

BEFORE THE ELEVATOR SAFETY BOARD
STATE OF ARKANSAS

IN RE: TOP O'THE OZARKS
ES/AS #94

ORDER

This matter comes before the Elevator Safety Board on Thursday, September 15, 2011. The petitioner, Mike and Dianna Roller d/b/a Top O'The Ozarks ("Petitioner"), 453 East Houser Road, Gassville, AR 72635 seeks a variance for the above referenced conveyance.

FINDINGS OF FACT:

1. The petitioner seeks a variance from ASME A17.3-2005, Section 3.11.3 and Arkansas Elevator Rules and Regulations Section 010.05-013 requiring the installation of Firefighter's Phase I and Phase II Service for the above-referenced conveyance located at Tower Road Bull Shoals, Bull Shoals, Arkansas 72619.
2. Larry Smothers, Chief Elevator Inspector, Arkansas Department of Labor, made a report to the board and recommended denial of the variance.
3. Mike and Dianna Roller appeared at the Board meeting. Their variance request and testimony describes the issues with installing fire service on this conveyance: the cost of installation; the unique structure of the building as a primarily metal tower above a gift shop; the conveyance is not self-service; and there are only two stops for the elevator. Petitioner amended the variance request during the hearing to add smoke detectors to the gift shop and conveyance.

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 compliance with ASME A17.3-2005, Section 3.11.3 and Arkansas Elevator Rules and Regulations Section 010.05-013 requiring the installation of Firefighter’s Phase I and Phase II Service would be an undue hardship because compliance would be impractical considering the unique structure of the building as a primarily metal tower above the gift shop; the conveyance is not self-service; and there are only two stops for the elevator. Additionally, Firefighter’s Phase I and Phase II Service are not practicable on this conveyance because neither landing is a suitable option for the conveyance to return to in the event of a fire. The Board makes no finding as to the ultimate fire safety of the tower and shop; only that installation of elevator fire service would be an undue hardship base on these factors.


4. The Board further concludes that, based on the facts presented and the opinion of the board, reasonable safety will be assured for the same reasons in paragraph 2 above and the variance amendment by Petitioner to include smoke detectors in the gift shop and conveyance.

THEREFORE, the Board grants a variance to Petitioner from ASME A17.3-2005, Section 3.11.3 and Arkansas Elevator Rules and Regulations Section 010.05-013 requiring the


installation of Firefighter's Phase I and Phase II Service for the above referenced conveyance contingent upon the installation of smoke detectors in the gift shop and inside the conveyance.



IT IS SO ORDERED.

ELEVATOR SAFETY BOARD
STATE OF ARKANSAS

By: 
James L. Salkeld, Chairman

Date: 12-7-11

Approved:  11/15/11
Daniel Knox Faulkner, 2002168 DATE
Staff Attorney
Arkansas Department of Labor
10421 West Markham Street
Little Rock, AR 72205
(501) 682-4504

 10/26/11
Mike Roller DATE
 10/26/11
Dianna Roller DATE
453 East Houser
Gassville, AR 72635
(870) 435-2846

BEFORE THE ELEVATOR SAFETY BOARD
STATE OF ARKANSAS

IN RE: DAVID VANCE/VANCE TITLE COMPANY, INC.
AS/EV #1598

CONSENT ORDER

This matter comes before the Arkansas Elevator Safety Board on Thursday, November 17, 2011. The petitioner, David Vance/Vance Title Company, Inc.(Vance), seeks a variance for the above-referenced conveyance located at 204 West Main, Russellville, AR 72801.

FINDINGS OF FACT:

1. The petitioner, Vance, submitted a variance request to the Arkansas Department of Labor on October 26, 2010 for AS/EV #1598, located at 204 West Main, Russellville, AR 72801.
2. Vance seeks a variance from the requirements of A17.3-2005 Section 4.3.3 regarding replacement of hydraulic jacks. Vance appeared at the January 20, 2011 Board meeting but the matter was tabled to allow Vance time to evaluate other repair options.
3. That the Agency and Vance agree that there is an undue hardship in this matter and that reasonable safety will be secured with the following conditions:
 - a. Vance will maintain on premises a maintenance log of all maintenance or service calls on the elevator, if any, including any in which

hydraulic fluid is added. (this log will be checked annually at the pressure test described in 3(b); and

b. The Agency will perform an annual pressure test with normal testing fees as described in Regulation 010.05-014; and

c. Sale of building, significant change in building/elevator use, or loss of hydraulic fluid that cannot be traced will result in revocation of variance (with proper notice/hearing etc. as described by Agency regulations); and

d. An Agency inspector will perform an initial pressure test within thirty (30) days of a final agreement to observe the current hydraulic fluid levels and establish a benchmark hydraulic fluid level for the above-referenced maintenance log.

