

BEFORE THE ELEVATOR SAFETY BOARD
STATE OF ARKANSAS

IN RE: FIRST PRESBYTERIAN CHURCH
 A.S #3641

ORDER

This matter comes before the Arkansas Elevator Safety Board on Wednesday, September 20, 2007. The petitioner, First Presbyterian Church, seeks a variance for the above referenced elevator.

FINDINGS OF FACT:

1. The petitioner, First Presbyterian Church (FPC), seeks a variance from ASME A17.1-2007 2.1 and 2.1.5, concerning the elevator hoistway and window.
2. The elevator was installed in 1954 and was not discovered and properly licensed by the Arkansas Department of Labor Elevator Division (ADL) until 1980.
3. That in November 1988, the Arkansas Elevator Safety Board (Board) denied a variance request concerning this elevator, but allowed continued operation provided the hoistway window was covered with eighteen gauge expanded metal. FPC complied with this request in December 1988.
4. The elevator has been inspected by a private inspector and the ADL has issued operating permits since 1980.
5. The ADL has witnessed at least three (3) required load tests since 1980.
6. That ADL required FPC to install two-way communication in February 2004. FPC complied with this requirement by August 2004.

7. That Acting Chief Elevator Inspector Leroy Moore (Moore) “red-tagged” the elevator upon inspection July 24, 2007. His report cited “[h]oistway made out of wood,” “no machine room,” and “windows in hoistway.” These violations had never been cited to date.

8. That FPC requested a variance from ASME A17.1-2007 2.1 and 2.1.5, concerning the elevator hoistway and window in correspondence dated August 27, 2007. FPC orally added the machine room citation to the variance request at the hearing through Charles Halbert (Halbert).

9. That the church congregation is small and only a limited number of elderly members use the elevator to access the church sanctuary, which is on the second floor.

10. That Halbert testified the church would comply with the cited violations, but requested to operate the elevator until such corrections could be made.

12. Moore made a report to the board and recommended denial of the variance. Additionally, Moore testified that the elevator is generally in good condition but does not meet the code requirements for the three areas cited in his report.

CONCLUSIONS OF LAW:

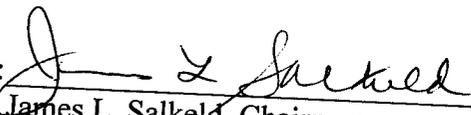
1. Ark. Code Ann. § 20-24-106(d) provides that “[t]he board shall also have the power in any particular case to grant exceptions and variations which shall only be granted where it is clearly evident that they are necessary in order to prevent undue hardship or where the existing conditions prevent compliance with the literal requirements of the rules and regulations. In no case shall any exception or variation be granted unless, in the opinion of the board, reasonable safety will be secured thereby.”

2. In the present case, the Board concludes that an undue hardship exists to FPC if the elevator is not allowed to operate due to: (1) the small number of passengers using the elevator, (2) that the church sanctuary is elevated, and (3) the fact that the elevator is in generally good condition. Further, the Board concludes that reasonable safety will be secured with the granting of the variance. The Board concludes that FPC shall receive a variance from the above referenced requirements until January 1, 2009, at which time the elevator will conform to all applicable Code requirements.

THEREFORE, the board grants a variance to First Presbyterian Church to operate the elevator until January 1, 2009, at which time the elevator shall be Code compliant.

IT IS SO ORDERED.

ELEVATOR SAFETY BOARD
STATE OF ARKANSAS

By: 
James L. Salkeld, Chairman

Date: 10-4-07

Approved:
Daniel Knox Faulkner, 2002168
Staff Attorney
Arkansas Department of Labor
10421 West Markham Street
Little Rock, AR 72205
(501) 682-4504

**BEFORE THE ELEVATOR SAFETY BOARD
STATE OF ARKANSAS**

**IN RE: GRANITE MOUNTAIN QUARRIES
 AS # 2168**

ORDER

This matter came before the Elevator Safety Board on Thursday, January 11, 2007 on a request for a variance from Granite Mountain Quarries. There was no representative of Granite Mountain Quarries present at the hearing. Based on the evidence presented at the hearing the board makes the following Findings of Fact and Conclusions of Law.

