

INDIANA FIRE PREVENTION AND BUILDING SAFETY COMMISSION

Thursday, September 10, 2020
By Electronic Mail

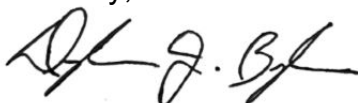
Theresa Argueta
Petitioner
Paladin, Inc. - Head Start of LaPorte County
811 Royal Road
Michigan City, IN 46360
theresa.argueta@imagination.care

Re: Petition for Administrative Review – IDHS Notice of Violations Order No. 474409, Violations No. 8 and 12 – Head Start of LaPorte County/Niemann Elementary School

Dear Ms. Argueta:

The Indiana Fire Prevention and Building Safety Commission (Commission), as the ultimate authority of all orders issued by the Indiana Department of Homeland Security's (IDHS) Division of Fire and Building Safety, is in receipt of your petition for administrative review of IDHS Notice of Violations Order No. 474409, Violations No. 8 and 12, dated 9/9/2029. 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. on Tuesday, October 6, 2020. 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 your petition was timely filed 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
doboyle@dhs.in.gov

Enclosure

cc: Justin K. Guedel, IDHS Deputy General Counsel – representing 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: Wednesday, September 9, 2020 5:30:55 PM
Attachments: [68379161_2020 Fire Marshal Inspection Report.pdf](#)

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Formstack Submission For: **petition for review**

Submitted at 09/09/20 4:58 PM

Individual Name:	Theresa Argueta
Business Name: :	Paladin, inc. - Head Start of La Porte County
Phone Number:	(219) 873-2146
Email Address:	theresa.argueta@imagination.care
Mailing Address:	811 Royal Road Michigan City, IN 46360
Are you represented by an attorney?:	No
Attorney Name:	
Firm:	
Phone Number:	

Email Address:

**Mailing
Address:**

**Order
Number:** 8

**Facility |
Device | Boiler
ID:** Niemann Elementary School

**Date Order
Received:** Aug 19, 2020

**How did you
receive the
Order? :** Email

**Entity Issuing
Order:** Indiana Department of Homeland Security

Entity Name:

Upload Order: [View File](#)

**Was this order
specifically
directed to
you?:** Yes

Explain: We rent this building from the school system, and do not have the authority to purchase/replace an unspecified number of doors within it.

**Have you been
aggrieved or
adversely
affected by the
order?:** Yes

Explain: This order stated that certain fire doors located sporadically throughout the school did not match their frame rating, or were not correctly labeled. The fire marshal conveyed that it appeared that some doors were fashioned to purposefully look like fire

doors, but were not actual fire doors. The building's owners state that the doors have never been changed since its inception (1950s), and that the fire system and doors have been inspected annually with no issues.

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? :

The fire doors located throughout the building have never been replaced or altered in any way since their installation, and it would be financially unfeasible and disallowable for our federally funded program to pay to replace the doors. The doors and frames have consistently passed annual inspection.

What is your

**desired
outcome? :**

We desire to have the fire doors be approved as-is
based on previous approvals.

**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

From: noreply@formstack.com
To: [DHS Legal Mailbox](#)
Subject: Petition for Review
Date: Wednesday, September 9, 2020 5:10:16 PM
Attachments: [68379161_2020 Fire Marshal Inspection Report.pdf](#)

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Formstack Submission For: **petition for review**

Submitted at 09/09/20 5:09 PM

Individual Name:	Theresa Argueta
Business Name: :	Paladin, Inc. - Head Start of La Porte County
Phone Number:	(219) 873-2146
Email Address:	theresa.argueta@imagination.care
Mailing Address:	811 Royal Road Michigan City, IN 46360
Are you represented by an attorney?:	No
Attorney Name:	
Firm:	
Phone Number:	
Email Address:	
Mailing Address:	

