

FIRE PREVENTION AND BUILDING SAFETY COMMISSION

Administrative Cause No.: [Unassigned – Pending Decision on Grant]
Underlying/State Agency Action No.: 502-703

St. Joseph Catholic Church,
Petitioner,

v.

Indiana Department of Homeland Security,
Respondent.


AGREED ORDER AND WITHDRAW OF PETITION

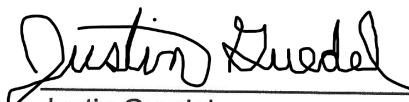
Based upon the below agreement between the Indiana Department of Homeland Security and Petitioner, Petitioner hereby withdraws their request for administrative review.

1. On March 05, 2021, Respondent issued a sanction order to St. Joseph Catholic Church for failing to correct a previously issued violation of 675 IAC 21-1-3.1(d) by November 24, 2019.
2. On March 16, 2021, Petitioner filed their petition for review of this sanction.
3. Following the filing of this Petition, the parties were able to informally resolve this matter and Respondent agreed to rescind the sanction on the understanding that Petitioner will place the device in question out of service by April 2, 2021.

WHEREFORE, the Petitioner withdraws their request for administrative review.

Respectfully submitted,


David DeKoninck
Representative of Petitioner


Justin Guedel
Attorney for Respondent

Date: 3-22-21

INDIANA FIRE PREVENTION AND BUILDING SAFETY COMMISSION

Wednesday, March 17, 2021
By Electronic Mail

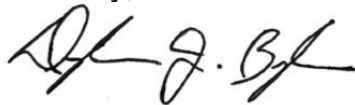
David DeKoninck
Petitioner
DDK Construction Inc.
300. W. Houston St.
Garrett, IN 46738

Re: Petition for Administrative Review – IDHS Sanctions Order No. 502-703 – St Joseph Catholic Church

Dear Mr. DeKoninck:

The Indiana Fire Prevention and Building Safety Commission (Commission) is in receipt of your petition for administrative review of Indiana Department of Homeland Security (IDHS) Sanctions Order No. 502-703 – St Joseph Catholic Church, dated 3/16/2021. The petition for administrative review will be discussed at the next tentatively scheduled meeting of the Commission – currently scheduled to begin at 9:00 a.m. EST on Tuesday, April 6, 2021. Notice and details regarding this meeting will be posted to the Commission's web page (<http://www.in.gov/dhs/2375.htm>) in advance of the meeting. The Commission will determine if you qualify for administrative review of this order in accordance with the requirements of Indiana Code § 4-21.5-3-7.

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: Philip A. Gordon, Deputy Attorney General and Legal Counsel to the Indiana Fire Prevention and Building Safety Commission (by electronic mail)
Justin K. Guedel, IDHS Deputy General Counsel – Attorney for the Respondent (by electronic mail)
Bryston Sprecher, Administrative Assistant to the Indiana Fire Prevention and Building Safety Commission (by electronic mail)

From: noreply@formstack.com
To: [DHS Legal Mailbox](#)
Subject: Petition for Review
Date: Tuesday, March 16, 2021 9:32:25 PM
Attachments: [68379161_Sanction number 502-703.pdf](#)

**** This is an EXTERNAL email. Exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email. ****



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

Submitted at 03/16/21 7:58 PM

Individual Name:	David DeKoninck
Business Name: :	DDK Construction, Inc.
Phone Number:	(260) 570-6802
Email Address:	daveddk18@gmail.com
Mailing Address:	300 W. Houston St. Garrett, IN 46738
Are you represented by an attorney?:	No
Attorney Name:	
Firm:	
Phone Number:	
Email Address:	
Mailing Address:	
Order Number:	101247

Facility Device Boiler ID:	St Joseph Catholic Church elevator
Date Order Received:	Mar 15, 2021
How did you receive the Order? :	Mail
Entity Issuing Order:	Indiana Department of Homeland Security
Entity Name:	
Upload Order:	View File
Was this order specifically directed to you?:	No
Explain:	
Explain:	Directed to church, I am the chairman of Buildings and Grounds Committee
Have you been aggrieved or adversely affected by the order?:	No
Explain:	
Explain:	The elevator has been out of service for 2 years and we have been working with Otis elevator to repair it. We thought Otis notified the department that it was out of service.
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? :	No