Findings of Fact:

1. On or about November 8, 2006, Granite Mountain Quarries petitioned for a variance on Elevator #AS 2168, located at its plant in Sweet Home, Arkansas. Specifically, Granite Mountain Quarries requests that it not be required to install Firefighters' Service on AS #2168.
2. AS #2168 is a freight elevator installed in 1972. It is not located in a building, but is located in an open metal structure known as Shaker Tower Plant 1. The elevator itself is open and has a capacity of 2500 pounds.
3. On December 8, 2006, the Chief Elevator Inspector, Larry Smothers, issued a report and recommendation to the board with respect to this variance request. Mr. Smothers recommended that the variance be granted, noting that it was his opinion that Firefighters' Service would not properly operate due to the dust generated by the mining operation and the open nature of the elevator. Mr. Smothers' statements to the board were the same on the date of hearing.

Conclusions of Law:

1. ASME A7.3, Rule 3.11.3 (2005), which requires Firefighters' Services was adopted by the board on September 26, 2007. Elevator Safety Board Rule 010.05.13 (Sept. 2006). This rule further provides:

Notwithstanding the provisions of ASME A17.3-2005, the owner or operator of any elevator without Phase I and Phase II fire service shall have a period of five (5) years from the effective date of these regulations or until alteration to install Phase I and Phase II fire service, whichever occurs first.

Elevator Safety Board Rule 010.05-13(A)(2).

3. Ark. Code Ann. § 20-24-106(d) authorizes the board "to grant exceptions and variations which shall only be granted where it is clearly evident that they are necessary in order to prevent undue hardship or where the existing conditions prevent compliance with the literal requirements of the rules and regulations. In no case shall any exception or variation be granted unless, in the opinion of the board, reasonable safety will be secured thereby." *See also* Elevator Safety Board Rule 010.05-016(A).

4. In the present case, the board concludes that the dust generated from the owner's mining operation and the open nature of the elevator prevent literal compliance with ASME A7.3, Rule 3.11.3 (2005) and that it would constitute an undue hardship to require installation of Firefighters' Service when, in the opinion of the Chief Elevator Inspector, it would not operate properly.

5. The board concludes that reasonable safety will be assured by granting this variance due to the fact that the elevator serves an open metal structure and is not located in a building. This elevator does not have the same risk factors as an elevator located in a building which makes Firefighters' Service in those locations vital.

THEREFORE, the Elevator Safety Board grants a variance from the requirement of ASME A7.3, Rule 3.11.3 (2005) to Granite Mountain Quarries with respect to the elevator permitted as AS #2168. The board has the authority to revoke this variance if there is a material change in conditions upon proper notice and opportunity for hearing.

This decision being made on January 11, 2007 is issued now for that date.

ELEVATOR SAFETY BOARD
STATE OF ARKANSAS

By: 
James L. Salkeld, Chairman

Date: 4/15/07

Approved as to form:

Denise P. Oxley, 84-117
Chief Legal Counsel
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BEFORE THE ELEVATOR SAFETY BOARD
STATE OF ARKANSAS

IN RE: EVERGREEN PACKAGING, INC.
 A.S #805 and #3000

ORDER

This matter comes before the Elevator Safety Board on Wednesday, September 20, 2007. The petitioner, Evergreen Packaging, Inc., 5201 Fairfield Road, Pine Bluff Arkansas, seeks a variance to reclassify the above referenced elevators to operate as material lifts. Both devices are currently licensed and inspected as freight elevators.

FINDINGS OF FACT:

1. The petitioner, Evergreen Packaging, Inc., 5201 Fairfield Road, Pine Bluff Arkansas, seeks a variance from A17.1-2007 1.3 for the above referenced elevators to operate as material lifts.
2. Leroy Moore, Acting Chief Elevator Inspector, Arkansas Department of Labor, made a report to the board and recommended approval of the variance with the following conditions:
 - a. warning lights and mechanical locks be installed on each landing to ensure doors are locked when the conveyance is located on another landing; and
 - b. that existing warnings signs also be printed in multiple languages.
3. The variance request does not pose a significant safety risk if the above referenced conditions are implemented.

CONCLUSIONS OF LAW:

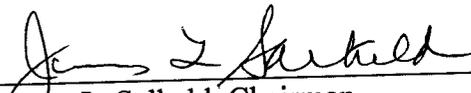
In the present case, the board concludes that due to the conditions presented, the conveyances should be reclassified as material lifts and that reasonable safety will be secured with the granting of the variance with the following conditions:

- a. warning lights and mechanical locks be installed on each landing to ensure doors are locked when the conveyance is located on another landing; and
- b. that existing warnings signs also be printed in multiple languages.

THEREFORE, the board grants the variance to Evergreen Packaging, Inc., to operate these conveyances as material lifts.

IT IS SO ORDERED.

