

INDIANA FIRE PREVENTION AND BUILDING SAFETY COMMISSION

Wednesday, October 14, 2020
By Electronic Mail

Steven Herrera
Petitioner
AMC Elkhart 14
2701 Cassopolis Street
Elkhart, IN 46514
4256@amctheatres.com

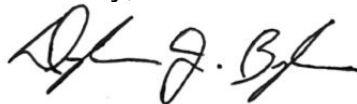
Re: Petition for Administrative Review – IDHS Sanctions Order No. 205-286 – AMC Elkhart 14

Dear Mr. Herrera:

The Indiana Fire Prevention and Building Safety Commission (Commission) is in receipt of your electronically-filed petition for administrative review of the Indiana Department of Homeland Security (IDHS) Sanctions Order No. 205-286 – AMC Elkhart 14, submitted on Monday, October 5, 2020. Pursuant to the requirements of Indiana Code § 4-21.5-3-7, your petition for administrative review is hereby granted by the Commission.

Your petition will now be forwarded to the Indiana Office on Administrative Law Proceedings (OALP) to be assigned to the Commission's administrative law judge. OALP or the judge will contact you directly to make arrangements for further proceedings. Should you have any questions, you may contact the Indiana Department of Homeland Security's deputy general counsel assigned to this 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
Indiana Government Center South, Room E-208
302 W. Washington Street
Indianapolis, IN 46204
dboyle@dhs.in.gov

Enclosure

cc: Justin K. Guedel, IDHS Deputy General Counsel – representing the Respondent
(by electronic mail)

From: noreply@formstack.com
To: [DHS Legal Mailbox](#)
Subject: Petition for Review
Date: Monday, October 5, 2020 11:16:09 AM
Attachments: [68379161_scan0001.pdf](#)

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Formstack Submission For: [petition for review](#)

Submitted at 10/05/20 11:14 AM

Individual Name:	STEVEN HERRERA
Business Name: :	AMC ELKHAT 14
Phone Number:	(574) 262-0698
Email Address:	4256@AMCTHEATRES.COM
Mailing Address:	2701 CASSOPOLIS STREET ELKHART, IN 46514
Are you represented by an attorney?:	No
Attorney Name:	
Firm:	
Phone Number:	
Email Address:	
Mailing Address:	
Order Number:	205286

Facility Device Boiler ID:	
Date Order Received:	Sep 29, 2020
How did you receive the Order? :	Hand Delivery
Entity Issuing Order:	Indiana Department of Homeland Security
Entity Name:	
Upload Order:	View File
Was this order specifically directed to you?:	Yes
Explain:	Order was explained and given to me
Have you been aggrieved or adversely affected by the order?:	Yes
Explain:	We were fined
If the order was not specifically directed to you and you have not been aggrieved or adversely affected by the order, are you entitled to review under some other law? :	
What law?:	
I request review of the entire order described above:	Yes
If you are not requesting review of the entire order, what is the scope of your request?:	
I request a stay of effectiveness:	Yes
What is the basis of your challenge? :	Work was completed next morning

What is your desired outcome? : rescind of the fine

**Additional information in support
of my request:**

Additional Attachments:

Additional Attachments:

Additional Attachments:

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Formstack, 11671 Lantern Road, Suite 300, Fishers, IN 46038



Indiana Department of Homeland Security
 302 W. Washington Street, Room E208
 Indianapolis, IN 46204
 Phone: 317-232-2222

Permit Number	Sanction Number
AE2024335C	205-286

Visit us at: <http://www.in.gov/dhs>

Date 09/29/2020 **Type** Sanctions

Location
Name CARMIKE ENCORE PARK 14 **Owner**
Street 2701 Cassopolis St **Name** AMC Elkhart 14
City Elkhart **Street** 11500 Ash Street
Zip 46514 **City** Leewood
Zip 66211

Sanctioned By
Name Chad Sharp **Permit**
Email CSharp@dhs.IN.gov **State Number** AE2024335C
Phone 317-273-3864 **Type** Amusement & Entertainment Annual Location

Notice of Violations

Sanctions

#	Code	Description	Order	Correct By	Fee
	Sec. 907.8.5 2014 Edition IFC 675 IAC 22-2.5	The building owner shall be responsible to maintain the fire and life safety systems in an operable condition at all times. Service personnel shall meet the qualification requirements of NFPA 72 for maintaining, inspecting and testing such systems. A written record shall be maintained and shall be made available to the fire code official.	Provide proper documentation of repairs made to listed deficiencies on annual sprinkler testing report.	09/27/2020	\$250.00
	Sec. 907.8.5 2014 Edition IFC 675 IAC 22-2.5	The building owner shall be responsible to maintain the fire and life safety systems in an operable condition at all times. Service personnel shall meet the qualification requirements of NFPA 72 for maintaining, inspecting and testing such systems. A written record shall be maintained and shall be made available to the fire code official.	Provide proper documentation of repairs made to listed deficiencies on annual fire inspection report.	09/27/2020	\$250.00