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 is present in this matter and that reasonable safety will be secured if this request is granted pursuant to the conditions contained in Paragraph 3 above.


THEREFORE, the board grants the variance request from David Vance/Vance Title Company, Inc.


IT IS SO ORDERED.

ELEVATOR SAFETY BOARD
STATE OF ARKANSAS

By: 
James L. Salkeld, Chairman

Date: 12-2-11

Approved:  11/16/11
Daniel Knox Faulkner, 2002-168 DATE
Staff Attorney
Arkansas Department of Labor
10421 West Markham Street
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(501) 682-4504

 11-15-11
David L. Vance DATE
President, Vance Title Company, Inc.
204 West Main Street
Russellville, AR 72801
(479) 968-5404

BEFORE THE ELEVATOR SAFETY BOARD
STATE OF ARKANSAS

IN RE: SMART CHEVROLET
AS/EV #1082

CONSENT ORDER

This matter comes before the Arkansas Elevator Safety Board on Thursday, November 17, 2011. The petitioner, Smart Chevrolet (Smart), seeks a variance for the above-referenced conveyance located.

FINDINGS OF FACT:

1. The petitioner, Smart, submitted a variance request to the Arkansas Department of Labor on July 28, 2011 for AS/EV #1082, located at 515 West 15th, Pine Bluff, AR 71601.
2. Smart sought a variance for the above-referenced conveyance to be converted into a material lift after notification that the hydraulic jack had to be replaced by September 1, 2011 pursuant to Regulation 010.05-013(A)(3). After contact with Agency staff, Smart altered its request for material lift conversion to seek a variance from the requirements of A17.3-2005 Section 4.3.3.
3. That the Agency and Smart agree that there is an undue hardship in this matter and that reasonable safety will be secured with the following conditions:

a. Smart will maintain on premises a maintenance log of all maintenance or service calls on the elevator, if any, including any in which hydraulic fluid is added. (this log will be checked annually at the pressure test described in 3(b); and

b. The Agency will perform an annual pressure test with normal testing fees as described in Regulation 010.05-014; and

c. Sale of building, significant change in building/elevator use, or loss of hydraulic fluid that cannot be traced will result in revocation of variance (with proper notice/hearing etc. as described by Agency regulations); and

d. An Agency inspector will perform an initial pressure test within thirty (30) days of a final agreement to observe the current hydraulic fluid levels and establish a benchmark hydraulic fluid level for the above-referenced maintenance log.

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 is present in this matter and that reasonable safety will be secured if this request is granted pursuant to the conditions contained in Paragraph 3 above.

THEREFORE, the board grants the variance request from Smart Chevrolet.

IT IS SO ORDERED.

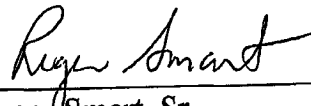
ELEVATOR SAFETY BOARD
STATE OF ARKANSAS

By: 
James L. Salkeld, Chairman

Date: 12-2-11

Approved: 

Daniel Knox Faulkner, 2002-168 DATE
Staff Attorney
Arkansas Department of Labor
10421 West Markham Street
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 10-4-2011
Roger Smart, Sr. DATE
General Manager
Smart Chevrolet Co.
P.O. Box 8708
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Pine Bluff, AR 71601
(870) 534-8122

BEFORE THE ELEVATOR SAFETY BOARD
STATE OF ARKANSAS

IN RE: ARKANSAS SECRETARY OF STATE
 CAPITOL HILL APARTMENT BUILDING
 AS/EV #301

ORDER

This matter comes before the Elevator Safety Board on Thursday, September 15, 2011. The petitioner, The Honorable Mark Martin, Secretary of State ("Petitioner"), seeks a variance with respect to the freight elevator located at the Capitol Hill Apartment Building on the State Capitol Grounds in Little Rock, Arkansas. The Arkansas Department of Labor was represented by counsel, Daniel Faulkner ("Faulkner"). The Secretary of State was represented by counsel, A.J. Kelly ("Kelly"), and Mr. Jim Comer, Director of Mechanical and Electrical operations for the Secretary of State, who attended in order to respond to any technical inquiries. The Board makes the following findings of fact and conclusions of law.