ELEVATOR SAFETY BOARD
STATE OF ARKANSAS

By: 
James L. Salkeld, Chairman

Date: 10-4-07

Approved:
Daniel Knox Faulkner, 2002168
Staff Attorney
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BEFORE THE ELEVATOR SAFETY BOARD
STATE OF ARKANSAS

IN RE: A.S. #2810
 BROCK AND JENNIFER HARRIS
 PAIRADOCS, LLC

ORDER

This matter comes before the Elevator Safety Board on Wednesday March 21, 2007. The petitioner, Brock and Jennifer Harris/Pairadocs, LLC, seek a variance to operate A.S. #2810 under ASME A17.3, 2005. The Board makes the following findings of fact and conclusions of law.

FINDINGS OF FACT:

1. The petitioner, Brock and Jennifer Harris/Pairadocs, LLC, seek a variance to operate A.S. #2810, located at 524 Church Street, Jonesboro, Arkansas, under ASME A17.3, 2005(Existing elevators) rather than ASME 17.1 (New elevators).
2. A.S. #2810 is currently required to operate under ASME A17.1 because of the provisions of Arkansas Elevator Safety Rules and Regulations Section 010.05-013(B).
3. The petitioner has received the requisite safety testing from Otis Elevator; however, the test was not witnessed by the Agency as required by 010.05-013(B). The safety test report from Otis Elevator presented to the Board was not dated.
4. Larry Smothers, Chief Elevator Inspector, Arkansas Department of Labor, made a report to the board and recommended approval of the variance.
5. Petitioner amended the variance request at the hearing to request that a new safety test witnessed by the Agency be waived until the next regularly scheduled safety test as required by the Regulations.

CONCLUSIONS OF LAW:

1. Ark. Code Ann. § 20-24-106(d) provides that “[t]he board shall also have the power in any particular case to grant exceptions and variations which shall only be granted where it is clearly evident that they are necessary in order to prevent undue hardship or where the existing conditions prevent compliance with the literal requirements of the rules and regulations. In no case shall any exception or variation be granted unless, in the opinion of the board, reasonable safety will be secured thereby.”

2. In the present case, the board concludes that existing conditions prevent literal compliance with the standards adopted by the board or that an undue hardship exists and that reasonable safety will be secured with the granting of the variance.

3. This variance shall be granted upon Agency receipt of a dated safety report from Otis Elevator confirming the date of the above-referenced safety test. See attached exhibit 1.

THEREFORE, the board grants the variance to Brock and Jennifer Harris/Pairadocs, LLC to operate A.S. #2810 under ASME A17.3, 2005 for exiting elevators and to waive the safety test requirement for the conveyance until the next scheduled safety test as required by the Regulations. This variance shall become effective upon receipt of the above-referenced dated safety report.

IT IS SO ORDERED.

ELEVATOR SAFETY BOARD
STATE OF ARKANSAS



By: _____
James L. Salkeld, Chairman

3/28/07
DATE

Approved:
Daniel Knox Faulkner, 2002168
Staff Attorney
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(501) 682-4504

BEFORE THE ELEVATOR SAFETY BOARD
STATE OF ARKANSAS

IN RE: EASTSIDE LOFTS
 FRENCH ARCHITECTS

ORDER

This matter comes before the Elevator Safety Board on Wednesday March 21, 2007. The petitioner, French Architects, 827 Central Avenue, Suite B, Hot Springs, Arkansas, seeks a variance to allow the machine room door to be six (6) feet tall rather than the seven (7) feet required by ASME A17.1 Section 2.7.4.1. The conveyance will be located at Eastside Auditorium Loft Apartments, 1500 Cumberland, Little Rock, Arkansas.

FINDINGS OF FACT:

1. The petitioner, French Architects, 827 Central Avenue, Suite B, Hot Springs, Arkansas, seeks a variance to allow the machine room door to be six (6) feet tall rather than the seven (7) feet required by ASME A17.1 Section 2.7.4.1.

2. The request does not pose a significant safety risk if warnings are placed indicating the lower door height, and the petitioner will incur significant cost if other options are required for placement of the machine room.

3. Larry Smothers, Chief Elevator Inspector, Arkansas Department of Labor, made a report to the board and recommended denial of the variance.

CONCLUSIONS OF LAW:

1. Ark. Code Ann. § 20-24-106(d) provides that “[t]he board shall also have the power in any particular case to grant exceptions and variations which shall only be granted where it is clearly evident that they are necessary in order to prevent undue hardship or where the

existing conditions prevent compliance with the literal requirements of the rules and regulations. In no case shall any exception or variation be granted unless, in the opinion of the board, reasonable safety will be secured thereby.”

