

BEFORE THE ELEVATOR SAFETY BOARD
STATE OF ARKANSAS

IN RE: ARKANSAS SCHOOL FOR MATHEMATICS, SCIENCES, AND THE ARTS
CEDAR STREET BUILDING
AS/EV ##2010 & 2232

ORDER

This matter comes before the Arkansas Elevator Safety Board on Thursday, September 20, 2012. The petitioner, Arkansas School for Mathematics, Sciences, and the Arts (ASMSA) seeks a variance for the above-referenced conveyances, located in the Old Cedar Street Building, 200 Whittington, Hot Springs, Arkansas 71901

FINDINGS OF FACT:

1. The petitioner submitted a variance request to the Arkansas Department of Labor on July 26, 2012 through W. Ross McCain (McCain) of Polk Stanley Wilcox Architects. Upon request of the Agency, Corey Alderdice, Director, ASMSA, sent an amended variance request dated July 26, 2012 to comply with Regulation 010.05-016(B).

2. ASMSA seeks a variance for the above-referenced conveyance from ASME A17.3-2005, Section 3.11.3 and Arkansas Elevator Rules and Regulations Section 010.05-013 requiring the installation of Firefighter's Phase I and Phase II Service.

3. McCain appeared on behalf of ASMSA. His testimony and Petitioner's letters describe the variance request: the two elevators are not accessible by school staff or the public; the elevators are only operable with a key; ASMSA only intends to use these elevators during the planned renovation of the Cedar Street Building; and that the planned renovation will ultimately replace these elevators.

4. Larry Smothers (Smothers), Chief Elevator Inspector, Arkansas Department of Labor, made a report to the board and recommended approval of the variance for one (1) year provided ASMSA continues to maintain all required inspections and testing, and that the elevators remain in their current state of limited access and key operation.

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 compliance with ASME A17.3-2005, Section 3.11.3 and Arkansas Elevator Rules and Regulations Section 010.05-013 requiring the installation of Firefighter's Phase I and Phase II Service would be an undue hardship because the two elevators are not accessible by school staff or the public; the elevators are operable with a key; ASMSA only intends to use these elevators during the planned renovation of the Cedar Street Building; and that the planned renovation will ultimately replace these elevators.

3. The Board further concludes that, based on the facts presented and the opinion of the board, reasonable safety will be assured since the elevators are limited access and use; and ASMSA will continue to maintain all required inspections and testing, and that the elevators remain in their current state of limited access and key operation.

THEREFORE, the board grants a one (1) year variance until September 20, 2013 to ASMSA from ASME A17.3-2005, Section 3.11.3 and Arkansas Elevator Rules and Regulations Section 010.05-013 requiring the installation of Firefighter's Phase I and Phase II Service. The Board has the authority to revoke this variance if there is a material change in condition upon proper notice and opportunity for hearing.

IT IS SO ORDERED.


ELEVATOR SAFETY BOARD
STATE OF ARKANSAS

By: 
James L. Salkeld, Chairman

Date: 11-15-2012

Approved: 

Daniel Knox Faulkner, 2002168 DATE
Staff Attorney
Arkansas Department of Labor
10421 West Markham Street
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 11/13/12
Corey Alderdice DATE
Director
Arkansas School for Mathematics,
Sciences, and the Arts
200 Whittington Avenue
Hot Springs, AR 71901
(501) 622-5100

BEFORE THE ELEVATOR SAFETY BOARD
STATE OF ARKANSAS

IN RE: EL DORADO FEDERAL CENTER LLC
AS/EV #6868

ORDER

This matter comes before the Arkansas Elevator Safety Board on Thursday, September 20, 2012. The petitioner, El Dorado Federal Center LLC (EDFC) seeks a variance for the above-referenced conveyances, located in the El Dorado Federal Center, 101 South Jackson Avenue, El Dorado, Arkansas 71730.

FINDINGS OF FACT:

1. The Petitioner submitted a variance request to the Arkansas Department of Labor on August 22, 2012 through Peter Dunn.
2. EDFC seeks a temporary variance of sixty (60) days for the above-referenced conveyance from ASME A17.3-2005, Section 3.11.3 and Arkansas Elevator Rules and Regulations Section 010.05-013 requiring the installation of Firefighter's Phase I and Phase II Service.
4. Additionally, staff recommended during this hearing that a supplemental variance is necessary from Regulation 010.05-013(A), which requires that any conveyance which is out of operation or without an operating permit for twelve (12) months or more shall conform to the standards established by Rule 010.05-011 (ASME A17.1 – 2007) or have a variance issued pursuant to Rule 010.05-016 before an operating permit can be issued or before it can operate.

5. There is no dispute that the conveyance has been out of service longer than the twelve (12) months referenced in Regulation 010.05-013(A).

