



December 20, 2019  
By Electronic Mail and U.S. Postal Mail

John Zeidler  
Gattitown Evansville  
316 N Green River Road  
Evansville, IN 47715  
[jzeidler63@gmail.com](mailto:jzeidler63@gmail.com)

**Re: Petition for Administrative Review – IDHS Civil Penalty Order No. BU29193-12032019 –  
Gattitown**

Dear Mr. Zeidler:

The Fire Prevention and Building Safety Commission is in receipt of your electronically-filed petition for administrative review of IDHS Civil Penalty Order No. BU29193-12032019 – Gattitown, dated 12/12/2019. Pursuant to the requirements of Indiana Code § 4-21.5-3-7, your petition has been granted by the Commission, given that your petition was timely-submitted, and given that you are the owner of this facility.

Your petition has been assigned to the Commission's administrative law judge. The judge's office will contact you to make arrangements for further proceedings. Should you have any questions, you may contact our deputy general counsel assigned to the matter, Justin Guedel, at [JGuedel@dhs.in.gov](mailto:JGuedel@dhs.in.gov) or (317) 234-9515.

Sincerely,

A handwritten signature in black ink, appearing to read "D. J. Boyle", is positioned above the typed name of the Director.

Douglas J. Boyle, Director  
Fire Prevention and Building Safety Commission  
Indiana Department of Homeland Security  
302 W. Washington Street, Room E-208  
Indianapolis, IN 46204  
[doboyle@dhs.in.gov](mailto:doboyle@dhs.in.gov)  
(317) 650-7720

Enclosure

cc: Justin Guedel, IDHS Deputy General Counsel – representing the respondent (by personal service and electronic mail)  
Office of Attorney General Curtis Hill – Administrative Law Judge (by electronic mail)

**From:** [Hulsey, Mathew](#)  
**To:** [Boyle, Douglas J \(DHS\)](#)  
**Cc:** [Settle, Kristin](#); [Guedel, Justin K](#)  
**Subject:** RE: Petition for Review  
**Date:** Friday, December 20, 2019 2:58:11 PM  
**Attachments:** [image001.png](#)

---

Good afternoon,

Hiliary Montooth and Emily Smith are the managers of the facility owned by Mr. John Zeidler. When I was on site for the initial inspection it was completed with Emily Smith who was Manager on duty that day. When I returned for the re-inspection Hiliary Montooth was the manager on duty. If you have any more questions please feel free to let me know.

Thank you.

---

**From:** Boyle, Douglas J (DHS)  
**Sent:** Friday, December 20, 2019 1:31 PM  
**To:** Hulsey, Mathew <MHulsey@dhs.IN.gov>  
**Cc:** Settle, Kristin <KSettle@dhs.IN.gov>; Guedel, Justin K <JGuedel@dhs.IN.gov>  
**Subject:** RE: Petition for Review

Matthew,

There appears to be a variety of names listed on the report orders attached to this gentleman's petition for administrative review below (Hiliary Montooth and Emily Smith), and I noticed that Ms. Montooth did not sign the civil penalty order as the owner. Do you know if Mr. John Zeidler is the owner of this property, and responsible for its control and maintenance?

Thanks,

**Douglas J. Boyle** | Director – Fire Prevention and Building Safety Commission  
Indiana Department of Homeland Security  
302 W. Washington Street, Room E-208  
Indianapolis, IN 46204  
Tel: (317) 650-7720  
Email: [DoBoyle@dhs.in.gov](mailto:DoBoyle@dhs.in.gov)  
Web: [www.in.gov/dhs](http://www.in.gov/dhs)



---

**From:** DHS Legal Mailbox <[Legal@dhs.IN.gov](mailto:Legal@dhs.IN.gov)>  
**Sent:** Monday, December 16, 2019 9:11 AM  
**To:** Boyle, Douglas J (DHS) <[DoBoyle@dhs.IN.gov](mailto:DoBoyle@dhs.IN.gov)>

**Cc:** Settle, Kristin <[KSettle@dhs.IN.gov](mailto:KSettle@dhs.IN.gov)>; Hulsey, Mathew <[MHulsey@dhs.IN.gov](mailto:MHulsey@dhs.IN.gov)>

**Subject:** FW: Petition for Review

Please see the below petition for review that was filed on 12/12. Please stay any additional enforcement efforts while this case remains open.

I'm using Adobe Acrobat.