2. In the present case, the board concludes that existing conditions prevent literal compliance with the standards adopted by the board or that an undue hardship exists and that reasonable safety will be secured with the granting of the variance with the following conditions:

The low clearance shall be painted with yellow and black 2” stripes and standard OSHA signage indicating low clearance shall be placed on the inside and outside of the machine room door. The same signage shall be placed on the inside and outside of the beam.

THEREFORE, the board grants the variance to French Architects to allow the machine room door to be six (6) feet tall rather than the seven (7) feet required by ASME A17.1 Section 2.7.4.1, provided the above referenced conditions are met.

IT IS SO ORDERED.

ELEVATOR SAFETY BOARD
STATE OF ARKANSAS

By: 
James L. Salkeld, Chairman

Date: 3/28/07

Approved:
Daniel Knox Faulkner, 2002168
Staff Attorney
Arkansas Department of Labor
10421 West Markham Street
Little Rock, AR 72205
(501) 682-4504

**BEFORE THE ELEVATOR SAFETY BOARD
STATE OF ARKANSAS**

**IN RE: SETEC ELEVATORS/BASIN PARK HOTEL
 A.S #1203**

ORDER

This matter comes before the Arkansas Elevator Safety Board on Tuesday, December 17, 2007. The petitioner, SETEC Elevators, on behalf on the Basin Park Hotel, seeks a variance for the above referenced elevator.

FINDINGS OF FACT:

1. The petitioner, SETEC Elevators, seeks a variance on behalf of the Basin Park Hotel, Eureka Springs, Arkansas, from ANSI A117.1, 2003 407.4.1 "Elevator" Car Dimensions and 408.3.3 "Elevator" Door Location and Width for the above-referenced elevator.

2. SETEC Elevators/Basin Park Hotel presented evidence that compliance with A117.1 Code requirements is problematic based on (1) the physical constraints of the building, (2) the historical significance/structure of the building, (3) the lack of a suitable location for an alternate elevator installation plan, and (4) cost involved in any alternate plan.

3. Larry Smothers, Chief Elevator Inspector, Arkansas Department of Labor, made a report to the board and recommended denial of the variance with respect to ANSI A117.1, 2003 407.4.1. Mr. Smothers had no objection to the request for variance from ANSI A117.1, 2003 408.3.3.

CONCLUSIONS OF LAW:

1. Ark. Code Ann. § 20-24-106(d) provides that "[t]he board shall also have the power in any particular case to grant exceptions and variations which shall only be granted where it is clearly evident that they are necessary in order to prevent undue hardship or where the

existing conditions prevent compliance with the literal requirements of the rules and regulations. In no case shall any exception or variation be granted unless, in the opinion of the board, reasonable safety will be secured thereby.”

2. In the present case, the Board concludes that an undue hardship exists to SETEC Elevators/Basin Park Hotel if the elevator is not allowed to operate due to: (1) the physical constraints of the building, (2) the historical significance/structure of the building, (3) the lack of a suitable location for an alternate elevator installation plan, and (4) cost involved in any alternate plan. Further, the Board concludes there is no safety risk present in granting this request. The Board concludes that SETEC Elevators/Basin Park Hotel shall receive a variance from ANSI A117.1, 2003 407.4.1 and 408.3.3.

THEREFORE, the board grants a variance to SETEC Elevators/Basin Park Hotel shall receive a variance from the above referenced Code requirements.

IT IS SO ORDERED.

ELEVATOR SAFETY BOARD
STATE OF ARKANSAS

By: 
James L. Salkeld, Chairman

Date: 1-2-08

Approved:
Daniel Knox Faulkner, 2002168
Staff Attorney
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Little Rock, AR 72205
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BEFORE THE ELEVATOR SAFETY BOARD
STATE OF ARKANSAS

IN RE: DREW COUNTY DEVELOPMENTAL DISABILITIES COUNCIL, INC.
 203 East Trotter
 P. O. Box 359
 Monticello, AR 71657

AMENDED ORDER

This matter came before the Elevator Safety Board on Tuesday, January 17, 2006. The petitioner, Drew County Developmental Disabilities Council, Inc., seeks a variance with respect to an elevator installed in its facilities at 203 East Trotter, Monticello, Arkansas. Sandy Patrick, Executive Director, submitted the variance request on behalf of the non-profit corporation. No one appeared at the board meeting. The board makes the following findings of fact and conclusions of law.