FINDINGS OF FACT:

1. The Petitioner has been operating the freight elevator (AS/EV #301) located at the Capitol Hill Apartment Building on the State Capitol Grounds in Little Rock, Arkansas pursuant to temporary variances granted in 2005 and 2008 with respect to the following:

- a. hoistway projections, A17.3-2005, 2.1.3;
- b. access to machine room, A17.3-2005, 2.2.2; and A17.1-2004, Part 8.7.2.7.2;
- c. fire rating on hoistway, A17.3-2005, 2.1;
- d. car enclosures, A17.3-3005, 3.4.1; and
- e. working clearance, NEC 2005, 110.26(a)(1).

2. The conveyance was also granted a permanent variance in 2008 for the following:
 - a. foreign equipment in the machine room, A17.3-2005, 2.2.1; and
 - b. foreign piping in the hoistway, A17.3-2005, 2.1.4.

3. Effective September 1, 2006, the Board updated the State Elevator Code to the 2005 edition of ASME A17.3, which requires all existing elevators to have Phase I and Phase II fire service. Existing elevators had until September 1, 2011 to comply with the fire service requirement. The Secretary of State was sent notice of these proposed regulations in 2006 during the regulation promulgation process.

4. The Petitioner filed a variance request March 9, 2011, seeking:
 - a. an extension of the temporary variance referenced in Paragraph 1 above; and
 - b. a variance from ASME A17.3-2005, Section 3.11.3 and Arkansas Elevator Rules and Regulations Section 010.05-013 requiring the installation of Firefighter's Phase I and Phase II Service. Counsel clarified that the Petitioner seeks a temporary variance from Firefighter's Phase I and Phase II Service until July 1, 2012 contingent upon appropriation approval from the legislature for that budget cycle.

5. Larry Smothers ("Smothers"), Chief Elevator Inspector, Arkansas Department of Labor, made a report to the board and recommended permanent approval of the temporary variance items contained in Paragraph 1(a-e) above provided signage is placed in the conveyance stating "No Riders Freight Only" in four inch block letters. Petitioner (Mr. Comer) testified that the letters have already been placed in the conveyance. Faulkner and Kelly agreed that the sole issue left before the Board involves the installation of Firefighter's Phase I and Phase II Service on AS/EV #301.

6. Smothers made a report to the board and recommended denial of the variance request with respect to the installation of Firefighter's Phase I and Phase II Service on AS/EV #301.

7. The Petitioner presented evidence to the Board that it has explored modernization of the elevator and modernization would cost approximately \$399,000 (\$363,000 for installation plus \$36,000 for architectural evaluation).

8. No evidence was presented on the cost of installing only Firefighter's Phase I and Phase II Service on AS/EV #301, and no one on the Board made any inquiries about such a partial modernization.

9. Petitioner did not acquire appropriation for any expenditure for Capitol Hill Elevators during the 2011 General Assembly.

10. The Petitioner's biennial budget includes appropriations for \$5,000,000 for General Improvements but no corresponding funding.

11. The Petitioner did have \$3,200,000 in appropriated funds at the end of the last biennium (ending June 30, 2011), but most of those funds were designated for personnel, not general improvements, nor for capital expenditures. As Petitioner stated, any contractual arrangement for modernization made before June 30, 2011, would have had to receive an appropriation in both fiscal years, 2011 and 2012.

12. The Petitioner admits that it uses part of its annual appropriation as a "self-insured" fund devoted to mechanical issues in the Capitol itself, but has determined those funds should be devoted to projects directly affecting the critical infrastructure and operation of the Capitol, not the Capitol Hill Apartment Building, in the absence of a line item from the legislature for such a purpose.

13. In an attempt to offer increased safety, and to preclude the possibility of passenger use of the freight elevator in the event of a fire or other emergency, Petitioner further amended its

variance to include examination of the possibility of installing a key lock device in the conveyance. If the key lock device was not ultimately possible, Petitioner agreed that the freight elevator would be locked and stored on the basement level when not being used to transport freight.

14. Petitioner offered evidence to show that the passenger elevator in the Capitol Hill Apartment Building, Elevator No. 296, was fully compliant with Firefighter Phase I and Firefighter Phase II Service, and served all of the same floors at the Capitol Hill Apartment Building.

