

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

**IN RE: TERRAFORMA, LLC
 AS/EV #1547**

ORDER

This matter came before the Elevator Safety Board of the State of Arkansas on Thursday, March 20, 2014. The petitioner, TerraForma, LLC, requests a variance for AS/EV #1547.

FINDINGS OF FACT:

1. Douglas J. Meyer, Managing Member, on behalf of TerraForma, LLC, requested a variance for AS/EV #1547, located at 823 Main Street, Little Rock, Arkansas.

2. Specifically, TerraForma, LLC submitted a request on January 1, 2014 seeking a 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. The current standard established by Rule 010.05-011 is the American Society of Mechanical Engineers Safety Code for Elevators and Escalators, ASME A17.1-2007.

4. There is no dispute that the conveyance has been out of service for more than twelve (12) months. It was red-tagged and its operation has been prohibited by the Department of Labor, Elevator Safety Division since 2005.

5. Had the conveyance been properly permitted and in-service during this period, the standards for existing elevators would apply pursuant to Rule 010.05-013(B):

All 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.

6. Leroy Moore, an Elevator Safety Inspector of the Department of Labor issued a staff recommendation that the variance be denied.

7. Douglas Meyers spoke on behalf of Terra Forma. They had purchased the building with the elevator problem and were making repairs to the building and elevator. They had hired Otis Elevator to do the repairs. The building was going to be used as an indoor climate-controlled mini-storage. This freight elevator would service the second floor and would have limited use. He anticipated it would be used less than 2-3 times per day.

8. As part of his request and statement, Mr. Meyers outlined the planned repairs: install a new hydraulic cylinder; replace the tank and pump unit; enlarge the machine room; install a self-closing, self-locking machine room door; install electrical disconnect switches in close proximity to the elevator machine room door; install a telephone and do general repair and cleanup. He also asserted that TerraForma was entering into a maintenance agreement with Otis.

9. Rich Riley with Otis also spoke on behalf of TerraForma. Mr. Riley is an elevator mechanic licensed by the board and stated that he was personally familiar with this elevator. He stated that after work was complete, the elevator would meet A17.3 and would exceed those requirements in some instances. He stated the elevator would meet basic safety requirements. He stated fire service was not required as there was less than 25 feet of travel.

CONCLUSIONS OF LAW:

1. 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.”

2. In the present case, the board concludes that an undue hardship exists to TerraForma because the building’s prior owner did not maintain the elevator and took it out of service for years; the elevator will have only limited use; and the cost of meeting the new construction standards is much higher than the standards for existing elevators.

3. The board concludes that reasonable safety will be secured and that the variance shall be granted with the following contingencies:

- a. The elevator will not operate until Otis has completed repairs;
- b. The elevator will not operate until it has been inspected and cleared for use by an inspector with the Department of Labor; and
- c. The elevator will not operate until the requisite safety tests are performed in the presence of an inspector with the Department of Labor.

IT IS SO ORDERED.

ELEVATOR SAFETY BOARD
STATE OF ARKANSAS

By: 
Ricky Beik, Chairman

Date: 4.30.14

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