FINDINGS OF FACT:

1. The petitioner hired a Louisiana contractor to install the elevator approximately two (2) years ago. No installation permit and no operating permit were sought or obtained. No safety inspections were performed.
2. The conveyance is a residential elevator and does not meet the standards of ASME 17.1, as adopted by the board for new construction.
3. The petitioner has no funds for removal and replacement of this elevator.
4. The conveyance was "red-tagged" or its use prohibited by the Elevator Safety Division.
5. The petitioner seeks a permanent variance, or alternately a temporary variance of two weeks to allow them to relocate.

CONCLUSIONS OF LAW:

1. Ark. Code Ann. § 20-24-106(d) provides that “[t]he board shall also have the power in any particular case to grant exceptions and variations which shall only be granted where it is clearly evident that they are necessary in order to prevent undue hardship or where the existing conditions prevent compliance with the literal requirements of the rules and regulations. In no case shall any exception or variation be granted unless, in the opinion of the board, reasonable safety will be secured thereby.”

2. Applicable to this project is the provisions of the American Society of Mechanical Engineers Safety Code for Elevators and Escalators, ASME A17.1-1990 and Addendas 1991 and 1992, as adopted by board.

3. In the present case, the board concludes that granting a permanent variance would compromise safety, but that a temporary variance for a period of two weeks would alleviate an undue hardship which would be created if they could not use the elevator to move and would not compromise safety.

THEREFORE, the board grants the variance to Drew County Developmental Disabilities, Inc. to operate the conveyance located in its facilities at 203 East Trotter, Monticello, Arkansas for a period of time to expire on February 15, 2007.

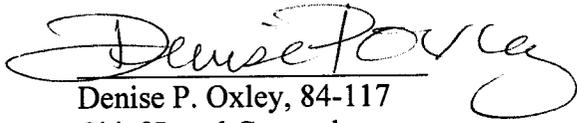
IT IS SO ORDERED.

ELEVATOR SAFETY BOARD
STATE OF ARKANSAS

By: 
James L. Salkeld, Chairman

Date: 1-29-07

Approved as to form:

A handwritten signature in black ink, reading "Denise P. Oxley". The signature is written in a cursive style with a large, looping initial "D".

Denise P. Oxley, 84-117
Chief Legal Counsel
Arkansas Department of Labor
10421 West Markham Street
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(501) 682-4504

BEFORE THE ELEVATOR SAFETY BOARD

**IN RE: ARKANSAS STATE UNIVERSITY
 AS # 3943**

ORDER

This matter came before the Elevator Safety Board on Tuesday, January 17, 2006 on a request for a variance from Arkansas State University. There was no representative of the university present at the hearing.

Findings of Fact:

1. The elevator permitted as AS #3943 was installed in 1993. It is located in the Dean B. Ellis Library on the ASU campus.
2. As a result of an inspection, ASU was cited for having roof drain lines located in the overhead of the hoist way. These pipes have been in the building for many years. Clint Halcom, Facilities Manager for ASU, states in his request for variance that the pipes have been in the hoist way since the original construction of the building.
3. Larry Smothers, Chief Elevator Inspector, advised the board that the pipes were located to one side and that he recommended granting the variance until such time as the elevator undergoes a update or modification.

Conclusions of Law:

1. ASME A7.1, Rule 102.2(d) as adopted by the board provides that “[o]ther pipes or ducts conveying gases, vapors or liquid and not used in connection with the operation of the elevator shall not be installed in any hoistway, machine room, or machinery space.”
2. Ark. Code Ann. § 20-24-106(d) authorizes the board “to grant exceptions and variations which shall only be granted where it is clearly evident that they are necessary in order

to prevent undue hardship or where the existing conditions prevent compliance with the literal requirements of the rules and regulations. In no case shall any exception or variation be granted unless, in the opinion of the board, reasonable safety will be secured thereby.”

3. The board concludes that the construction costs necessary to correct this code violation is sufficient to establish undue hardship and that reasonable safety will be secured.

THEREFORE, the Elevator Safety Board grants a variance to Arkansas State University with respect to the elevator permitted as AS #3943 to allow existing pipes in the hoist way until the elevator undergoes a modification. This decision being made on January 17, 2006 is issued now for that date.

ELEVATOR SAFETY BOARD
STATE OF ARKANSAS

By: _____
James L. Salkeld, Chairman

Date: _____

Approved:

Denise P. Oxley, 84-117
Chief Legal Counsel
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