Order Number:	12
Facility Device Boiler ID:	Niemann Elementary School
Date Order Received:	Aug 19, 2020
How did you receive the Order? :	Email
Entity Issuing Order:	Indiana Department of Homeland Security
Entity Name:	
Upload Order:	View File
Was this order specifically directed to you?:	Yes
Explain:	We rent this building from the school system, and do not have the authority to purchase/replace the roof.
Have you been aggrieved or adversely affected by the order?:	Yes
Explain:	This order stated that we must repair the roof, which the fire marshal stated is a building code violation, not a fire code violation. Due to the age of the building and the 1.2 million dollar quote we have received to replace the roof, this is not a feasible or allowable federal expense. As the leasee, we replace ceiling tiles whenever necessary due to minor leaks when our program is operating.
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:

No

If you are not requesting review of the entire order, what is the scope of your request?:

We request review of the necessity that we replace the roof only.

I request a stay of effectiveness:

Yes

What is the basis of your challenge? :

The building we rent was built and added on to from the 1930's to 1950's, and we have never been cited to replace the roof due to leaks from the state fire marshall. As a federally funded, program, we cannot afford such an expense. Additionally, the citation was verbalized as a building code violation, not a fire code violation,

What is your desired outcome? :

We request that the department waive the violation to replace the roof in the exchange that any minor leaks are consistently tended to and ceiling tiles replaced.

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

Report of Inspection

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

State Number	Inspection Number
DC1100477C	474409

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

Date	08/19/2020 09:24AM	Type	Annual
Results	Notice of Violations		
Location		Owner	
Name	THE CHILD CARE CONSORTIUM INC HEAD START	Name	THE CHILD CARE CONSORTIUM INC HEAD START
Street	811 ROYAL RD	Street	811 ROYAL RD
City	MICHIGAN CITY	City	MICHIGAN CITY
Zip	46360	Zip	46360
		Contact	JAMI JACKSON -
Inspector		Item	
Name	Alvin Fry IV	State Number	DC1100477C
Email	AlFry@dhs.IN.gov	Type	Day Care
Phone	(317) 503-7607	CDRs	

Notice Of Violations

#	Code	Description	Order	Correct By	Fee
1	Sec. 605.5.2 2014 Edition IFC 675 IAC 22-2.5	The ampacity of the extension cords shall not be less than the rated capacity of the portable appliance supplied by the cord.	Multi plugs not rated for appliances throughout the building.	09/19/2020	n/a

2	Sec. 703.1 2014 Edition IFC 675 IAC 22-2.5	<p>The required fire-resistance rating of fire-resistance-rated construction (including walls, firestops, shaft enclosures, partitions, smoke barriers, floors, fire-resistive coatings and sprayed fire-resistant materials applied to structural members and fire-resistant joint systems) shall be maintained. Such elements shall be visually inspected by the owner annually and properly repaired, restored or replaced when damaged, altered, breached or penetrated. Where concealed, such elements shall not be required to be visually inspected by the owner unless the concealed space is accessible by the removal or movement of a panel, access door, ceiling tile or similar movable entry to the space. Openings made therein for the passage of pipes, electrical conduit, wires, ducts, air transfer openings and holes made for any reason shall be protected with approved methods capable of resisting the passage of smoke and fire. Openings through fire-resistance-rated assemblies shall be protected by self- or automatic-closing doors of approved construction meeting the fire protection requirements for the assembly.</p>	Missing tiles located throughout the building.	09/19/2020	n/a
3	Sec. 1030.3 2014 Edition IFC 675 IAC 22-2.5	A means of egress shall be free from obstructions that would prevent its use, including the accumulation of snow and ice.	Gate not locked in hallway possible obstruction.	09/19/2020	n/a
4	Sec. 315.3.3 2014 Edition IFC 675 IAC 22-2.5	Combustible material shall not be stored in boiler rooms, mechanical rooms or electrical equipment rooms.	Anything that can burn can not be located in electrical mechanical rooms.	09/19/2020	n/a
5	Sec. 315.3 2014 Edition IFC 675 IAC 22-2.5	Storage of materials in buildings shall be orderly and stacks shall be stable. Storage of combustible materials shall be separated from heaters or heating devices by distance or shielding so that ignition cannot occur.	Gym locker room storage must be orderly throughout building as well.	09/19/2020	n/a
6	Sec. 604.3.2 2014 Edition IFC 675 IAC 22-2.5	Written records of the inspection, testing and maintenance of emergency and standby power systems shall include the date of service, name of the servicing technician, a summary of conditions noted and a detailed description of any conditions requiring correction and what corrective action was taken. Such records shall be kept on the premises served by the emergency or standby power system and be available for inspection by the fire code official.	Generator test records must be available and complete.	09/19/2020	n/a

