

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

**IN RE: UNDERWOOD'S FINE JEWELERS
 AS #6760**

CONSENT ORDER

This matter comes before the Elevator Safety Board on Thursday, November 15, 2018. The petitioner, through Laura Underwood, seeks an extension of a variance initially granted by the Board on October 6, 2008 to allow the operation of a residential elevator in a commercial application.

FINDINGS OF FACT:

1. Underwood's Fine Jewelers is located at 611 W. Dickson Street, Fayetteville, Arkansas.
2. On October 6, 2008, the board granted a variance to allow the operation of a residential elevator in this commercial building subject to the following conditions:
 - a. the elevator shall be used solely by William G. Underwood;
 - b. signs will be maintained at each landing stating that the elevator is a private elevator and all other riders are prohibited;
 - c. the area in which the elevator is located shall be restricted to only employees of Underwood's; and
 - d. the variance shall expire in five (5) years or at the time the building is sold.

3. William G. Underwood was 76 years old at the time of the initial variance and is currently 86 years old. His workshop and the jewelry store are located on separate floors. Due to his health and age, Mr. Underwood has difficulty navigating the stairs.

4. The Chief Elevator Inspector recommends that the variance be extended for an additional five (5) years, with the added condition that it be inspected annually.

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 rules prohibit the operation of a residential elevator in a commercial application. Elevator Safety Board Rule 010.05-016(D)(2).

7. The board has 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 requirement of the standards; and 2) in the opinion of the board, reasonable safety will be secured. Ark. Code Ann. § 20-24-106(d).

8. In the present case, the board concludes that an undue hardship exists due to the fact that the elevator services only one individual; that individual has physical limitations; and the costs involved in replacing the elevator.

9. The board also concludes that reasonable safety will be secured by the conditions placed upon granting the extension of this variance, including the time limitation or expiration date.

THEREFORE, the board grants a extension of the variance to Underwood Fine Jewelers to allow the residential elevator to operate pursuant to the following conditions: 1) the elevator

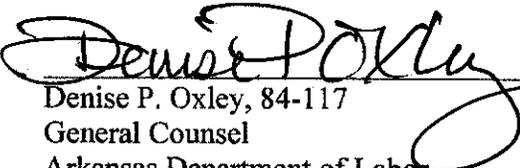
shall be used solely by William G. Underwood; 2) signs shall be maintained at each landing stating the elevator is a private elevator and all other riders are prohibited; 3) the area in which the elevator is located shall continue to be restricted to employees of Underwood's only; 4) the elevator shall be inspected by a licensed inspector annually; and 5) this variance shall expire five (5) years from the date a new permit is issued or at the time the building is sold, whichever occurs first.

IT IS SO ORDERED.

By: 
Leon Jones, Jr., Chairman

Date: 11-15-18

Approved:


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