

BEFORE THE ELEVATOR SAFETY BOARD
STATE OF ARKANSAS

IN RE: BARTON BUILDING
ROBERT R. BROWN, JR.
AS/EV #140

ORDER

This matter comes before the Arkansas Elevator Safety Board on Thursday, November 20, 2014. The petitioner, Robert R. Brown, Jr., seeks a variance for the above referenced conveyance.

FINDINGS OF FACT:

1. The petitioner, Robert R. Brown, Jr. (Brown), submitted a variance request on July 24, 2014 for this conveyance located at 110 West Elm Street, El Dorado, Arkansas.
2. The request sought a variance from the "requirement to bring this elevator up to the standards of Code ASME A17.1 2007." It is undisputed that the conveyance has been out of service longer than one (1) year. The building has been dormant since 1997.
3. Brown testified before the Board that he had received a service and repair proposal from OTIS Elevator to update the conveyance to code standards for new installations (ASME A17.1-2007) at a cost of \$33,850. This proposal was presented to the Board at the hearing.
4. Brown testified that the amount of this proposal is cost-prohibitive; that the building has not been used for profit since 1997; and that the primary future use for the conveyance would be to allow his wife access to personal belongings and access to a personal office for himself. He further testified to the Board that his specific request is for OTIS Elevator

to evaluate the elevator for a less expensive solution to make it "safe," but did not provide specific details on cost or requests for code section variances.

5. Cody Wagoner (Wagoner), Chief Elevator Inspector, Arkansas Department of Labor, made a report to the board and recommended denial of the variance since it does not meet the code requirements of ASME A17.1-2007.

6. Wagoner also testified at the hearing that his staff report/recommendation contains a number of life/safety issues required by both ASME A17.1-2007 and ASME A17.3-2005. Wagoner also testified that he evaluated the primary compliance issues involved with the code for existing elevators (ASME A17.3-2005). This evaluation was performed as a courtesy upon request by Brown's attorney to evaluate the conveyance under the existing elevator code standards.

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. Since the conveyance has been out of service since 1997, the applicable Code in this matter is ASME A17.1-2007 pursuant to Regulation 010.05-013(B)(1).

3. In the present case, the Board concludes that there is no undue hardship present in this matter; that reasonable safety will not be secured if this request is granted; and that the staff recommendation shall be followed.

THEREFORE, the Board denies the variance request from Robert R. Brown, Jr.

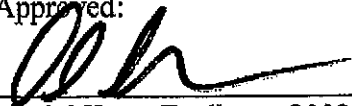
IT IS SO ORDERED.

ELEVATOR SAFETY BOARD
STATE OF ARKANSAS

By: LSJ
Leon Jones, Jr., Chairman

Date: 5/21/15

Approved:


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