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. ASME A17.3-2005 is the applicable code for this conveyance.

3. In the present case, the Board concludes that there is no undue hardship present in this matter because the hardship presented by Petitioner is solely a budgeting issue that could have been addressed contemporaneously with this variance request; Petitioner testified that there was a large “self-insured” fund that was in large part appropriated funds not spent in Fiscal Year 2011, but for which there was not a corresponding appropriation in Fiscal Year 2012; Petitioner can seek an appropriation in the upcoming fiscal session in January 2012; the Board has already granted a five (5) year fire service installation period by regulation. The Board further finds that reasonable safety

will not be secured if this request is granted and the staff recommendation shall be followed with respect to Firefighter's Phase I and Phase II Service.

THEREFORE, the Board:

1. permanently grants the Petitioner's variance request for the following:
 - a. hoistway projections, A17.3-2005, 2.1.3;
 - b. access to machine room, A17.3-2005, 2.2.2; and A17.1-2004, Part 8.7.2.7.2;
 - c. fire rating on hoistway, A17.3-2005, 2.1;
 - d. car enclosures, A17.3-3005, 3.4.1; and
 - e. working clearance, NEC 2005, 110.26(a)(1); and

2. denies the Petitioner's variance request from ASME A17.3-2005, Section 3.11.3 and Arkansas Elevator Rules and Regulations Section 010.05-013 for AS/EV #301.


IT IS SO ORDERED.

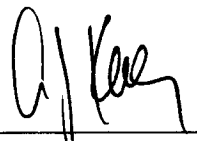
ELEVATOR SAFETY BOARD
STATE OF ARKANSAS

By: 
James L. Salkeld, Chairman

Date: 12-1-11

Approved as to form:

 11/17/11
Daniel Knox Faulkner, 2002168 DATE
Staff Attorney
Arkansas Department of Labor
10421 West Markham Street
Little Rock, AR 72205
(501) 682-4504

 11/16/11
A.J. Kelly DATE
Deputy Secretary of State
Arkansas Secretary of State
Room 256 State Capitol
Little Rock, AR 72201
(501) 682-1010

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

**IN RE: LITTLE ROCK ADVERTISING & PROMOTION COMMISSION
 ROBINSON CENTER MUSIC HALL
 AS/EV #2225 & 2226**

ORDER

This matter comes before the Arkansas Elevator Safety Board on Thursday, May 19, 2011. The petitioner, Little Rock Advertising & Promotion Commission (LRAP) seeks a variance for the above-referenced conveyances, located at #7 Statehouse Plaza, Little Rock, AR. The Arkansas Department of Labor was represented by counsel, Daniel Faulkner. LRAP was represented by Leisa Pulliam, Sr. VP/CFO and Jim Rice, Sr. VP/COO.

FINDINGS OF FACT:

1. The petitioner, LRAP, Statehouse Plaza, P.O. Box 3232, Little Rock, Arkansas 72203 submitted a variance request to the Arkansas Department of Labor on July 22, 2011 seeking a variance for the above-referenced conveyances located at Robinson Music Hall, #7 Statehouse Plaza, Little Rock, AR from ASME A17.3-2005, Section 3.11.3 and Arkansas Elevator Rules and Regulations Section 010.05-013 requiring the installation of Firefighter's Phase I and Phase II Service.

2. Petitioner variance request and testimony before the Board is that a fire service upgrade would cost between \$100,000 and \$150,000.

3. Robinson Center Music Hall is being renovated and the elevators will likely be completely replaced during these renovations. Ingress and egress locations also are subject to complete change. The renovations are anticipated to begin in Fall 2015.

3. Additionally, the construction plans are subject to change based on renovations being made to the Broadway Bridge. These plans could potentially change depending on construction plans for the Broadway Bridge.

4. Petitioner contends that the current layout of the building is such that each set of elevator landings is located in direct proximity to an exterior exit door and that she feels public safety is reasonable because of the design of the building.

5. Petitioner also advised that during events, security personnel is stationed at the elevators on each floor and these staff members are trained to direct people in the building to use exterior doors and not elevators during the event of an emergency.


4. Larry Smothers (Smothers), Chief Elevator Inspector, Arkansas Department of Labor, made a report to the board and recommended denial of the variance.

5. Petitioner amended its variance request during the hearing to request the variance for one (1) year period at which time LRAP will have more information on the Robinson renovation process.