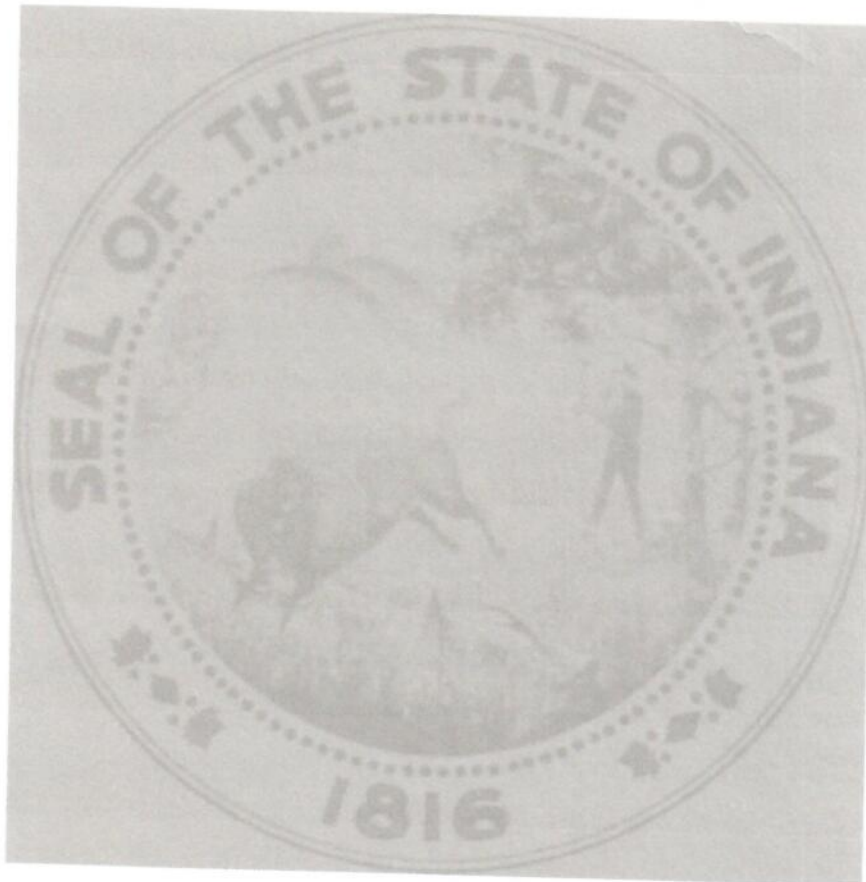
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Visit us at: <http://www.in.gov/dhs>

ASSOCIATED VIOLATIONS FOUND

#	Code	Description	Order	Correct By	Fee
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INFORMAL REVIEW

To request an informal review of your order by the Department, complete the informal review form located at <https://www.in.gov/dhs/4149.htm>. Following receipt of this form, the Department will review your request and may modify or reverse the report, and will attempt to respond to your request within five (5) business days, however, a request for an informal review does not extend the deadline for filing a petition for administrative review which must be filed to initiate formal administrative proceedings under IC 4-21.5.

ADMINISTRATIVE REVIEW

If you desire administrative review of this order by the Fire Prevention and Building Safety Commission, you must comply with the requirements of Indiana Code § 4-21.5-3-7 and file a written petition for review within fifteen (15) days after receiving notice of these violations. Your petition for review must state facts demonstrating that you are: (1) a person to whom the order is specifically directed; (2) aggrieved or adversely affected by the order; or (3) entitled to review under any law. You must submit your petition by one of the following methods:

