

**Cause No.: 11-17F**  
**Name: Kilroy's Bar 'N Grill**  
**Administrative Law Judge: Gary W. Bippus**  
**Date: September 14, 2011**  
**Commission Action: Affirmed**

**FINDINGS OF FACT**

1. Agency Exhibit B, the Conditional Design Release, was issued on June 15, 2010.
2. Use of the two entrance/exits that lead to Petitioner's bar's patio from the outside of Petitioner's place of business require negotiating stairs to move from street level to patio floor level or *vice versa*.
3. Movement between the two entrance/exits mentioned above, while inside Petitioner's place of business, requires going up at least two stairs and down at least two stairs.
4. There are no landings at the patio to street doors of Petitioner's business.
5. Petitioner's bar business premises has a patio with three different levels which was installed as part of a 2010 construction project.
6. Movement between the levels of the patio at Petitioner's bar requires either going up at least two stairs and down at least two stairs because there is no ramp between the levels.
7. Agency Exhibit F depicts a doorway from inside of Petitioner's business which has a ramp leading running from the surrounding floor to the threshold of the door which is higher than the surrounding floor. There is no landing at the top of the ramp.
8. Any item which is denominated a Finding of Fact which should be considered a Conclusion of Law is hereby incorporated by reference into the Conclusions of Law.

## CONCLUSIONS OF LAW

1. The Department of Homeland Security is an agency within the meaning of I.C. 4-21.5.
2. The Agency is the state entity charged with building safety within the State of Indiana.
3. I.C. 4-21.5, I.C. 22-12 and 675 IAC apply to this proceeding.
4. The Fire Prevention and Building Safety Commission is the ultimate authority within the meaning of IC 4-21.5 with respect to Agency actions taken, violations, or alleged violations of the Indiana Building Code.
5. The issuance of the Conditional Design Release on June 15, 2010 means the subject property must be in compliance with the 2008 Indiana Building Code and the 2008 Indiana Fire Code.
5. Pursuant to 675 IAC 22-2.4-1 the 2006 International Fire Code (“IFC”) is adopted as the 2008 Indiana Fire Code with certain exceptions and changes as set out in 675 IAC 22-2.4.
6. Sections 1008.1.5 and 1008.1.4 of the 2006 IFC require landings at both the street to patio doors and the interior door in the southwest corner of the first floor bar of Petitioner’s business in Bloomington Indiana. No such landings are presently in place. Accordingly, the subject property is in violation of the Indiana Fire Code.
7. Pursuant to 675 IAC 13-2.5-1 the 2006 International Building Code (“IBC”) is adopted as the 2008 Indiana Building Code with certain exceptions and changes as set out in 675 IAC 13-2.5.
8. Section 1007.1 of the 2006 IBC and Section 1004.8 of the 2006 IFC require accessible egress gates from the different levels of the patio at Petitioner’s business in

Bloomington Indiana. No such egress gates are presently in place. Accordingly, the subject property is in violation of the Indiana Building Code and Indiana Fire Code.

9. Any item which is denominated a Conclusion of Law which should be considered a Finding of Fact is hereby incorporated by reference into the Findings of Fact.

### **DECISION AND ORDER**

The decision of the Administrative Law Judge in this matter is that each of the subject Violations is affirmed.