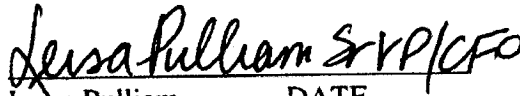
CONCLUSIONS OF LAW:

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.

Approved:


11/15/11
DATE
Daniel Knox Faulkner, 2002168
Staff Attorney

10421 West Markham Street
Little Rock, AR 72205
(501) 682-4504


11/15/11
DATE
Leisa Pulliam
Sr. VP/CFO
Little Rock Adv. & Prom. Commission
Statehouse Plaza, P.O. Box 3232
Little Rock, AR 72203
(501) 376-4781

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 compliance with ASME A17.3-2005, Section 3.11.3 and Arkansas Elevator Rules and Regulations Section 010.05-013 requiring the installation of Firefighter's Phase I and Phase II Service would be an undue hardship because of the likely renovations completely remove and/or renovate the existing elevators. The Board concludes that a one (1) year time period is reasonable and will allow LRAP to return to the Board with more information regarding the renovation details and timeline.

3. The Board further concludes that, based on the facts presented and the opinion of the board, reasonable safety will be assured since the elevators are not necessary to exit the building in the event of a fire and the additional event security promised by Rice.

THEREFORE, the board grants LRAP's amended request for a one (1) year variance from ASME A17.3-2005, Section 3.11.3 and Arkansas Elevator Rules and Regulations Section 010.05-013 requiring the installation of Firefighter's Phase I and Phase II Service until September 15, 2012. The Board has the authority to revoke this variance if there is a material change in condition upon proper notice and opportunity for hearing.

IT IS SO ORDERED.

ELEVATOR SAFETY BOARD
STATE OF ARKANSAS

By: 
James L. Salkeld, Chairman

Date: 12-1-11

BEFORE THE ELEVATOR SAFETY BOARD
STATE OF ARKANSAS

IN RE: KONE INC.

ORDER

This matter came before the Elevator Safety Board on Thursday, September 15, 2011. KONE, Inc. ("Petitioner") was represented by Ron Emerson ("Emerson"), Branch Manager. The Arkansas Department of Labor was represented by counsel, Daniel Faulkner, and by Larry Smothers, Chief Elevator Inspector. The Board makes the following findings of fact and conclusions of law.

FINDINGS OF FACT:

1. On May 19, 2011, an Order was entered by this Board granting a variance to allow use of 6mm diameter and 8mm diameter steel wire ropes on one (1) KONE traction elevator to be located at First Baptist Church (Russellville, AR) 72802 and two (2) KONE traction elevators to be located at UALR Honors Housing.
2. On September 15, 2011 an Order was entered by this Board granting five (5) additional KONE conveyances to be installed at Southwest Power Pool, UALR Nanotechnology, Lisa Academy, and McCain Mall.
3. Petitioner submitted a blanket variance request for 6mm diameter and 8mm diameter steel wire ropes June 7, 2011. Petitioner submitted an amended request September 12, 2011 requesting the same blanket variance for a period of one year from the date of the Board's decision.

4. Larry Smothers (Smothers), Chief Elevator Inspector, Arkansas Department of Labor, made a written report to the board and recommended denial of the variance. However, after personally inspecting several conveyances, Smothers testified to the Board that his safety concerns had been met and changed his recommendation to approval of the one year variance request.

STEEL WIRE ROPES

5. On June 1, 2008, the board adopted ASME A17.1-2007 for new construction. Standard 2.20.4 provides:

2.20.4 Minimum Number and Diameter of Suspension Ropes. The minimum number of hoisting ropes used shall be three for traction elevators and two for drum-type elevators.

Where a car counterweight is used, the number of counterweight ropes used shall be not less than two

The term “diameter” when used in reference to ropes, shall refer to the nominal diameter as given by the rope manufacturer.

The minimum diameter of hoisting and counterweight ropes shall be 9.5 mm (0.375 in.). Outer wires of ropes shall not be less than 0.56 mm (0.024 in.) in diameter.

6. KONE requests approval for the use of small diameter steel wire ropes (8mm) based on ASME A17.1-2007 Preface and Section 1.2 which provides general discretion to jurisdiction to accommodate new technologies based upon technical documentation or physical performance verification.