You can view "68379161\_2019 Fire Marshall (Final Inspection).pdf" at:

<https://documentcloud.adobe.com/link/track?uri=urn%3Aaaid%3Aascds%3AUS%3A9090ee9f-7f31-41dd-a6d0-0081a4711620>

**IDHS ADMINISTRATIVE REVIEW**

Indiana Department of Homeland Security  
302 W. Washington Street, Rm. E208  
Indianapolis, IN 46204  
[legal@dhs.in.gov](mailto:legal@dhs.in.gov)

---

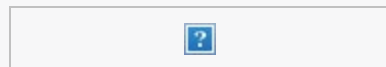
**From:** [noreply@formstack.com](mailto:noreply@formstack.com) <[noreply@formstack.com](mailto:noreply@formstack.com)>

**Sent:** Thursday, December 12, 2019 5:37 PM

**To:** DHS Legal Mailbox <[Legal@dhs.IN.gov](mailto: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 12/12/19 5:37 PM

**Individual Name:** john zeidler

**Business Name: :** Gattitown Evansville

**Phone Number:** (812) 454-3253

**Email Address:** [jzeidler63@gmail.com](mailto:jzeidler63@gmail.com)

**Mailing Address:** 316 n green river rd

Evansville, IN 47715

**Are you represented by an attorney?:** No

**Attorney Name:**

**Firm:**

**Phone Number:**

**Email Address:**

**Mailing Address:**

**Order Number:** 29193

**Facility | Device | Boiler ID:**

**Date Order Received:** Dec 03, 2019

**How did you receive the Order? :** Hand Delivery

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

**Entity Name:**

**Upload Order:** [View File](#)

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

**Explain:** Name on Inspection is my General Manager Hiliary Montooth

**Have you been aggrieved or adversely** Yes

**affected by the order?:**

**Explain:**

inconsistent application of rules from inspector to inspector.

**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? :**

Yes

**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? :**

inconsistent application of fire rules. We have been there 12 years and the requirements seem to change every year. Specifically the rule regarding ceiling tiles was considered acceptable for 8 years and now the new inspector says we need to change it to his preference. This costs my business extra compliance time and money and creates an inhospitable business environment.

**What is your desired outcome? :**

reversal of the fine and approval of our facility

**Additional information  
in support of my  
request:**

**Additional  
Attachments:**

**Additional  
Attachments:**

**Additional  
Attachments:**

Copyright © 2019 Formstack, LLC. All rights reserved. This is a customer service email.

Formstack, 11671 Lantern Road, Suite 300, Fishers, IN 46038



## CIVIL PENALTY

**TO:** Hiliary Montooth  
316 N Green River Road  
Evansville, IN. 47715  
BU29193

**DATE:** December 3, 2019

**ORDER #:** BU29193-12032019

Pursuant to Indiana Code § 4-21.5-3-6 and Indiana Code § 22-12-7-7, the Division of Fire and Building Safety of the Indiana Department of Homeland Security (the "Division") issues this Order imposing \$500 fine for failing to correct all violations of the Indiana building and fire safety laws found during an inspection conducted at your facility. A copy of the inspection report order that was issued following this inspection has been attached to this Order for your reference.

Specifically, the following violations you were required to correct still remain uncorrected:

### **Sec. 703.1 2014 Edition IFC 675 IAC 22-2.5**

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.

**-Ceiling tiles were observed missing and damaged throughout the laser tag area. Ceiling tiles were observed out of place inside the front door area. Escutcheon rings were observed missing throughout the kitchen area and the laser tag area. Holes and openings in ceiling tiles can cause smoke and heat to rise above the ceiling level and bypass sprinkler heads causing them to go off as designed.**

**Sec. 605.5 2014 Edition IFC 675 IAC 22-2.5**

Extension cords and flexible cords shall not be a substitute for permanent wiring. Extension cords and flexible cords shall not be affixed to structures, extended through walls, ceilings or floors, or under doors or floor coverings, nor shall such cords be subject to environmental damage or physical impact. Extension cords shall be used only with portable appliances.

**-Flexible cords were found passing through the ceiling in the laser tag area and in Gattis Theatre by the Left projector.**

Please notify the Division immediately upon your compliance with the requirements of this Order. Failure to correct the above mentioned violations and remit payment in full for the fine that has been issued will result in additional sanctions and enforcement actions.

Payments may be made by:

**1. Certified Check or Money Order; or**

Made out to the Indiana Department of Homeland Security and delivered to:  
Indiana Department of Homeland Security  
Division of Fire and Building Safety, Code Enforcement  
302 W. Washington St. Rm. E241  
Indianapolis, IN 46204

**2. Credit Card**

By following the directions at the following link: <https://oas.dhs.in.gov/dfbs/idhsFeesFines/start.do>.

**REVIEW RIGHTS**

This order is final and effective fifteen (15) days after service. If you would like to request **informal review** of this order, please complete the informal review form located at <https://www.in.gov/dhs/4148.htm>. Following receipt of this form, the Department may modify or reverse the order, however, a request for an informal review does not extend the deadline for filing a petition for review. Additionally, if you have any questions regarding this order, you may contact that Department at (317) 232-2222.

If you desire a formal administrative review of this order, 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 this order. 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 may submit your petition by the following methods:



**U.S. MAIL OR PERSONAL SERVICE**  
Indiana Department of Homeland Security  
Fire Prevention and Building Safety Commission  
c/o Legal Counsel  
302 W. Washington Street, Rm. E208  
Indianapolis, IN 46204

**ONLINE**

By completing the form at  
<https://www.in.gov/dhs/appeals.htm>

For additional information about the administrative review process and applicable templates that may be used for filings, visit the following link <https://www.in.gov/dhs/appeals.htm>.

