BEFORE THE ELEVATOR SAFETY BOARD
STATE OF ARKANSAS

IN RE: **DEAN HUGHEN**
PAUL MORRELL FORMALWEAR
AS #2525

CONSENT ORDER

This matter comes before the Elevator Safety Board on Thursday, November 17, 2016, upon a variance request from Paul Morrell Formalwear. The Arkansas Department of Labor and the petitioner agree with respect to disposition of this matter and the granting of the variance.

FINDINGS OF FACT:

1. On August 1, 2016, the Department of Labor received a variance request from Paul Morrell Formalwear with respect to the conveyance it operates at 120 S. Victory Street in Little Rock, Arkansas. Specifically, the applicant stated that the conveyance is classified for permitting as a freight elevator, when it is actually a material lift. The variance is for a change in classification to material lift.

2. The conveyance has no operational controls inside the car. The doors can only be opened from outside the car. The conveyance has a sign indicating "No Riders." The applicant contends that no one has ridden inside the conveyance since the property was purchased in 1986.

3. The Chief Elevator Inspector for the Department of Labor inspected the conveyance on or about November 4, 2016, and completed a staff report and recommendation on the variance request dated November 4, 2016.

4. The Chief Elevator Inspector's testimony before the board is that the conveyance is located for staff use and is not in a location accessible to the general public.

5. The staff report and recommendation reflect the Chief Elevator Inspector's conclusion that the conveyance meets the technical criteria to be classified as a Class "A" material lift, but not all the technical requirements for a freight elevator. The recommendation was that the variance be granted.

CONCLUSIONS OF LAW:

6. 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."

7. In the present case, the board concludes that the conveyance has been misclassified for years and that it is an undue hardship to maintain the permitting of the material lift as a freight elevator.

8. The board concludes that reasonable safety will be secured, provided the petitioner continues to maintain the following:

a. no operational controls in the car;

b. signs prohibiting riders; and

c. no actual riders.

THEREFORE, the board orders that the variance be granted and that the conveyance be re-classified as a Class "A" material lift conditioned upon the continued maintenance of the safety provisions outlined in paragraph 8 above.

IT IS SO ORDERED.

By: _____
Leon Jones, Jr., Chairman

Date: 11·17·16

Approved:

ARKANSAS DEPARTMENT OF LABOR

By: _____
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