GOVERNOR CABLES

7. On June 1, 2008, the board adopted ASME A17.1-2007 for new construction. Standard 2.18.5 provides:

2.18.5 Governor Ropes

2.18.5.1 Material and Factor of Safety. Governor ropes shall be of iron, steel, monel metal, phosphor bronze, or stainless steel. They shall be of a regular-lay construction and not less than 9.5 mm (0.375 in.) in diameter. The factor of safety of governor ropes shall be not less than 5. Tiller-rope construction shall not be used.

8. KONE requests approval for the use of small diameter steel wire governor cables (6mm) based on ASME A17.1-2007 Preface and Section 1.2 which provides general discretion to jurisdiction to accommodate new technologies based upon technical documentation or physical performance verification.

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 due to the fact that new unadopted Codes (A17.1-2010 and A17.6-2010) allow the size of ropes and governor cables in question; and that literal compliance would prohibit the operation of these devices. The Board finds that reasonable safety will be secured since these ropes and cables are permitted under newer Codes; Petitioner’s documentation shows appropriate levels of equivalent safety; and Smothers oral report that he has inspected similar devices and believes them to be reasonably safe.

THEREFORE, the Board grants the KONE, INC. request for a blanket variance to allow the sale and installation of conveyances using the above-referenced 6mm diameter and 8mm diameter steel wire ropes until September 15, 2012.

IT IS SO ORDERED.

ELEVATOR SAFETY BOARD
STATE OF ARKANSAS

By:  _____
James L. Salkeld, Chairman

DATE: 12-1-11

Approved:
Daniel Knox Faulkner (2002-168)
Staff Attorney
Arkansas Department of Labor
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Little Rock, AR 72205
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daniel.faulkner@arkansas.gov

BEFORE THE ELEVATOR SAFETY BOARD
STATE OF ARKANSAS

IN RE: JERRY GOTLIB/GOTLIB'S ANTIQUES
AS/EV #1153

CONSENT ORDER

This matter comes before the Arkansas Elevator Safety Board on Thursday, November 17, 2011. The petitioner, Jerry Gotlib/Gotlib's Antiques (Gotlib), seeks a variance for the above-referenced conveyance located at 1110 Garrison Avenue, Fort Smith, AR 72901.

FINDINGS OF FACT:

1. The petitioner, Gotlib, submitted a variance request to the Arkansas Department of Labor through his attorney, James R. Filyaw, on February 16, 2011 for AS/EV #1153, located at 1110 Garrison Avenue, Fort Smith, AR 72901.

2. Gotlib seeks a variance from the requirements of A17.3-2005 Section 4.3.3 regarding replacement of hydraulic jacks. Gotlib appeared at the May 19, 2011 Board meeting but the matter was tabled to allow Gotlib time to evaluate other repair options.

3. That the Agency and Gotlib agree that there is an undue hardship in this matter and that reasonable safety will be secured with the following conditions:

a. Gotlib will maintain on premises a maintenance log of all maintenance or service calls on the elevator, if any, including any in which

hydraulic fluid is added. (this log will be checked annually at the pressure test described in 3(b); and

b. The Agency will perform an annual pressure test with normal testing fees as described in Regulation 010.05-014; and

c. Sale of building, significant change in building/elevator use, or loss of hydraulic fluid that cannot be traced will result in revocation of variance (with proper notice/hearing etc. as described by Agency regulations); and

d. An Agency inspector will perform an initial pressure test within thirty (30) days of a final agreement to observe the current hydraulic fluid levels and establish a benchmark hydraulic fluid level for the above-referenced maintenance log.

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 is present in this matter and that reasonable safety will be secured if this request is granted pursuant to the conditions contained in Paragraph 3 above.

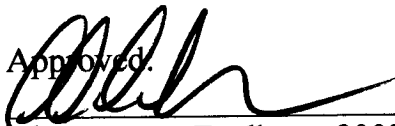
THEREFORE, the board grants the variance request from Jerry Gotlib.

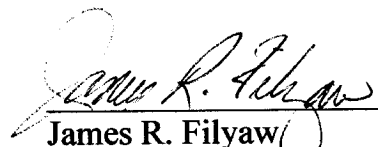
IT IS SO ORDERED.

