

BEFORE THE ELEVATOR SAFETY BOARD
STATE OF ARKANSAS

IN RE: AS 317
JAMES F. ROBINSON dba
LA BELLA GOURMET GIFTS & DELICATESSEN

ORDER

This matter comes before the Elevator Safety Board on Thursday, June 9, 2005. The petitioner, James F. Robinson dba La Bella Gourmet Gifts & Delicatessen, is the owner of the building at 101 East Main Street, El Dorado, Arkansas which is the location of Elevator AS #317.

The Board makes the following findings of facts and conclusions of law.

FINDINGS OF FACT:

1. The elevator, AS 317 is located at 101 East Main Street, El Dorado, Arkansas.
2. This elevator was installed prior to 1977 and is a passenger elevator. The owner states in his variance request of January 30, 2005, that during a remodel in 1992, pipes were run through the elevator shaft. He further states that the pipes were never mentioned or noted in any inspection report.
3. Chief Inspector Larry Smothers discovered the pipes on a inspection visit to the elevator regarding other safety issues which have been corrected.
4. Petitioner has submitted estimates to the Department of Labor reflecting that it would cost approximately \$9500 to have the pipe removed from the shaft and approximately \$5000 to repair the terrazzo floor. Petitioner also estimates that his business would be closed at least 3 days for the work.

5. Chief Inspector Smothers determined that sufficient refuge space exists with the pipes in place to provide for safety and recommends that the variance be granted for a period of ten (10) years.

CONCLUSIONS OF LAW:

1. Pipes in the elevator shaft are in violation of ASME A17.1, Rule 102.2(d) which provides: "Other pipes or ducts conveying gases, vapors, or liquid and not used in connection with the operation of the elevator shall not be installed in any hoistway, machine room or machinery space."

2. 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."

3. In the present case, the board concludes that existing conditions prevent literal compliance with the standards adopted by the board and that reasonable safety will be secured with the granting of the variance.

THEREFORE, the board grants the variance allowing existing pipes in the elevator shaft. The variance shall be granted for a period of ten (10) years. At the end of that time, the pipes shall be removed from the shaft unless the board shall grant a new variance. Additionally, this variance shall require the owner to post signage indicating "reduced refuge." This signage shall be placed at the lowest landing inside the hoistway and shall be at least two (2) feet by two (2) feet in size.

IT IS SO ORDERED.

ELEVATOR SAFETY BOARD
STATE OF ARKANSAS

By: 
James L. Salkeld, Chairman

Date: 6-9-05

Approved:

Denise P. Oxley, 84-117
Chief Legal Counsel
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: AS 746
JOHN NASH

ORDER

This matter comes before the Elevator Safety Board on Thursday, June 9, 2005. The petitioner, John Nash, is a part owner of a warehouse located at 1222 Garland in Little Rock, Arkansas, in which the elevator, AS 746 is located. The petitioner was present and represented by counsel, Mr. J. R. Nash. The Department of Labor was represented by Denise P. Oxley, Chief Counsel and by Larry Smothers, Chief Elevator Inspector.

The Board makes the following findings of facts and conclusions of law.

FINDINGS OF FACT:

1. The elevator, AS 746 is located in a warehouse located at 1222 Garland in Little Rock, Arkansas. John Nash is a part owner of the warehouse which is a commercial enterprise. The elevator services the warehouse and is not accessible to the general public.
2. This elevator was installed in 1926 and was in continuous operation until October 21, 2002. There is no record at the Department of Labor of an injury or accident involving this elevator.
3. On or about October 21, 2002, the Department of Labor "red tagged" the elevator, or ordered it to cease operation, for failure to have required safety inspections, safety tests, and an operating permit. The Department of Labor's records reflect that the last operating permit expired on November 30, 2000. There has been no safety inspection since November 1990.

There has been no full load safety test since 1987. No other violations of the elevator safety code were cited at the time it was ordered to cease operation.

4. On or about June 3, 2004, J. R. Nash presented the petition of John Nash to the board for a variance to allow the elevator to operate because of undue hardship and prevention of compliance with the regulations of the board because of existing conditions. This request for variance was denied. The board approved operation of the elevator if it substantially complied with the provisions of ASME A-17.3-1992 by making eleven (11) safety corrections.

5. On February 18, 2005, the Petitioner requested that the AS 746 be re-classified as a material lift. On that date, the board requested that Chief Inspector Smothers take pictures of the unit for the board. The matter was continued until June 9, 2005.

6. The board reviewed this date pictures and video of the elevator and heard testimony from Chief Inspector Smothers regarding the current state of the elevator.

7. The elevator has been out of operation since on or about October 21, 2002, and there have been no tests or operational runs to determine if existing safety features are functional and operational.

CONCLUSIONS OF LAW:

1. Ark. Code Ann. §20-24-101(8) defines elevator, in part as:

(8) "Elevator" means a hoisting and lowering mechanism equipped with a car or platform which moves in guides in a substantially vertical direction;

(A) The term "elevator" shall not include a dumbwaiter, conveyor, chain or bucket hoist, construction hoist, or similar devices used for the primary purpose of elevating or lowering materials, nor shall it include tiering, piling, feeding or similar machines or devices giving service within only one (1) story;

2. 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.”

3. The board determines that in the present case reasonable safety can be assured by allowing this elevator to operate as a material lift upon compliance with certain conditions. These conditions include compliance with the eleven (11) items identified in Chief Inspector Smother’s report of September 21, 2004, plus any additional item identified as a result of an acceptance test. These eleven (11) items are:

- a. Install hoistway gates on all floors with electrical and mechanical locks “7’high”.
- b. Install car gate with electrical and mechanical locks.
- c. Install car and machine room lighting.
- d. Guard machine from car “back of car.”
- e. Remove water from pit and repair elevator equipment as required “springs, rails, channels”.
- f. Install all junction box covers – hoistway and machine room and machine.
- g. Install fire extinguisher in machine room.
- h. Locking machine room door.
- i. Clearance for governor in overhead to work.
- j. Enclose hoistway sidewall and top. Close all holes in walls.
- k. Must pass complete safety test, five (5) years full load and all safety devices.

4. The board also conditions the variance upon compliance with the following:

- a. No passenger will ride the unit at any time for any reason;
- b. All car controls will be removed. Only external hoistway controls will operate the unit; and
- c. Signs will be posted at each landing and in the car prohibiting passengers, which will be conspicuously posted and read: "No Passengers Allowed by Law – Material Lift Only".

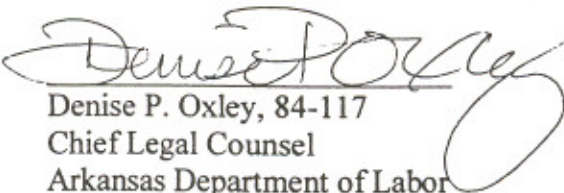
IT IS SO ORDERED.

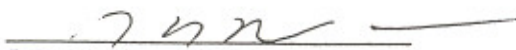
ELEVATOR SAFETY BOARD
STATE OF ARKANSAS

By: 
James L. Salkeld, Chairman

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Approved as to Form:


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