6. That the applicable Code had the conveyance continued operation would be the standards for existing elevators found in Regulation 010.05-013(A) (ASME A17.3-2005).

7. The request is made to allow temporary use of this elevator while the building's primary elevator to be replaced and modernized. This elevator was taken out of service last year because it was unnecessary for daily building operations.

8. EDFC's letter describes the reasons for the variance request: EDFC has contracted with Otis elevator to replace/modernize the primary elevator in the building and EDFC would like to temporarily reactivate AS/EV#6868 in order to allow transport of visitors with disabilities during the construction period. The limited operation proposed would be performed only by trained building personnel and the elevator will remain locked to the general public all other times.

7. Larry Smothers (Smothers), Chief Elevator Inspector, Arkansas Department of Labor, made a written report to the board and recommended approval of the variance for one (1) year provided EDFC continues to maintain all required inspections and testing, keep a current certificate in the elevator, and that it be used only on manual operation with a designated operator.

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 compliance with Regulation 010.05-013(A) requiring the Code for new elevators and ASME A17.3-2005, Section 3.11.3 and Arkansas Elevator Rules and Regulations Section 010.05-013 requiring the installation of Firefighter’s Phase I and Phase II Service would be an undue hardship because EDFC has contracted with Otis elevator to replace/modernize the primary elevator in the building and EDFC would like to temporarily reactivate AS/EV#6868 in order to allow transport of visitors with disabilities during the construction period. The limited operation proposed would be performed only by trained building personnel and the elevator will remain locked to the general public all other times.

3. The Board further concludes that, based on the facts presented and the opinion of the board, reasonable safety will be assured since the elevators will be limited access and use; EDFC will continue to maintain all required inspections, testing, and certificates, and the elevator will be used by manual operation only by trained personnel.

THEREFORE, the board grants a one (1) year variance until September 20, 2013 to EDFC from Regulation 010.05-013(A) requiring the Code for new elevators ASME A17.3-2005, Section 3.11.3 and Arkansas Elevator Rules and Regulations Section 010.05-013 requiring the installation of Firefighter’s Phase I and Phase II Service. The Board has the authority to revoke this variance if there is a material change in condition upon proper notice and opportunity for hearing.

IT IS SO ORDERED.

ELEVATOR SAFETY BOARD
STATE OF ARKANSAS

By: 
James L. Salkeld, Chairman

Date: 11-15-2012

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: 100 UNIVERSITY LLC
AS/EV #1277

ORDER

This matter comes before the Arkansas Elevator Safety Board on Thursday, September 20, 2012. The petitioner, 100 University LLC (Petitioner) seeks a variance for the above-referenced conveyance, located at 100 South University, Little Rock, Arkansas 72205

FINDINGS OF FACT:

1. The petitioner's principal, John D. Robertson, submitted a variance request to the Arkansas Department of Labor on May 16, 2012 through Sharon Clayton (Clayton) of Flake and Kelley. A supplemental letter was submitted on September 10, 2012.

2. Petitioner seeks a variance for the above-referenced conveyance from ASME A17.3-2005, Section 3.11.3 and Arkansas Elevator Rules and Regulations Section 010.05-013 requiring the installation of Firefighter's Phase I and Phase II Service. The request is for an additional year from the original variance, which would extend to September 1, 2013.

3. Clayton testified on behalf of the Petitioner. Her testimony and Petitioner's variance request letters describe the issues with installing fire service on this conveyance: that the previous real estate transaction with McDonald's did not finalize, but that the Petitioner has purchased the property from Baker Family Limited Partnership and has come to terms with a

restaurant group to lease the site; and the lessee plans to demolish the existing building in 2013, thus making it impractical to update the Firefighter's Phase I and Phase II Service. .

4. Larry Smothers (Smothers), Chief Elevator Inspector, Arkansas Department of Labor, made a report to the board 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 compliance with ASME A17.3-2005, Section 3.11.3 and Arkansas Elevator Rules and Regulations Section 010.05-013 requiring the installation of Firefighter's Phase I and Phase II Service would be an undue hardship because the lessee intends to demolish the building in 2013.

3. The Board further concludes that, based on the facts presented and the opinion of the board, reasonable safety will be assured since the length of the extension is only an additional year.

THEREFORE, the board grants Petitioner a variance from ASME A17.3-2005, Section 3.11.3 and Arkansas Elevator Rules and Regulations Section 010.05-013 requiring the installation of Firefighter's Phase I and Phase II Service until September 1, 2013.

IT IS SO ORDERED.

ELEVATOR SAFETY BOARD
STATE OF ARKANSAS

By: 
James L. Salkeld, Chairman

Date: 11-15-2012

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Daniel Knox Faulkner, 2002168
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