY CONNER	Phone: 3174173699	
Email: anconner@dhs.in.gov		

Violations

VIO-LATION NUMBER	RULE OR INDIANA CODE SECTION VIOLATED	DESCRIPTION OF VIOLATION	DATE BY WHICH VIOLATION MUST BE CORRECTED
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Inspection Notes:

Anthony Conner was called to this apartment complex by Mark Rihm of the Beech Grove Fire Department for a consultation. Mark Rihm had found that the rear exit from most of the apartment buildings had been eliminated approximately 10 to 15 years ago. Anthony Conner checked for a variance and could not locate any for the apartment complex or its addresses. Mark Rihm advised that Beech Grove had nothing on file regarding the closure of the rear exits. Anthony Conner went to the code library at the DFBS Office and researched the code of record for the time that the apartment buildings were built. According to code two exits were required. The building was originally built with an exit in the front and rear. Anthony Conner took pictures and notified his supervisor Robert Miller.

Facility Id BU29685	Received By Name Kristina Cordova (Agent for Owner)	Signature and Date <i>Kristina Cordova 12/14/18</i>
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FIRE AND BUILDING CODE ENFORCEMENT INSPECTION REPORT ORDER

DIVISION OF FIRE AND BUILDING SAFETY
INDIANA DEPARTMENT OF HOMELAND SECURITY
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INDIANAPOLIS, IN 46204
TELEPHONE: 317-232-2222
WEB ADDRESS: WWW.IN.GOV/DHS

Identification Number BU29686	Name of the facility BEECH MEADOW APARTMENTS	County MARION
Address of Property 132 DIPLOMAT CT BEECH GROVE IN 46107		Name of the Contact TRACY HOUSAND
Telephone Number (317) 788-1535		Inspection Date 12/11/2018
Email tracy@csregroup.com	Inspection Category OTHER	Inspection Type PARTIAL
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Inspection Notes:

Anthony Conner was called to this apartment complex by Mark Rihm of the Beech Grove Fire Department for a consultation. Mark Rihm had found that the rear exit from most of the apartment buildings had been eliminated approximately 10 to 15 years ago. Anthony Conner checked for a variance and could not locate any for the apartment complex or its addresses. Mark Rihm advised that Beech Grove had nothing on file regarding the closure of the rear exits. Anthony Conner went to the code library at the DFBS Office and researched the code of record for the time that the apartment buildings were built. According to code two exits were required. The building was originally built with an exit in the front and rear. Anthony Conner took pictures and notified his supervisor Robert Miller.

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