7	Sec. 1008.1.9.5 2014 Edition IFC 675 IAC 22-2.5	The unlatching of any door or leaf shall not require more than one operation. Exceptions: 1. Places of detention or restraint. 2. Where manually operated bolt locks are permitted by Section 1008.1.9.4. 3. Doors with automatic flush bolts as permitted by Section 1008.1.9.3, Exception 3. 4. Doors from individual dwelling units and sleeping units of Group R occupancies as permitted by Section 1008.1.9.3, Exception 4.	Door out of class room missing a door nob and in openable must be operable.	09/19/2020	n/a
8	Sec. 703.2 2014 Edition IFC 675 IAC 22-2.5	Opening protectives shall be maintained in accordance with the rules of the commission. Where allowed by the fire code official, the application of field-applied labels associated with the maintenance of opening protectives shall follow the requirements of the approved third-party certification organization accredited for listing the opening protective. Fire doors and smoke barrier doors shall not be blocked or obstructed, or otherwise made inoperable. Fusible links shall be replaced promptly whenever fused or damaged. Fire door assemblies shall not be modified.	Fire doors that have been replaced by non fire doors or incorrect ratings throughout the building.	09/19/2020	n/a
9	Sec. 315.3.2 2014 Edition IFC 675 IAC 22-2.5	Combustible materials shall not be stored in exits or enclosures for stairways and ramps.	Hay located out side of emergency exit must be moved.	09/19/2020	n/a
10	Sec. 904.11.6.2 2014 Edition IFC 675 IAC 22-2.5	Automatic fire-extinguishing systems shall be serviced at least every six months and after activation of the system. Inspection shall be by qualified individuals, and a certificate of inspection shall be forwarded to the fire code official upon completion.	A copy of the hood inspection report must be on file and up to date.	09/19/2020	n/a
11	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.	Must have a copy of the fire alarm inspection report on file.	09/19/2020	n/a

12	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.	Leaking roof must be fixed and leaking pipes in the electrical mechanical room.	09/19/2020	n/a
13	Sec. 605.3 2014 Edition IFC 675 IAC 22-2.5	A working space of not less than 30 inches (762 mm) in width, 36 inches (914 mm) in depth and 78 inches (1,981 mm) in height shall be provided in front of electrical service equipment. Where the electrical service equipment is wider than 30 inches (762 mm), the working space shall be not less than the width of the equipment. No storage of any materials shall be located within the designated working space. Exceptions: 1. Where other dimensions are required or allowed by NFPA 70. 2. Access openings into attic or underfloor areas, which provide a minimum clear opening of 20 inches (509 mm) by 40 inches (1,016 mm).	Nothing is to be located in front of electrical panels throughout the building.	09/19/2020	n/a
14	Sec. 703.2.2 2014 Edition IFC 675 IAC 22-2.5	Hold-open devices and automatic door closers, where provided, shall be maintained. During the period that such device is out of service for repairs, the door it operates shall remain in the closed position.	Entry into attic held open should be kept close unless using.	09/19/2020	n/a

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. 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>.