

BEFORE THE ELEVATOR SAFETY BOARD  
STATE OF ARKANSAS

IN RE: AS #1935  
ARKANSAS SCHOOL FOR MATHEMATICS, SCIENCES & THE ARTS  
200 Whittington Avenue  
Hot Springs, Arkansas

**ORDER**

This matter came before the Elevator Safety Board on Thursday, September 18, 2008.

The petitioner was represented by counsel, Adria Nobles Kimbrough. The Department of Labor was represented by counsel, Denise Oxley, and by Larry Smothers, Chief Elevator Inspector.

The Board makes the following findings of fact and conclusions of law:

FINDINGS OF FACT:

1. The petitioner seeks a variance from the minimum dimensions required of elevator cars pursuant to ANSI A117.1-2003, Rule 407.4, as adopted by the Board. Elevator Safety Board Rule 010.05-018.
2. The elevator was manufactured by Otis and installed in 1951.
3. The elevator shaft was constructed during the original building construction, and contains cast concrete beams integral to the building structure.
4. The building is owned by the City of Hot Springs, and is leased by the petitioner.
5. The building and elevator are currently undergoing renovation.
6. The current elevator car dimensions are reflected in the attached Exhibit A, which is incorporated herein.
7. The proposed elevator car dimensions are reflected in the attached Exhibit B, which is incorporated herein.

8. The petitioner proposes expanding the dimensions of the elevator car as far as the structure of the building itself will permit.

9. Larry Smothers, Chief Elevator Inspector, recommended to the board that the variance be granted.

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 compliance with the literal requirements of the rules and regulations and that reasonable safety will be secured by the granting of the variance.

THEREFORE, the Board grants a variance to the Arkansas School for Mathematics, Sciences & the Arts allowing the dimension of the elevator car for the elevator AS #1935 to correspond to the dimensions in Exhibit B, attached hereto and incorporated herein.

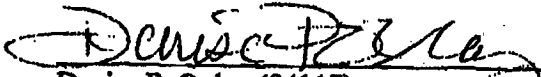
IT IS SO ORDERED.

ELEVATOR SAFETY BOARD  
STATE OF ARKANSAS

By:   
James L. Salkeld, Chairman

DATE: 10-13-2008

APPROVED:



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BEFORE THE ELEVATOR SAFETY BOARD  
STATE OF ARKANSAS

IN RE: AS #2281  
OZARKS COMMUNITY HOSPITAL  
1101 Southwest Jackson Street  
Gravette, Arkansas

**ORDER**

This matter came before the Elevator Safety Board on Thursday, September 18, 2008. The petitioner was not present. The Department of Labor was represented by counsel, Denise Oxley, and by Larry Smothers, Chief Elevator Inspector. The Board makes the following findings of fact and conclusions of law:

FINDINGS OF FACT:

1. On March 24, 2008, the Board granted a variance for a period of 6 months on AS #2281 to allow it to operate while the other elevator in the building was being modernized. A copy of the order is attached hereto and incorporated herein as Exhibit A.
2. The petitioner, Ozarks Community Hospital, requests a 6-month extension of this variance while it waits approval of its designation as a critical care access hospital. If such approval is not obtained, the hospital will close.
3. The Chief Elevator Inspector of the Arkansas Department of Labor recommended that the 6-month extension be granted.

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. The Board concludes the variance should be granted.

THEREFORE, the Board grants a 6-month extension of the variance granted on AS #2281 March 24, 2008. This variance shall expire February 28, 2009.

IT IS SO ORDERED.

ELEVATOR SAFETY BOARD  
STATE OF ARKANSAS

By:   
James L. Salkeld, Chairman

DATE: 9/25/08

Approved as to Form:

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BEFORE THE ELEVATOR SAFETY BOARD  
STATE OF ARKANSAS

IN RE: A.S. #2281  
OZARK COMMUNITY HOSPITAL

ORDER

This matter comes before the Elevator Safety Board on Tuesday, March 18, 2008. The petitioner, Ozarks Community Hospital, seek a variance to operate A.S. #2281 in its current condition for six months rather than ASME 17.1 2004, 2005 Supplement and 2005 Addenda (New elevators). The Board makes the following findings of fact and conclusions of law.

FINDINGS OF FACT:

1. The petitioner, Ozarks Community Hospital, seeks a variance to operate A.S. #2281, located at 1101 Southwest Jackson Street, Gravette, Arkansas, in its current condition for six months rather than under the requirements of ASME 17.1 2004, 2005 Supplement and 2005 Addenda (New elevators) to accommodate the modernization of A.S. #2282.
2. A.S. #2281 is currently required to operate under ASME 17.1 2004, 2005 Supplement and 2005 Addenda (New elevators) 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 and has been inspected by Larry Smothers, Chief Elevator Inspector, Arkansas Department of Labor.
4. Mr. Smothers made a report to the board and recommended approval of the variance to allow operation of A.S. #2281 for six month in its current condition while A.S. #2282 is being modernized to ASME 17.1 2004, 2005 Supplement and 2005 Addenda (New elevators)



standards. Additionally, this recommendation would require both elevators to become Code complaint within a twelve month period.

