

BEFORE THE ELEVATOR SAFETY BOARD
STATE OF ARKANSAS

IN RE: CITY OF SHERWOOD PARKS AND RECREATION

ORDER

This matter comes before the Arkansas Elevator Safety Board on Thursday, February 19, 2015. City of Sherwood Parks and Recreation (CSPR) was represented in person by Parks Director Sonny Janssen and Darren Austin. The Arkansas Department of Labor (agency) was represented by staff attorney Daniel Faulkner.

FINDINGS OF FACT:

1. The petitioner, CSPR, submitted a variance request to the agency on January 20, 2015 for a passenger lift located at 7400 Highway 107, Sherwood Arkansas 72120. The lift is located at The Greens at North Hills, which contains an event center.
2. CSPR intends to replace the conveyance with a ramp, and seeks a temporary variance to operate this conveyance until its completion.
3. The conveyance was installed in 2008 without an installation permit as required by Ark. Code Ann. § 20-24-115(a)(1). The conveyance has never been permitted or inspected by the agency. There is no dispute that the conveyance should have been properly permitted and installed since 2008.

4. CSPR presented drawings of the ramp, and is currently in the planning stage on construction. CSPR also indicated that several events are scheduled to occur in the coming months, and there are concerns that some of these events could be cancelled without permission to temporarily use this lift. The building is not accessible to an individual with a disability without use of the lift.

5. Cody Wagoner (Wagoner), Chief Elevator Inspector, Arkansas Department of Labor, made a report to the board and recommended denial of the variance since the conveyance does not meet the requirements of several A18.1-2005 sections. Wagoner testified reading these code violations. He ultimately testified before the Board that reasonable safety could be increased if certain additions are made to the conveyance. The Board also made safety-enhancing recommendations.

6. That CSPR orally amended its request during the meeting to incorporate Wagoner's and the Board's recommendations into a conditional temporary variance request.

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. That the applicable code is ASME A18.1-2005.

3. In the present case, the Board concludes that an undue hardship is present in this matter due to the fact that accessibility to the building is limited without temporary use of the lift.

4. Further, the Board concludes that reasonable safety will be secured if this request is granted pursuant to these conditions: addition of fencing around the entire concrete pad on lower landing; installation of a key lock and automatic closing mechanism for top and bottom landings; and CSFR attendant-only operation. These conditions shall be performed before Wagoner will release the elevator for temporary operation.

THEREFORE, the board grants a temporary variance until August 19, 2015 to operate this lift once these conditions are met and the conveyance is properly inspected and permitted by the agency.

IT IS SO ORDERED.

ELEVATOR SAFETY BOARD
STATE OF ARKANSAS

By: Leon Jones, Jr.
Leon Jones, Jr., Chairman

Date: 5/21/15

Approved: [Signature]

5/19/15

[Signature]

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