

INDIANA FIRE PREVENTION AND BUILDING SAFETY COMMISSION

TO: Matthew A. Brown, Director of the Indiana Office of Administrative Law Proceedings
Michelle E. K. Allen, Deputy Director and General Counsel of the Indiana Office of Administrative Law Proceedings

FROM: Douglas J. Boyle, Director of the Indiana Fire Prevention and Building Safety Commission, on behalf of Chairman Robin E. Nicoson and the Members of the Indiana Fire Prevention and Building Safety Commission

DATE: Wednesday, November 4, 2020

RE: Indiana Fire Prevention and Building Safety Commission's Appointment of the Administrative Law Judge to Serve as the Ultimate Authority at the Conclusion of Certain Administrative Review Proceedings

Mr. Brown and Ms. Allen,

For the last several years, the Indiana Fire Prevention and Building Safety Commission (Commission), established by Indiana Code § 22-12-2-1, has assigned a separate and independent administrative law judge (ALJ) to manage the administrative review proceedings before it, in accordance with Indiana Code § 4-21.5-3-9. Even though the Commission's ALJ has managed all administrative review proceedings up to and including the issuance of Non-Final Orders and Non-Final Orders of Dismissal, the Commission has mostly retained its authority and duty to issue Final Orders and Final Orders of Dismissal, concluding and disposing of all administrative review proceedings under the requirements of Indiana Code § 4-21.5-3-29.

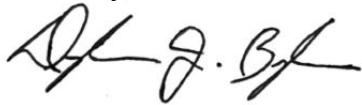
However, the Commission and its staff now recognize additional opportunities to conclude and dispose of certain administrative review proceedings more expeditiously. As such, today, at its regularly scheduled monthly meeting, the Commission took official action to authorize the ALJ assigned by the Indiana Office of Administrative Law Proceedings to serve as the ultimate authority, and grants the ALJ the authority to issue Final Orders and Final Orders of Dismissal, concluding and disposing of administrative review proceedings, ***only and explicitly when*** the following conditions are met:

- 1. The Petitioner requests to voluntarily dismiss the administrative review and terminate further proceedings.**
- 2. The parties of the administrative review submit a Stipulated, Agreed Motion to Dismiss (Joint Motion to Dismiss) to the ALJ, terminating further proceedings.**
- 3. The petition for administrative review requests a stay of enforcement of the order in dispute and the ALJ is issuing an order regarding the request for stay.**
- 4. The petition for administrative review is an appeal of an Emergency Order issued with respect to one or more violations of the Commission's rules or state statutes administered by the Commission.**

All Non-Final Orders and/or Non-Final Orders of Dismissal issued by the ALJ as a result of any other condition shall continue to be submitted to the Commission's staff for placement on the Commission's meeting agendas, so that final action may be taken directly by the Commission, as the ultimate authority, under the requirements of Indiana Code § 4-21.5-3-29. Any ALJs assigned by the Indiana Office of Administrative Law Proceedings to manage the Commission's administrative review proceedings may immediately issue Final Orders and Final Orders of Dismissal if the conditions provided above are met.

Any questions or concerns may be directed to me or the Commission's staff at buildingcommission@dhs.in.gov.

Sincerely,



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Cc: Robin E. Nicoson, Chairman of the Indiana Fire Prevention and Building Safety Commission
Philip A. Gordon, Deputy Attorney General and Legal Counsel to the Indiana Fire Prevention and Building Safety Commission
Jonathan L. Whitham, Indiana Department of Homeland Security General Counsel
Justin K. Guedel, Indiana Department of Homeland Security Deputy General Counsel
Chelsea E. Smith, Administrative Law Judge – Indiana Office of Administrative Law Proceedings