

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

**IN RE: ALTERNATIVE OPPORTUNITIES, INC.
AS/EV #3683**

CONSENT ORDER

This matter comes before the Elevator Safety Board on Thursday, November 20, 2014.

The petitioner, Alternative Opportunities, Inc. (AOI) requests a variance for AS/EV #3683

FINDINGS OF FACT:

1. AOI, P.O. Box 1277, Springfield, MO 65801, requests a variance for AS/EV #3683, located at 1355 East Main Street, Batesville, AR 72503.

2. Specifically, AOI submitted a request on November 4, 2014 seeking a variance from Regulation 010.05-013(B) which requires that:

Any conveyance which is out of operation or without an operating permit for twelve (12) months or more shall have a safety test or leak down test and a pressure test performed in the presence of a licensed elevator inspector in the employ of the department or its authorized representative before a new operating permit can be issued or before such can operate. Additionally, such conveyance shall conform to the standards established by Rule 010.05-011 or have a variance issued pursuant to Rule 010.05-016 before an operating permit can be issued or before it can operate.

3. The current standard established by Rule 010.05-011 is the American Society of Mechanical Engineers Safety Code for Elevators and Escalators, ASME A17.1 - 2007.

4. There is no dispute that the conveyance has been out of service longer than the twelve (12) months referenced in Regulation 010.05-013(B); or that AOI merged with a non-profit agency that had allowed the operating permit to lapse in 2011.

5. That the applicable Code had the conveyance been properly permitted would be the standards for existing elevators found in Regulation 010.05-013(A):

All conveyances shall be maintained by the owner or lessee in a condition that conforms to the standards established by the board which were in effect on the date of installation or the provisions of ASME A17.3-2005, whichever are more stringent.

6. Cody Wagoner, Chief Elevator Inspector, Arkansas Department of Labor, made a report to the board on November 5, 2014 and recommended approval of the variance.

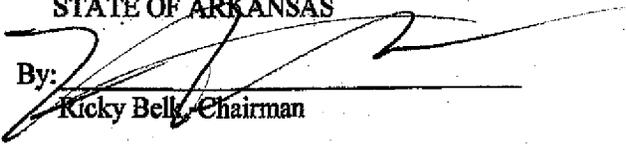
CONCLUSIONS OF LAW:

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 an undue hardship exists to AOI since: (1) AOI merged with a non-profit agency that had allowed the operating permit to lapse in 2011, and (2) cost involved in updating the conveyance to the standard for new elevators due to the conveyance's status at the time of the building purchase. Further, the Board concludes there is no safety risk present in granting this request. The Board concludes that AOI shall receive a variance from Regulation 010.05-013(B).

IT IS SO ORDERED.

ELEVATOR SAFETY BOARD
STATE OF ARKANSAS

By: 
Ricky Bell, Chairman

Date: 11.20.14



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