

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

**IN RE: FORUM LLC
A.S. # 6069**

ORDER

Upon Motion of the Arkansas Department of Labor, the Hearing on Proposed Revocation of Operating Permit for A.S. #6069 issued November 6, 2008, is hereby dismissed without prejudice against Forum LLC/A.S. #6069.

IT IS SO ORDERED this matter is dismissed without prejudice.

ELEVATOR SAFETY BOARD
STATE OF ARKANSAS

By: 
James L. Salkeld, Chairman

DATE: 3-19-2009

APPROVED BY:


Craig S. Lair
Attorney, Forum LLC


Daniel Knox Faulkner, AR Bar No. 2002168
Attorney, Arkansas Department of Labor

BEFORE THE ELEVATOR SAFETY BOARD
STATE OF ARKANSAS

IN RE: PURPLE RAIN
CM SQUARED, INC.

ORDER

Upon Motion of the Arkansas Department of Labor, the Variance Request is dismissed
without prejudice.

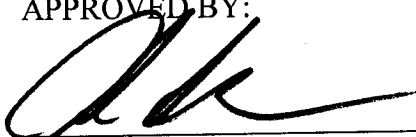
IT IS SO ORDERED this matter is dismissed without prejudice.

ELEVATOR SAFETY BOARD
STATE OF ARKANSAS

By: 
James L. Salkeld, Chairman

DATE: 9-17-2009

APPROVED BY:



Daniel Knox Faulkner, AR Bar No. 2002168
Attorney, Arkansas Department of Labor

BEFORE THE ELEVATOR SAFETY BOARD
STATE OF ARKANSAS

IN RE: ELEVATOR NOS. 115 & 116
THYSSENKRUPP ELEVATOR CORPORATION
NW ARK. NONPROFIT CENTER
Old St. Mary's Hospital
1200 West Walnut, Rogers, AR

ORDER

This matter came before the Elevator Safety Board on Thursday, November 19, 2009. ThyssenKrupp Elevator was present and represent by Mr. Scott Fisher and Doug Woodruff. Also present on behalf of the elevators' owner was Mr. Mike Gilbert with Clear Energy. 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 two (2) elevators located in the Northwest Arkansas Nonprofit Center, commonly known as the Old St. Mary's Hospital. The building is undergoing renovation. ThyssenKrupp is the elevator contractor.
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.
3. The current clearance on the two (2) elevators is 31 3/4 inches and 31 1/2 inches respectively at the stop ring. The current top runby is 93/4 inches on one car and 10 3/8 inches on the other.
4. Both elevators have been operating for many years with the current clearance.
5. The Chief Elevator Inspector recommended that the variance be denied, noting that a complete modernization requires compliance with the code for new construction, ASME A17.1-2007.

6. The elevators are located in an older building with a structural concrete roof. It is not possible to comply with the requirement for clearance without cutting a hole in the roof and raising it. Mr. Gilbert testified that the cost estimate for such an undertaking is \$40,000.

7. The undisputed testimony of Scott Fisher was that ThyssenKrupp was aware of the low overhead before they signed the contract for the modernization, and that they requested a meeting with the State Elevator Inspector in the area, Joe Tipton. During that meeting, Mr. Tipton advised Mr. Fisher that they could put signs on the top of the car and at each landing that read "CAUTION LOW OVERHEAD". Mr. Fisher further testified that Mr. Tipton was on the job site "numerous occasions since our first meeting and has not once brought up the overhead issue."

8. Two weeks prior to completion of the project, Mr. Tipton advised ThyssenKrupp that the elevators would not be approved for operation due to the low overhead.

9. Mike Gilbert testified about the options and alternatives the building owner would have had to proceed differently had they known earlier that these two elevators would not be approved due to the refuge space.

CONCLUSIONS OF LAW:

10. 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."

11. No elevator inspector, including the Chief Elevator Inspector, has the authority to waive any construction standard adopted by the board. That authority lies with the board, and even then it is a limited authority. *Id.*

12. Reliance on the assurances of an state elevator inspector may, in certain circumstances, be evidence of an undue hardship when an elevator company or owner has proceeded in a reasonable manner; foreclosed options or alternatives; and has incurred great expense.

13. In the present case, the board concludes that requiring literal compliance with ASME A17.1, section 2.4.12 (refuge space) would create an undue hardship based on the structure of the existing building; the uncontested testimony of assurances of a state elevator inspector; the progress of the project which precludes alternatives; and the expense of compliance.