What law?:	
I request review of the entire order described above:	No
If you are not requesting review of the entire order, what is the scope of your request?:	To notify the department that the elevator is out of service and will soon be back in service. How do we get the elevator recertified and avoid a fine?
I request a stay of effectiveness:	Yes
What is the basis of your challenge? :	The elevator has been serviced and inspected annually by Otis Elevator since it was put in. The church was never responsible for updating the certificate. Otis elevator has stated recently that they no longer provide the service of updating the certificate. The church was not aware of this. The elevator has not been in service since 2019.
What is your desired outcome? :	To be able to put the elevator back in service and avoid any fines.
Additional information in support of my request:	
Additional Attachments:	
Additional Attachments:	
Additional Attachments:	

**Report of inspection**

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

Permit Number	Sanction Number
LD101247C	502-703

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

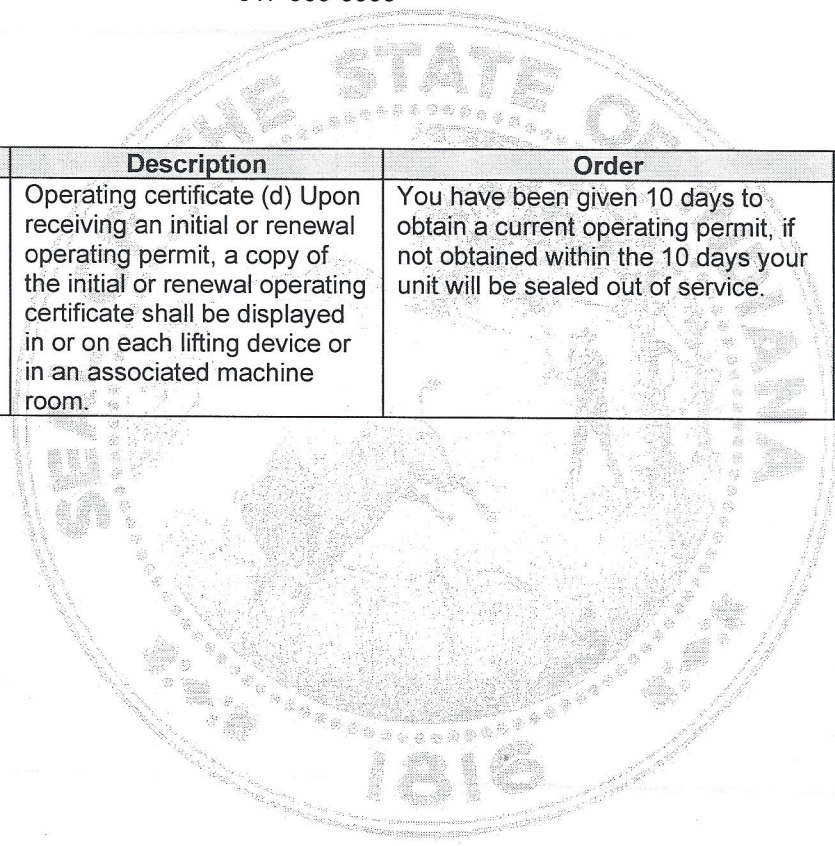
Date 03/05/2021 **Type** Sanctions
Results Sanctions

Location **Owner**
 Name ST JOE CATHOLIC CHURCH Name ST JOE CATHOLIC CHURCH
 Street 300 W Houston St Street 300 W HOUSTON ST
 City Garrett City GARRETT
 Zip 46738 Zip 46738

Inspector **Permit**
 Name Thomas Hendricks State Number LD101247C
 Email THendricks@dhs.IN.gov Type Lift/Elevator
 Phone 317-503-5999

Notice of Violations

#	Code	Description	Order	Correct By	Fee
	675 IAC 21-1-3.1 (d)	Operating certificate (d) Upon receiving an initial or renewal operating permit, a copy of the initial or renewal operating certificate shall be displayed in or on each lifting device or in an associated machine room.	You have been given 10 days to obtain a current operating permit, if not obtained within the 10 days your unit will be sealed out of service.	11/24/2019	\$250.00





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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.



Report of inspection

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

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

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.

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>.