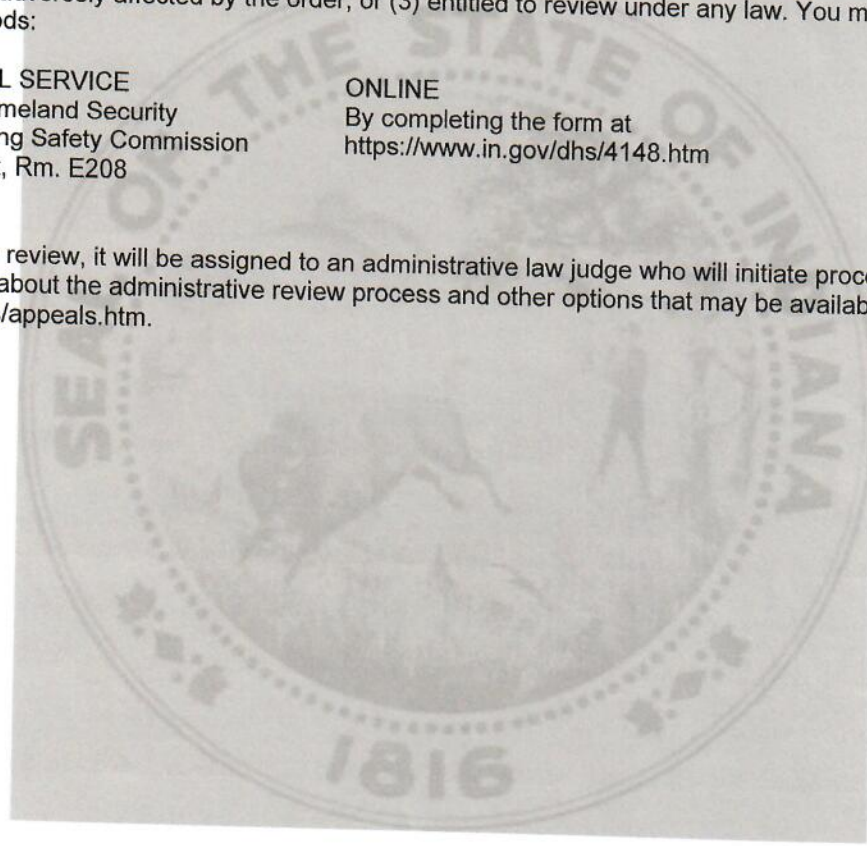
U.S. MAIL OR PERSONAL SERVICE

Indiana Department of Homeland Security
 Fire Prevention and Building Safety Commission
 302 W. Washington Street, Rm. E208
 Indianapolis, IN 46204

ONLINE

By completing the form at
<https://www.in.gov/dhs/4148.htm>

If your petition qualifies for review, it will be assigned to an administrative law judge who will initiate proceedings under IC 4-21.5. For additional information about the administrative review process and other options that may be available to you, visit the following link <https://www.in.gov/dhs/appeals.htm>.





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If you are receiving this document, property that you own or have control over, has been, or was attempted to be, inspected by the Indiana Department of Homeland Security (Department). Depending on the outcome of this inspection, one of five different RESULTS was notated. See the first page for the RESULT of this inspection. The following describes what each RESULT means:

1. INSPECTION NOT POSSIBLE

This report is to notify you that the Department attempted to perform an inspection of your property, but was unable to for some reason. If you have not already spoken with your inspector regarding this, please contact him or her immediately.

2. NO VIOLATIONS FOUND

This report is to notify you that the Department performed an inspection of your property, and no violations were found to exist. However, please be aware that obtaining a RESULT of "no violations found" does not mean that no violations exist on your property or may be found during a later inspection.

3. EMERGENCY OR TEMPORARY ORDER

This report is to notify you that the Department has determined that conduct or a condition of property:

- (1) presents a clear and immediate hazard of death or serious bodily injury to any person other than a trespasser;
- (2) is prohibited without a permit, registration, certification, release, authorization, variance, exemption, or other license and the license has not been issued; or
- (3) will conceal a violation of law.

This order must immediately be complied with, up to and until such time that: (1) it expires; (2) an order is issued by an administrative law judge voiding, terminating, modifying, or staying its effectiveness; or (3) the Department terminates its effectiveness. If you desire administrative review of this order, you must submit your request by one of the methods provided for in the administrative review section mentioned below.

4. NOTICE OF VIOLATIONS

This report is to notify you that violations are believed to exist on your property. However, if you enter into a corrective plan and correct these violations by the correction date provided in this report, no enforcement actions or sanctions will commence. If you fail to enter into a corrective plan, the Department will move forward with enforcement of this order and the imposition of sanctions.

If you would like to enter into a corrective plan, you must notify your inspector, in writing, within five (5) days of receiving this report.

Terms of corrective plan:

- 1. I agree to correct the violations contained on this report by the date provided.
- 2. I understand my failure to correct these violations by the correction date will result in the enforcement of this report and sanctions, including, but not limited to, a fine of \$250 per day per violation.
- 3. I understand no extensions of time are permitted unless they are granted in writing by the Department.
- 4. I understand that entering into this corrective plan is not an admission that a violation has occurred.
- 5. I agree to protect the safety and property of other persons as outlined by the Department while corrections are underway.
- 6. I agree to notify the Department, by the compliance date, that all violations have been corrected, and I am aware that my failure to do so may result in sanctions being ordered.
- 7. I understand that in order for the Department to determine compliance, an additional inspection may be performed and the Department must notify me of the determination of my compliance within thirty (30) days following the earlier of: (a) the correction date contained in this report; or (b) the date the Department is provided notice that the violations have been corrected.

If you do not enter into a corrective plan or receive a determination modifying or reversing this report, the requirements of this report are effective fifteen (15) days after service and must be complied with until such time that: (1) this order is overturned on review; (2) an administrative law judge issues a stay of enforcement; or (3) the Department consents to the request for a stay in writing. To request an informal review or administrative review of this report, you must comply with the information provided below.

5. SANCTIONS

This report is to notify you that sanctions are being imposed due to violation(s) of the law. If a civil penalty is imposed, you will be prohibited from renewing any permit, license, registration, certification, or other similar authorization related to the device, equipment, or structure, which is the subject of the civil penalty, until the debt has been satisfied. For information on how to request an informal review or administrative review, see below.