

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

**IN RE:        NABHOLZ CONSTRUCTION CORPORATION  
              AS # 2035**

**ORDER**

This matter comes before the Arkansas Elevator Safety Board on Thursday, March 15, 2018, in the offices of the Arkansas Department of Labor. The petitioner, Nabholz Construction Corporation (Nabholz) seeks a variance to operate an elevator on a temporary operating permit for construction purposes.

**FINDINGS OF FACT:**

1. Nabholz is remodeling the facility known as the old Chicopee Plant #2 (LPR Technologies) located at 1301 E. 8<sup>th</sup> Street, North Little Rock, Arkansas.
2. On February 20, 2018, Nabholz requested a variance on the conveyance previously permitted as AS #2035 for "usage of the freight elevator for the construction purposes of the remodeling of the facility. We would like to use that elevator after the inspection and approval, until we rebuild the other freight elevator for inspection. This would be approximately the end of September 2018."
3. The records of the Department of Labor reflect that AS#2035 was permitted on October 6, 1971. The operating permit on the conveyance expired in 2008, as the building was vacated. There were no subsequent inspections performed and no operating permit issued.
4. On February 22, 2018, Chief Elevator Inspector Greg Tipton performed an inspection and witnessed a pressure and leak down safety test on AS #2035. His Staff Report/Recommendation to the board reflect that the "inspection and tests were successful in that

the elevator safety systems operated as they should.” Mr. Tipton recommended that the variance for a temporary operating permit to expire on October 31, 2018, be granted for construction purposes only. He testified that in his opinion reasonable safety will be secured by the temporary nature of the operating permit and its limitation for construction purposes only.

#### **CONCLUSIONS OF LAW:**

5. The board has authority to adopt administrative rules establishing minimum standards for the installation, construction, maintenance and operation of elevators pursuant to Ark. Code Ann. § 20-24-106(c).

6. The board’s administrative rules provide:

Any conveyance which is out of operation or without an operating permit for twelve (12) months or more shall . . . shall conform to the standards established by Rule 010.05-011 [ASME A17.1-2007] or have a variance issued. . . before an operating permit can be issued or before it can operate.

Rule 010.05-013(B)(1)(Elevator Safety Board Sept. 1, 2006).

7. Because this conveyance was without an operating permit for more than twelve (12) months, the owner must bring it up to the standards of ASME A17.1-2007, the applicable code for new installations or obtain a variance.

8. The board does have the power to grant a variance from minimum standards when it is clearly evident that 1) it is necessary to prevent undue hardship or existing conditions prevent compliance with the literal requirements of the standards; and 2) in the opinion of the board, reasonable safety will be secured. Ark. Code Ann. § 20-24-106(d).

9. The board recognizes that the owner will have some cost-savings if the variance is granted. That alone, however, is not sufficient to establish an undue hardship. *See* Rule 010.05-016(D)(3). In this case, however, there is the fact that the need is only temporary in nature and

the use would be limited to construction purposes only. The board concludes that there is an undue hardship in the present case.

10. The board also concludes that reasonable safety will be secured. The elevator's safety systems are operating as they should as evidence by the inspection and safety tests performed on February 22, 2018. Also, as earlier noted, the temporary operating permit will be limited in time and use.

THEREFORE, the Board grants Nabholz a variance to obtain a temporary operating permit to expire October 31, 2018 for the sole purpose of using AS #2035 for construction purposes,

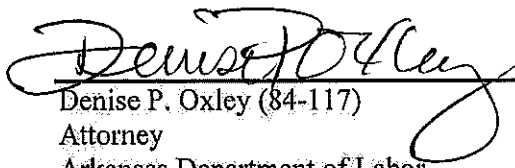
IT IS SO ORDERED.

ELEVATOR SAFETY BOARD  
STATE OF ARKANSAS

By: LSJ  
Leon Jones, Jr., Chairman

DATE: 3-20-18

Approved:



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