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.

THEREFORE, the board grants the variance to Ozarks Community Hospital to allow operation of A.S. #2281 for six months in its current condition while A.S. #2282 is being modernized to ASME 17.1 2004, 2005 Supplement and 2005 Addenda (New elevators) standards. Additionally, this variance requires both elevators to become Code complaint within a twelve month period.

IT IS SO ORDERED.

ELEVATOR SAFETY BOARD  
STATE OF ARKANSAS

By:  3-24-08  
James L. Salkeld, Chairman      DATE

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

IN RE: AS #710  
FIRST FINANCIAL BANK  
214 N. Washington  
El Dorado, AR 71731

**ORDER**

This matter came before the Elevator Safety Board on Thursday, September 18, 2008. The petitioner was represented by Donald Dendy, Building Engineer with First Financial Bank. The Department of Labor was represented by counsel, Denise Oxley, and by Larry Smothers, Chief Elevator Inspector. The Board makes the following findings of fact and conclusions of law.

FINDINGS OF FACT:

1. First Financial Bank has a hydraulic freight elevator, AS #710, in the basement of its building. It runs from the basement up 8 ½ feet to the sidewalk outside the building.
2. The elevator was installed in 1970 and has a single flat bottom jack. This jack is required to be replaced or retrofitted by September 1, 2011. *See* Elevator Safety Board Rule 010.05-013(A)(3).
3. The elevator is used to move trash from the basement to street level for collection. Passengers do not ride the elevator. Employees who load the elevator take the stairs to the street level to unload the elevator.
4. First Financial seeks a variance to re-classify the freight elevator as a materials lift. They agreed to remove any buttons from the cab in order to assure no passenger rides the



elevator. The Chief Elevator Inspector for the Department of Labor recommended that the variance be denied.

5. At the hearing before the Board, Mr. Denby and Ms. Oxley both agreed to recommend to the Board that the petitioner be granted a variance from the flat bottom jack retrofit requirement in lieu of a reclassification, provided that the petitioner removes all operating buttons from inside the elevator car and posts a notice at each landing that passengers are prohibited. The elevator would continue to be permitted and inspected as a freight elevator and meet all other safety standards.

#### CONCLUSIONS OF LAW:

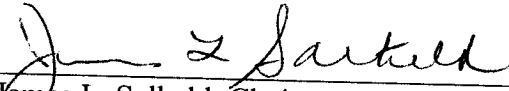
1. Ark. Code Ann. § 20-24-106(d) provides that “[t]he board shall also have the power in any particular case to grant exceptions and variations which shall only be granted where it is clearly evident that they are necessary in order to prevent undue hardship or where the existing conditions prevent compliance 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 due to the very limited use of the elevator, together with the costs involved in replacing or retrofitting the flat bottom jack. The Board also concludes that reasonable safety will be secured by the conditions placed upon the granting of the variance.

THEREFORE, the Board grants a variance to First Financial Bank with respect to freight elevator AS #710, specifically AS#710 does not have to have a replacement or retrofit of its flat bottom jack, provided that: a) all buttons will be removed from inside the car; and b) signs will be posted at inside landing and in the car which will state that passengers are prohibited.

IT IS SO ORDERED.

ELEVATOR SAFETY BOARD  
STATE OF ARKANSAS

By:   
James L. Salkeld, Chairman

DATE: 10/9/08

Approved as to Form:

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BEFORE THE ELEVATOR SAFETY BOARD  
STATE OF ARKANSAS

IN RE: AS #6760  
UNDERWOOD'S FINE JEWELERS  
611 West Dickson  
Fayetteville, AR 72701

**ORDER**

This matter came before the Elevator Safety Board on Thursday, September 18, 2008. The petitioner was represented by William G. Underwood, Chairman. The Department of Labor was represented by counsel, Denise Oxley, and by Larry Smothers, Chief Elevator Inspector. The Board makes the following findings of fact and conclusions of law:

FINDINGS OF FACT:

1. William G. Underwood is the principal owner of Underwood's Fine Jewelers and he was 76 years old in September, 2008. He has had several hip replacements and has a knee replacement scheduled.
2. Mr. Underwood has a design studio, work shop and small apartment on the second floor of his store.
3. Several years ago, Mr. Underwood contracted with Arkansas Home Elevators of Springdale to install a residential elevator in his new home. He was so pleased; he subsequently had them install a residential elevator in the back of his store in order to access his design studio, work shop and small apartment. The small apartment is for Mr. Underwood's personal use when he is working. It is not leased.
4. The elevator has never been permitted or safety inspected.

5. The elevator is located in the back of the store in an area not open to the general public. It is used as Mr. Underwood's personal elevator. It is not used by employees and it is located in an area not open to the public.

6. Mr. Underwood requests a variance from the prohibition of operating a residential elevator in a commercial application. *See* Elevator Safety Board Rule 010.05-016(D)(3).