14. Additionally, the board must conclude that reasonable safety will be secured by the granting of the variance. In the present case, the granting of the variance will not impact passenger safety. The refuge space provided by the ASME Code is for the safety of elevator mechanics and elevator inspectors and others who may be working on top of the car.

15. The board concludes that reasonable safety will be secured, provided the following conditions are met:

- a. the stop ring is set to limit over travel to 6 inches;
- b. signage is placed at the top of the car and at the back wall at each landing which reads: "Caution Low Overhead". The sign will also include the exact measurement of the overhead clearance in inches. While exact measurement will be taken after the stop ring is set, the estimate is that the clearance will be 35 1/2 inches and 35 7/8 inches, respectively;

c. with the elevators in their top-most position, the whole area of the hoistway, including the top of the car, 4 walls, and ceiling will be painted OSHA yellow with black stripes;

d. the refuge spaces on top of the car in front and back of the crossheads will be painted yellow and specifically marked as the refuge area;

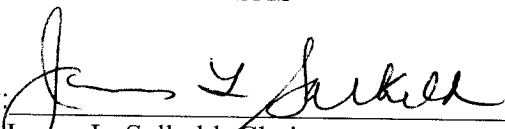
e. the overhead clearance will be limited to the lowest dimension on side walls of hoistway in terms of the actual dimension.

THEREFORE, the Elevator Safety Board of the State of Arkansas grants a variance from the requirements of ASME A17.1-2007, section 2.4.12 to ThyssenKrupp to allow a reduced refuge space on elevators permitted as Elevators No. 115 and 116, provided that the conditions outlined in paragraph 15 above are met.

IT IS SO ORDERED.

This decision being made on November 19, 2009, is issued now for that date.

ELEVATOR SAFETY BOARD
STATE OF ARKANSAS

By: 
James L. Salkeld, Chairman

Date: 2-24-10

Approved as to form:

Denise P. Oxley, 84-117
Chief Legal Counsel
Arkansas Department of Labor
10421 West Markham
Little Rock, AR 72205
(501) 682-4504

BEFORE THE ELEVATOR SAFETY BOARD
STATE OF ARKANSAS

IN RE: THYSSENKRUPP ELEVATOR ISIS1

ORDER

This matter came before the Elevator Safety Board on Thursday, January 21, 2010. The petitioner was represented by Matthew Wilson, Branch Manager, ThyssenKrupp Elevator. The Department of Labor was represented by counsel, Daniel Faulkner, and by Larry Smothers, Chief Elevator Inspector. The Board makes the following findings of fact and conclusions of law.

FINDINGS OF FACT:

1. ThyssenKrupp requested a limited variance to convert six (6) existing "ISIS1" elevator cables within the state of Arkansas with the new technology presented in the original variance request with respect to the diameter of steel wire ropes.

STEEL WIRE ROPES

2. On June 1, 2008, the board adopted ASME A17.1-2007 for new construction.

Standard 2.20.4 provides:

2.20.4 Minimum Number and Diameter of Suspension Ropes. The minimum number of hoisting ropes used shall be three for traction elevators and two for drum-type elevators.

Where a car counterweight is used, the number of counterweight ropes used shall be not less than two

The term "diameter" when used in reference to ropes, shall refer to the nominal diameter as given by the rope manufacturer.

The minimum diameter of hoisting and counterweight ropes shall be 9.5 mm (0.375 in.). Outer wires of ropes shall not be less than 0.56 mm (0.024 in.) in diameter.

3. ThyssenKrupp requests approval for the use of small diameter ropes (5mm or 6.5/6.7 steel wire rope, depending on conveyance) based on language currently adopted by ASME A17 Code Committee.

4. ThyssenKrupp stated that it wishes to convert the ISIS1 conveyances due to mechanical problems encountered in other states.

5. ThyssenKrupp stated that this replacement would make the conveyances safer than the existing Kevlar based ropes.

6. The Board granted a similar variance for conversion of three (3) ISIS2 conveyances at the September 17, 2009 Elevator Board meeting.

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 replacement of these ropes will actually increase the level of safety in these six (6) conveyances. Further, the board concludes that reasonable safety will be secured by allowing ThyssenKrupp to convert the six (6) existing ISIS1 conveyances with 5mm or 6.5/6.7 mm steel wire rope.

THEREFORE, the Board grants a limited variance to ThyssenKrupp to convert the six (6) existing ISIS1 conveyances within the State of Arkansas with 5mm or 6.5/6.7 steel wire rope.

IT IS SO ORDERED.

ELEVATOR SAFETY BOARD
STATE OF ARKANSAS

By: 
James L. Salkeld, Chairman

DATE: 2-3-10

Approved as to Form:

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