ELEVATOR SAFETY BOARD
STATE OF ARKANSAS

By: 
James L. Salkeld, Chairman

Date: 12-2-11

Approved:  10/5/11
Daniel Knox Faulkner, 2002-168 DATE
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 10/4/11
James R. Filyaw DATE
Attorney for Jerry Gotlib
602 Garrison Avenue, Suite 630
P.O. Box 1177
Fort Smith, AR 72902
(479) 783-3399

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

**IN RE: FORD INVESTMENTS
AS/EV #1097**

ORDER

This matter comes before the Elevator Safety Board on Thursday, October 13, 2011. The petitioner, James R. Ford d/b/a Ford Investments ("Ford") seeks a variance for the platform size of a existing conveyance located at 500 West Main Street, Russellville, Arkansas 72801. The Arkansas Department of Labor was represented by counsel, Daniel Faulkner ("Faulkner"). James R. Ford appeared by phone. The Board makes the following findings of fact and conclusions of law.

FINDINGS OF FACT:

1. The Petitioner filed a variance request June 16, 2011 and an amended request August 29, 2011 seeking a variance to change the size of the elevator box.
2. Larry Smothers ("Smothers"), Chief Elevator Inspector, Arkansas Department of Labor, made a report to the board and recommended denial of a Firefighter's Phase I and Phase II Service variance at the September 15, 2011 regular Board meeting.
3. No evidence was presented clarifying the need for a change to change the size of the elevator box to install fire service, and the Board denied the variance request due to lack of evidence regarding undue hardship and reasonable safety.

4. After this Board meeting, the Agency determined that Ford in fact needed a variance from ASME A17.1-2007 Part 2.16.1.1 "Inside Net Platform Area for Passenger Elevators." This section is applicable because Ford intends to perform an alteration on the conveyance to install fire service, which required the application of ASME A17.1 pursuant to Regulation 010.05-012.

5. The Board held a special meeting by telephone on October 13, 2011. The Agency made a motion for the Board to reopen the matter from the September 15, 2011 meeting.

6. Smothers made an amended oral report to the Board indicating the reason for the variance as described in Paragraph 4 and recommended the variance be granted because of the concrete wall construction of the building and that reasonable safety will be preserved if variance is granted.

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 compliance with ASME A17.1-2007 Part 2.16.1.1 would be an undue hardship because the concrete wall construction of the building makes it impossible to increase the size of the elevator car.

3. The Board further concludes that, based on the facts presented and the opinion of the board, reasonable safety will be assured since the ultimate level of safety will be increased due to the modernization.


THEREFORE, the board grants a variance to Ford from ASME A17.1-2007 Part 2.16.1.1 for the above referenced conveyance.

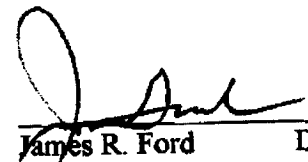
IT IS SO ORDERED.

ELEVATOR SAFETY BOARD
STATE OF ARKANSAS

By: 
James L. Salkeld, Chairman

Date: 12-1-11

Approved:  10/28/11
Daniel Knox Faulkner, 2002168 DATE
Staff Attorney
Arkansas Department of Labor
10421 West Markham Street
Little Rock, AR 72205
(501) 682-4504

 10/28/11
James R. Ford DATE
Ford Investments
500 West Main Street
Russellville, AR 72801
(479) 280-1904

BEFORE THE ELEVATOR SAFETY BOARD
STATE OF ARKANSAS

IN RE: ALIMAK HEK

ORDER

This matter comes before the Elevator Safety Board on Thursday, September 15, 2011. The petitioner, Alimak Hek Elevator Company (“AHEC”), seeks a variance to install a conveyance to be located at 4343 Highway 108, Foreman, Arkansas 71836. The Arkansas Department of Labor was represented by counsel, Daniel Faulkner (“Faulkner”). AHEC did not appear at the hearing. The Board makes the following findings of fact and conclusions of law.

FINDINGS OF FACT:

1. The Petitioner filed a variance request July 13, 2011, seeking a variance from ASME A17.1-2007 Part 5.7.12.2 “Limitation of Load, Speed and Platform Area.”
2. Larry Smothers (“Smothers”), Chief Elevator Inspector, Arkansas Department of Labor, made a report to the board and recommended denial of the variance.
3. AHEC’s variance request offers no evidence as to the undue hardship present in this matter. Smothers had no knowledge of the undue hardship present in this matter.

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 there is no undue hardship present in this matter because AHEC did not provide evidence of an undue hardship.


THEREFORE, the Board denies the Petitioner’s variance request from ASME A17.1-2007 Part 5.7.12.2 “Limitation of Load, Speed and Platform Area.”