7. The Chief Elevator Inspector of the Arkansas Department of Labor recommended that the variance request be denied. *Id.*

#### 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."

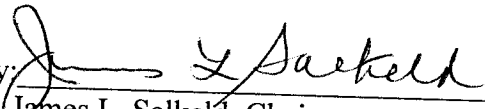
2. In the present case the Board concludes that an undue hardship exists due to the fact that the elevator services only one individual; Mr. Underwood has serious physical limitations; and the costs involved in replacing the elevator. The Board also concludes that reasonable safety will be secured by the conditions placed upon the granting of the variance.

THEREFORE, the Board grants a variance to Underwood Fine Jewelers to allow the residential elevator to operate pursuant to the following conditions: 1) the elevator shall be used solely by William G. Underwood; 2) signs shall be placed at each landing stating that the elevator is a private elevator and all other riders are prohibited; 3) the area in which the elevator is located shall continue to be restricted to only employees of Underwood's; and 4) this variance

shall expire five (5) years from the date of issue or at the time the building is sold, whichever occurs first.

IT IS SO ORDERED.

ELEVATOR SAFETY BOARD  
STATE OF ARKANSAS

By:   
James L. Salkeld, Chairman

DATE: 10/16/08

Approved as to Form:

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BEFORE THE ELEVATOR SAFETY BOARD  
STATE OF ARKANSAS

IN RE: QUAPAW BATHHOUSE  
NATIONAL PARK SERVICE  
Bathhouse Row  
Hot Springs, Arkansas

**ORDER**

This matter came before the Elevator Safety Board on Thursday, September 18, 2008. The petitioner is the National Park Service, United States Department of the Interior. The petitioner was represented by Josie Fernandez, Superintendent, and Bob Kempkes, an architect. The Department of Labor was represented by counsel, Denise Oxley, and by Larry Smothers, Chief Elevator Inspector. The Board makes the following findings of fact and conclusions of law.

FINDINGS OF FACT:

1. The petitioner seeks a variance with respect to three ASME Code standards for the installation of an elevator in the Quapaw Bathhouse, located on Bathhouse Row in Hot Springs National Park.<sup>1</sup> The Quapaw Bathhouse is a historic building which is part of a National Historic Landmark District located within a national park. The National Park Service contends that the variance from all three Code sections is necessary to preserve as much as possible the original structure and historical integrity of the building.

2. ASME A17.1-2007, section 2.4.12 requires a refuge space between the top of the car enclosure and the overhead structure or other obstruction of not less than 43 inches.

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<sup>1</sup> There is no jurisdictional issue before the Board. The National Park Service has requested state inspections and permitting for the elevator in question.

a. The clearance at the Quapaw Bathhouse is 35 inches due to the existence of structural supports throughout the building. Removal could cause structural failure.

b. The Chief Elevator Inspector recommended that a variance be granted with respect to this Code standard.

3. ASME A17.1-2007, section 2.7.1.1 requires that the machine room “shall be separated from the remainder of the building by a fire-resistive enclosure conforming to the requirements of the building code.”

a. The existing solid core wood door and frame open to the building lobby. Preservation of the historic fabric of the building lobby is of particular importance to the petitioner. The petitioner proposes to install metal sheeting on the machine room side of the door and cover the machine room side of the frame with fire-resistant gypsum board with a 60-minute fire rating.

b. The Chief Elevator Inspector recommended that a variance be granted with respect to this Code standard.

4. ASME A17.1-2007, section 2.7.2.1 provides that “[o]nly machinery and equipment used in conjunction with the function or use of the elevator shall be permitted in the elevator machine room.”

a. Currently there are three smoke detector relay boxes in the elevator machine room. These relay boxes work with the smoke and heat detectors for the elevator, machine room and shaft. The petitioner states that the only economically feasible places to relocate the relay boxes would be in a common hallway or outside the machine room door in the building lobby. Petitioner contends that either option would compromise the historical integrity of common, public-accessed areas of the building.

b. The Chief Elevator Inspector recommended that a variance be denied with respect to this Code standard.

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. The Board concludes that existing conditions prevent literal compliance with the provisions of ASME A17.1-2007, section 2.4.12 (refuge space) and that reasonable safety will be secured with a 35-inch refuge space.

3. The Board concludes that requiring literal compliance with ASME A17-1, section 2.7.1.1 and 2.7.2.1 would create an undue hardship by compromising the historical integrity of public accessed areas, including the lobby of the Quapaw Bathhouse. The Board concludes that reasonable safety can otherwise be secured.

THEREFORE, the Board grants a variance to the National Park Service with respect to the elevator located in the Quapaw Bathhouse as follows:

1. A variance from the provisions of ASME A17.1, section 2.4.12 is granted to allow a 35-inch refuge space;

2. A variance from the provisions of ASME A17.1, section 2.7.1.1 to allow the installation of metal sheeting on the machine room side of the door to the mechanical room and



to cover the machine room side of the frame with fire-resistant gypsum board with a 60-minute fire rating; and

3. A variance from the provisions of ASME A17.1, section 2.7.2.1 to allow three smoke detector relay boxes in the elevator machine room.

IT IS SO ORDERED.

ELEVATOR SAFETY BOARD  
STATE OF ARKANSAS

By:   
James L. Salkeld, Chairman

DATE: 10/16/08

Approved as to Form:

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