

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

IN RE: CAPROQ VOC, LLC dba Village on the Creeks

ORDER

This matter came before the Arkansas Elevator Safety Board on Thursday, September 21, 2017 in the offices of the Arkansas Department of Labor. The petitioner, Caproq VOC, LLC seeks a variance for two (2) residential elevators located at 5209 and 5310 Village Parkway, Rogers, Arkansas. The petitioner was represented by Christia Cornog, Property Manager for the petitioner. Denise Oxley, General Counsel, and Greg Tipton, Chief Elevator Inspector, appeared on behalf of the Department of Labor.

FINDINGS OF FACT:

1. On April 17, 2017, Greg Tipton, Chief Elevator Inspector, “red-tagged” or ordered the shut-down of two (2) elevators owned by Caproq VOC, LLC and located at 5209 and 5310 Village Parkway, Rogers, Arkansas.
2. Mr. Tipton testified that the two (2) elevators were residential elevators installed in an office building, which would be a commercial application. He testified that the records of the Department of Labor reflect that the elevators had never been permitted or inspected and that the agency was unaware of their existence. Mr. Tipton testified that he red-tagged the elevators because they were residential elevators installed in a commercial building.
3. The petitioner did not seek a hearing on the red-tag, but subsequently submitted a variance request on June 20, 2017, requesting that the elevators be allowed to operate.
4. The variance request reflects the elevators were installed in 1999.

5. Christia Cornog stated at the hearing that the tenants need handicapped access and the owner would limit access through a receptionist for that purpose. Both buildings are two stories.

6. Mr. Tipton testified that he recommended the variance be denied based on the board's administrative rules.

7. Mr. Tipton testified that these elevators do not meet the standards for ASME A17.1-1990 and 1991 and 1992 Addendas, which would have been the standards for new installations in 1999. He also testified that they would not meet the standards for ASME A17.3-2005, which is the current standard for existing elevators, applicable to all elevators in Arkansas. Mr. Tipton's testimony also included some examples of the safety features that would not be in a residential elevator, but would be in a commercial installation.

CONCLUSIONS OF LAW:

8. 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).


9. The board's administrative rules currently provide that "[a]ll conveyances shall be maintained by the owner or lessee in a condition that conforms to the standards established by the board which were in effect on the date of installation or the provisions of ASME A17.3-2005, whichever are more stringent." Rule 010.05-013 (Elevator Safety Board March 1, 2017).

10. 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).

11. In terms of the requirement for reasonable safety, the board has adopted Rule 010.05-016(D)(2), which provides that: “[t]he board will not grant a variance to permit the operation of a residential elevator in a non-residential application.”

12. The board concludes that the variance requested in this matter be denied.

IT IS SO ORDERED.

By: 
Leon Jones, Jr., Chairman

Date: 9.25.17

Approved:

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