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Findings and Order has been served this 3rd day of December, 2019, via hand delivery upon the following:

**GATTITOWN**  
**316 N GREENRIVER RD**  
**Evansville, IN. 47715**

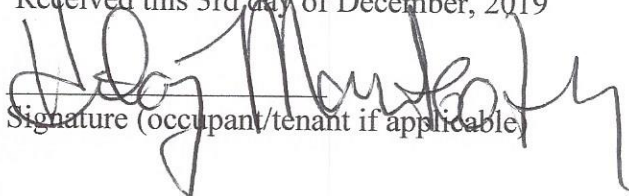


Signature  
Indiana State Fire Marshal Designee

Received this 3rd day of December, 2019

\_\_\_\_\_  
Signature (owner)

Received this 3rd day of December, 2019



Signature (occupant/tenant if applicable)



# FIRE AND BUILDING CODE ENFORCEMENT INSPECTION REPORT ORDER

DIVISION OF FIRE AND BUILDING SAFETY  
INDIANA DEPARTMENT OF HOMELAND SECURITY  
302 WEST WASHINGTON STREET, RM E241  
INDIANAPOLIS, IN 46204  
TELEPHONE: 317-232-2222  
WEB ADDRESS: WWW.IN.GOV/DHS

Identification Number BU29193	Name of the facility GATTITOWN	County VANDERBURGH
Address of Property 316 N GREENRIVER RD EVANSVILLE IN 47715	Name of the Contact EMILY SMITH	Telephone Number (812) 473-3800
Email		Inspection Date 10/28/2019
Inspection Category BUSINESS/MANUFACTURING	Inspection Type ANNUAL	Inspection Status: VIOLATION
Name of the inspector MATHEW HULSEY		Phone: 4632033197
Email: mhulsey@dhs.in.gov		

## Violations

VIO-LATION NUMBER	RULE OR INDIANA CODE SECTION VIOLATED	DESCRIPTION OF VIOLATION	DATE BY WHICH VIOLATION MUST BE CORRECTED
1	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> <p><u>Ceiling tiles were observed missing and damaged throughout the laser tag area. Ceiling tiles were observed out of place inside the front door area. Escutcheon rings were observed missing throughout the kitchen area and the laser tag area.</u></p> <p><u>Holes and openings in ceiling tiles can cause smoke and heat to rise above the ceiling level and bypass sprinkler heads causing them to go off as designed.</u></p>	11/28/2019
2	Sec. 901.6.1 2014 Edition IFC 675 IAC 22-2.5	<p>Fire protection systems shall be inspected, tested and maintained in accordance with the referenced standards listed in Table 901.6.1.</p> <p><u>Documentation was not available to show that the sprinkler system has been tested within the last year.</u></p>	11/28/2019
3	Sec. 605.5 2014 Edition IFC 675 IAC 22-2.5	<p>Extension cords and flexible cords shall not be a substitute for permanent wiring. Extension cords and flexible cords shall not be affixed to structures, extended through walls, ceilings or floors, or under doors or floor coverings, nor shall such cords be subject to environmental damage or physical impact. Extension cords shall be</p>	11/28/2019

		used only with portable appliances. <u>Flexible cords were found passing through the ceiling in the laser tag area and in Gattis Theatre by the Left projector.</u>	
--	--	--	--

Facility Id	Received By Name	Signature and Date
BU29193		

If you are receiving this notice, property that you own or have control over has been inspected by the Indiana Department of Homeland Security (Department). Depending on the outcome of this inspection, alleged violations may have been found. If violations were found, the below information describes what this notice means and how to request review of the violations contained in this report.

### 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, sign and return this notice to your inspector 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 up to \$250 per day per violation.
3. I understand no extensions of time are permitted unless they are granted in writing by 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.

Printed Name: \_\_\_\_\_ Signature: \_\_\_\_\_

If you choose not to enter into a corrective plan and would like to request **informal review** of this report, please complete the informal review form located at <https://www.in.gov/dhs/appeals.htm>. Following the receipt of this form, the Department 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 review. Additionally, if you have any questions regarding this report, you may contact that Department at (317)

232-2222.

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 stay in writing.

If you desire a formal administrative review of these violations, you must comply with the requirement of Indiana Code IC 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 may submit your petition by the following methods:

**U.S. MAIL OR PERSONAL SERVICE**

Indiana Department of Homeland Security  
Fire Prevention and Building Safety Commission  
c/o Legal Counsel  
302 W. Washington Street, Rm. E208  
Indianapolis, IN 46204

**ONLINE**

By completing the form at  
<https://www.in.gov/dhs/appeals.htm>

For additional information about the administrative review process and applicable templates that may be used for filings, visit the following link <https://www.in.gov/dhs/appeals.htm>.