

INDIANA FIRE PREVENTION AND BUILDING SAFETY COMMISSION

Tuesday, July 20, 2021
By Electronic Mail

Brian Taylor
Petitioner
ITR Concession Company, LLC.
3200 Cassopolis St.
Elkhart, IN 46514
btaylor@indianatollroad.org

**Re: Petition for Administrative Review – IDHS Sanctions Order No. 1931-2159 –
ITR Concession Company, LLC.**

Dear Mr. Taylor:

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. 1931-2159 – ITR Concession Company, LLC., dated 7/19/2021). 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. EDT on Tuesday, August 3, 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
Indiana 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: [DHS Legal Mailbox](#)
To: [Guedel, Justin K](#); [Boyle, Douglas J \(DHS\)](#); [Sprecher, Bryston](#)
Subject: FW: Petition for Review
Date: Monday, July 19, 2021 11:48:49 AM
Attachments: [68379161 Administration Building Sanction letter for 52551 Ash Road.pdf](#)

From: noreply@formstack.com <noreply@formstack.com>
Sent: Monday, July 19, 2021 3:48:37 PM (UTC+00:00) Monrovia, Reykjavik
To: DHS Legal Mailbox <Legal@dhs.IN.gov>
Subject: Petition for Review

**** 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 07/19/21 11:48 AM

Individual Name:	Brian Taylor
Business Name :	ITR Concession Company, LLC.
Phone Number:	(574) 904-2698
Email Address:	btaylor@indianatollroad.org
Mailing Address:	3200 Cassopolis St Elkhart, IN 46514
Are you represented by an attorney?:	No
Attorney Name:	
Firm:	
Phone Number:	

Email Address:	
Mailing Address:	
Order Number:	
Facility Device Boiler ID:	LD110617C
Date Order Received:	Jul 06, 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:	It was addressed to the ITR Concession Company, LLC
Have you been aggrieved or adversely affected by the order?:	Yes
Explain:	The building has been demolished, the building and the elevator is no longer in place
Explain:	
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 building and the elevator is no longer in place. The building has been demolished.
What is your desired outcome? :	To have the violation vacated as the building has been demolished.
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
LD110617C	1931-2159

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

Date	06/23/2021	Type	Sanctions
Results	Sanctions		
Location Name	INDIANA TOLL RD ADMINISTRATON BLDG	Owner Name	ITR CONCESSION CO LLC
Street	52551 Ash Rd	Street	52551 ASH RD
City	Granger	City	GRANGER
Zip	46530	Zip	46530
Inspector Name	Ronald Molzan	Permit State Number	LD110617C
Email	RMolzan@dhs.IN.gov	Type	Lift/Elevator
Phone	317-232-2670		

Notice of Violations

#	Code	Description	Order	Correct By	Fee
	675 IAC 21-1-3.1 (a) Operating Certificate;	Operating certificate (a) A regulated lifting device may not be operated without an operating certificate that covers the operation of the regulated lifting device.	60 days to comply Email notification only due to COVID-19. No inspection at this time. Please be advised: This correspondence is to inform you that your operating permits and or annual safety tests have expired. Please note: You will only be allowed to renew your operating permit if the required safety tests are current, (and on file) with the State Office of Fire and Bulding Safety. Please follow the link located at the top right hand side of the report attached in order to; login, update, pay and or print, permits and to acquire information pertaining to your lifting devices. You will no longer receive Invoices "notices" from the department. This portal will be your future control panel for all your regulated lifting devices. Reminder: You will only be in full compliance after you have printed, and posted your current permit.	05/24/2020	\$250.00



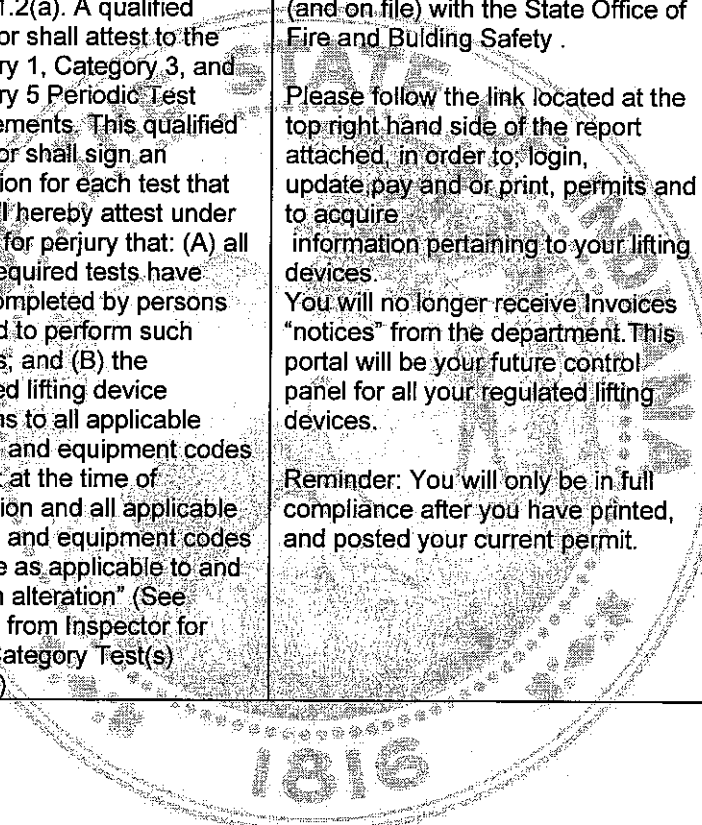
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<p>675 IAC 21-3-2 (ff) & (gg) 8.11.1.1.2(b) A17.1 Hydraulic Category One/Three/Five Periodic Tests</p>	<p>The owner, or the owner's authorized agent, shall have all of the tests required by 8.11.3 made by persons qualified to perform such service. For Category 1, Category 3, and Category 5 Test Requirements, the owner, or the owner's authorized agent, shall have these tests attested to by a qualified inspector in the manner specified in 8.11.1.1.2(a). A qualified inspector shall attest to the Category 1, Category 3, and Category 5 Periodic Test Requirements. This qualified inspector shall sign an attestation for each test that reads, "I hereby attest under penalty for perjury that: (A) all of the required tests have been completed by persons qualified to perform such services; and (B) the regulated lifting device conforms to all applicable building and equipment codes in effect at the time of installation and all applicable building and equipment codes effective as applicable to and for each alteration" (See NOTES from Inspector for which Category Test(s) Expired)</p>	<p>60 days to comply. Email notification only due to COVID-19. No inspection at this time.</p> <p>Please be advised: This correspondence is to inform you that your operating permits and or annual safety tests have expired.</p> <p>Please note: You will only be allowed to renew your operating permit if the required safety tests are current, (and on file) with the State Office of Fire and Building Safety .</p> <p>Please follow the link located at the top right hand side of the report attached, in order to: login, update, pay and or print, permits and to acquire information pertaining to your lifting devices. You will no longer receive Invoices "notices" from the department. This portal will be your future control panel for all your regulated lifting devices.</p> <p>Reminder: You will only be in full compliance after you have printed, and posted your current permit.</p>	<p>05/24/2020</p>	<p>\$250.00</p>
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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
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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>

