

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

**IN RE: SHOLLMIER & COMPANY, INC.
 AS 1437**

ORDER

This matter came before the Arkansas Elevator Safety Board on Thursday, May 19, 2016. The petitioner, Shollmier & Company, Inc. seeks a variance for the above referenced conveyance located at 720 West 3rd Street, Little Rock, Arkansas. Ken Shollmier appeared on behalf of the petitioner, as well as his contractor, J. J. Harrington with Arkansas Elevator LLC. Denise Oxley, Attorney, and Greg Tipton, Chief Elevator Inspector, appeared on behalf of the Department of Labor.

FINDINGS OF FACT:

1. The petitioner submitted a variance request on November 3, 2015, which included a Scope of Work Description from Arkansas Elevator LLC, to bring the elevator up to ASME A17.3.
2. The variance request stated that the property was purchased by the petitioner in January 2014, and the operating permit had been expired for more than one (1) year.
3. The elevator is a hydraulic elevator with a flat bottom jack. The petitioner, through Mr. Harrington, clarified that the variance request included a variance from the requirement that the flat bottom jack be replaced, conditioned upon the performance of an annual state-witnessed hydraulic pressure test. At the hearing, the petitioner, through Mr. Harrington, agreed that the elevator safety test could be performed at 150% of full load.

4. The variance request also stated that “I am asking for (3) years to have all the work completed.” At the hearing, the petitioner clarified that the request was largely for a time variance, to be able to operate the elevator while the remodel was done over a period of three (3) years.

5. Greg Tipton, Chief Elevator Inspector, performed an inspection of the elevator and prepared a report reflecting a number of violations, including, but not limited to the following: no machine room; no fire service; no phone; hoist way not fire rated; pit ladder is located in the back of the hoist way; no sump pump or drain; flat bottom jack needs replacing; no fused disconnect for elevator power; ledges protruding in hoist way; controller is in a room with water lines, electric panels and water heater; and hall buttons are too high.

6. Mr. Tipton recommended that a variance be granted only for the following: the pit ladder; the hall buttons; and the replacement of the flat bottom jack, provided that there is an annual full load safety test.

CONCLUSIONS OF LAW:

7. 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.”

8. In the present case, the Board concludes that reasonable safety cannot be secured by allowing an elevator to operate for three (3) years while safety repairs are made slowly over such a period of time.

9. The Board concludes that there is an undue hardship and reasonable safety will be secured by granting a variance as follows:

- a. the pit ladder and hall buttons do not have to be re-located; and
- b. the flat bottom jack does not have to be replaced, provided that the elevator is able to successfully pass an annual safety test, witnessed by a state inspector, and tested at 150% of full load.

10. The alteration or remodel shall be complete within six (6) months of entry of this order.

IT IS SO ORDERED.

By: LSJ
Leon Jones, Jr., Chairman

Date: 8/1/16

Approved:

Denise P. Oxley, 84-117
General Counsel
Arkansas Department of Labor
10421 W. Markham Street
Little Rock, AR 72205
(501) 682-4502