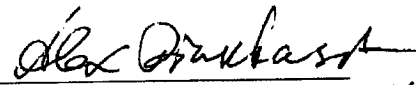
IT IS SO ORDERED.

ELEVATOR SAFETY BOARD
STATE OF ARKANSAS

By: 
James L. Salkeld, Chairman

Date: 12-1-11

Approved:  11/2/11
Daniel Knox Faulkner, 2002168 DATE
Staff Attorney
Arkansas Department of Labor
10421 West Markham Street
Little Rock, AR 72205
(501) 682-4504


Alex Pinkhasik DATE 11.01.11
Project Manager
Alimak Hec, Inc.
8400 Villa Drive
Houston, TX 77061
(203) 513-3146

BEFORE THE ELEVATOR SAFETY BOARD
STATE OF ARKANSAS

IN RE: ALICE-SIDNEY FARMS
ES/AS #481 & 482

ORDER

This matter comes before the Elevator Safety Board on Thursday, September 15, 2011. The petitioner, Alice-Sidney Farms (ASF), 2543 Highway 165 South, Dermott, Arkansas 71638 seeks a variance for the above referenced conveyances.

FINDINGS OF FACT:

1. The petitioner, ASF, seeks a variance from ADG seeks a variance from ASME A17.3-2005, Section 3.11.3 and Arkansas Elevator Rules and Regulations Section 010.05-013 requiring the installation of Firefighter's Phase I and Phase II Service for the above-referenced conveyances located at 1267 Highway 144 West, Lake Village, Arkansas 71653.
2. Larry Smothers, Chief Elevator Inspector, Arkansas Department of Labor, made a report to the board and recommended approval of the variance due to the fact these conveyances are now used in a solely residential application. This recommendation was made with the following condition: any significant change in building/elevator use may result in revocation of variance (with proper notice/hearing etc. as described by Agency regulations);
3. The variance request does not pose a significant safety risk if the above referenced conditions are implemented.

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 compliance with ASME A17.3-2005, Section 3.11.3 and Arkansas Elevator Rules and Regulations Section 010.05-013 requiring the installation of Firefighter's Phase I and Phase II Service would be an undue hardship because the conveyances are located in a private residence and fire service would be impractical in such a setting. However the Board adds the condition that any significant change in building/elevator use may result in revocation of variance (with proper notice/hearing etc. as described by Agency regulations);

3. The Board further concludes that, based on the facts presented and the opinion of the board, reasonable safety will be assured due to the nature of the building as a private residence.

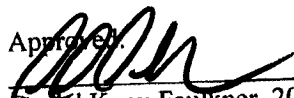
THEREFORE, the board grants a variance to ASF from ASME A17.3-2005, Section 3.11.3 and Arkansas Elevator Rules and Regulations Section 010.05-013 requiring the installation of Firefighter's Phase I and Phase II Service for the above referenced conveyances.

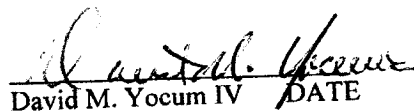
IT IS SO ORDERED.

ELEVATOR SAFETY BOARD
STATE OF ARKANSAS

By: 
James L. Salkeld, Chairman

Date: 12-1-11

Approved: 
Daniel Knox Faulkner, 2002168 DATE
Staff Attorney
Arkansas Department of Labor
10421 West Markham Street
Little Rock, AR 72205
(501) 682-4504


David M. Yocum IV DATE
Managing Member
Alice-Sidney Farms
2543 Highway 165 South
Dermott, AR 71638
(870) 538-3216

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

IN RE: COMMERCIAL NATIONAL BANK
AS/ES #3016

ORDER

Upon Motion of the Arkansas Department of Labor, the variance request for Commercial National Bank is hereby dismissed without prejudice.

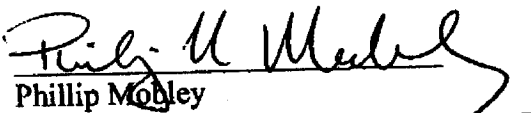
IT IS SO ORDERED this matter is dismissed without prejudice.


ELEVATOR SAFETY BOARD
STATE OF ARKANSAS

By: 
James L. Salkeld, Chairman

DATE: 12-1-11

APPROVED BY:


Phillip Mobley
Vice President
Commercial National Bank


Daniel Knox Faulkner, AR Bar No. 2002168
Attorney, Arkansas Department of Labor