

**BEFORE THE ELEVATOR SAFETY BOARD
DEPARTMENT OF LABOR AND LICENSING
STATE OF ARKANSAS**

IN RE: Wyndham Ft. Smith City Center

ORDER

This matter came before the Elevator Safety Board on Thursday, September 15, 2022. The petitioner, Duke Welsh, seeks a variance concerning the code required access to the elevator equipment room. Mr. Welsh did not appear at the hearing on this matter, although he was provided notice as required by law.

FINDINGS OF FACT:

1. The petitioner currently has a stairway and a roof hatch that allows access to the elevator equipment room of the hotel. The stairway going up to the roof hatch and the roof hatch itself are the items in question.
2. Chief Elevator Inspector, Greg Tipton's report dated June 15, 2022, reflects that installing a code compliant stairway would disrupt the integrity of the building, waterlines, and fire sprinkler risers. Thus, providing an undue hardship to Mr. Welsh.
3. The Chief Elevator Inspector recommends that the variance be granted subject to the following conditions:
 - a. Installing a ladder with an alternating tread design with compliant railings and a 68-degree incline;
 - b. Making the roof hatch larger; and
 - c. Installing a railing with handholds on the roof side of the hatch to assist with transferring onto the roof.

CONCLUSIONS OF LAW:

1. The board has authority to adopt administrative rules establishing minimum standards for the installation, construction, maintenance, and operations of elevators pursuant to Ark. Code Ann. § 20-24-106(c).
2. The board also has the power to grant a variance from minimum standards when it is clearly evident that it is necessary in order to prevent undue hardship or when the existing conditions prevent compliance with the literal requirements of the rules. In no case shall a variance be granted unless, in the opinion of the board, reasonable safety will be secured. Ark. Code Ann. § 20-24-106(d).
3. In the present case, installing a ladder with an alternating tread design with compliant railings and a 68-degree incline as well as installing railing with handholds on the roof side of the hatch will prevent the undue hardship of disrupting the structural integrity of the building.
4. The board also concludes that reasonable safety will be secure by the conditions stated in the variance.

THEREFORE, the board grants a variance to Duke Welsh and the Wyndham Ft. Smith City Center subject to the following conditions: 1) Installing a ladder with an alternating tread design with compliant railings and a 68-degree incline; 2) Making the roof hatch larger; and 3) Installing a railing with handholds on the roof side of the hatch.

IT IS SO ORDERED.

ELEVATOR SAFETY BOARD

By: _____



Ralph T. Hudson, Chairman

Date: _____

9/29/22

Prepared by:

Miles Morgan (2017049)

Associate General Counsel

Arkansas Department of Labor and Licensing

900 West Capitol, Suite 400

Little Rock, AR 72201

(501) 682-4507