

Cause #: 99-35Q
Name: Park Center Daybreak Children's Shelter
Administrative Law Judge: William K. Teegarden
Date: September 15, 1999
Commission Action: Affirmed

FINDINGS OF FACT

1. The OSFM is an agency within the meaning of IC 4-21.5.
2. IC 4-21.5 applies to this proceeding.
3. The FPBSC is the ultimate authority within the meaning of IC 4-21.5 with respect to orders of the OSFM.
4. The OSFM is the state agency responsible for the enforcement of fire safety rules.
5. On May 19, 1999, the OSFM issued an order to the Shelter.
6. On June 8, 1999, the Shelter petitioned by fax for administrative review of items 4 and 5 of the Order.
7. IC 4-21.5-3-7 (a) (3) states that "To qualify for review. . . , a person must petition for review in writing. . . (3) (A). . . within fifteen (15) days. . . ."
8. IC 4-21.5-3-2 provides for service by mail and adds three (3) days to the 15 day period.
9. The evidence available to the trier of fact show the order was issued on May 19, 1999.
10. Eighteen days after May 19, 1999 is June 6, 1999.
11. June 6, 1999, was a Sunday, so IC 4-21.5-2 (a) extends the time for serving a petition for review to the next business day which was Monday June 7, 1999.
12. The only evidence produced by the Shelter for not filing by June 7, 1999, was a delay in receiving copies from the owner and architect and the fact that the agent for the Shelter was out of town.

13. This above does not constitute a legal justification or excuse for not filing timely.
14. The petition for administrative review was late and therefore pursuant to IC 4-21.5-3-7, the Shelter does not qualify for administrative review.

NONFINAL ORDER

The decision of the Fire and Building Safety Commission to deny administrative review to Park Center Daybreak Children's Shelter is hereby affirmed.