

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

**IN RE: GAIN, INC.
 AS #1869**

CONSENT ORDER

This matter comes before the Elevator Safety Board on Thursday, November 17, 2016, upon a variance request from GAIN, Inc. The Arkansas Department of Labor and the petitioner agree with respect to disposition of this matter and the granting of the variance.

FINDINGS OF FACT:

1. On or about September 15, 2016, the Department of Labor received a variance request from GAIN, Inc. with respect to the conveyance it operates at 712 W. 3rd Street in Little Rock, Arkansas. The conveyance is a passenger elevator installed prior to October 1984 and is permitted as AS #1869.

2. Specifically, GAIN, Inc. seeks variance from Rule 010.05-013(B)(Elevator Safety Board 2008) which provides:

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. GAIN, Inc. is a private not for profit organization serving the severely mentally ill. Many of their patients have impaired health or are disabled. The conveyance serves this patient population.

4. The records of the Elevator Safety Division reflect that the conveyance, AS #1869:

- a. had a jack replacement in 2008;
- b. was owned or operated by the applicant at the time of the annual permit inspection in 2010;
- c. has not had a current operating permit since the last one expired in 2011;
- d. had its latest safety test witnessed in 2013; and
- e. was inspected on August 17, 2016, with the only problem noted was to remove water in the pit.

5. The conveyance has been in operations since 2011.

6. The Chief Elevator Inspector for the Department of Labor inspected the conveyance on or about November 4, 2016, and completed a staff report and recommendation on the variance request dated November 4, 2016.

7. The Chief Elevator Inspector's report reflects the unit is being maintained by KONE Elevator Company and meets the standards of A17.3-2005.

8. The staff report and recommendation is that the variance be granted.

CONCLUSIONS OF LAW:

9. 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.”

