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**Minutes**

**Meeting of the  
Board of Elevator Regulations  
November 15, 2022 at 1:00 p.m.**

**1000 Washington Street  
Boston, MA 02118  
1<sup>st</sup> Floor – Room 1D**

**Board Members Present:**

Eric Morse, Acting Chair  
Neil Mullane  
David Morgan  
David Gaudet  
Thomas McDermott  
Christopher Towski

**Board Members Absent:**

Brian Ronan

**Guests Present:**

David Silverman  
Mark Blake  
John McGinnis  
Deanna Savage  
Andre Jones  
Jim Podesky  
Michael Trickett  
Tony Scoppettuolo  
Mark Farley

**Division of Occupational Licensure Staff:**

Peter Kelley  
Ruthy Barros

Call to Order 1:02 p.m.:

**1. Continued discussion of requirement of written statement of compliance with § 2.1.4 in elevator permit applications, dating from 12/2/18:**

The Board mentioned the engineer from C3 who spoke during the public hearing, stating design professionals do not know if a unit is fully compliant, when stamping the elevator drawings so early on in the project, confirming that the control of smoke and hot gases is fully compliant with the building code. The Board read the Constant Contact from 1/31/2019 emailed by prior Chief of Elevator Inspections Stephen Sampson [**Exhibit 1**]. Design professionals can confirm that the proposed unit is designed in compliance, but they cannot confirm that the unit is compliant at the time of permitting or inspection. The Board then discussed 524 CMR 35.00 Section 2.1.4. Mr. Morse suggested issuing an interpretation and will draft language for the Board to review at the next meeting. Chief McDermott read a previously received letter that was submitted with a permit, stating the language “Compliant with 524 CMR”. A statement that is ‘designed to control smoke and hot gasses in compliance with 524 CMR’ should be sufficient. Lastly, the Board discussed 524 CMR 35.00 Section 2.28.1 – Information Required on Layout Drawings. Add (k) through (x) that read:

(k) all plans for elevator installations shall be signed by a registered professional engineer or a registered architect and shall bear his registering stamp certifying that he has examined the plans and finds that the building will structurally support the elevator contract load plus its tare as they are shown on the elevator drawing. The architect or engineer shall not be responsible for any material on the elevator drawing. The complete installation shall comply with 524 CMR at the time of filing;

(n) registered design professional's stamped, written statement that ventilation complies with 524 CMR;

Mr. Morgan stated OPSI Elevator Inspectors should check the temperature and humidity in the hoistway.

**2. Discussion of car locking devices, manufacturers, and § 2.7.5.1 of elevator code:**

Mr. Morse explains what the car blocking device does and provided the Board with pictures of locking means on a Kone jobsite [**Exhibit 2**]. The Board read and discussed the memo and pictures from submitted by David Griefenhagen during the public hearing dated 10/5/2022

[**Exhibit 3**]. Chief McDermott confirmed that he will mention this topic during the weekly Supervisor meeting. The Board unanimously agreed that Section 2.7.5.1.1 has to be met.

3. **Approval of meeting minutes from August 2, 2022 [Exhibit 4]**

A motion was put forth by Christopher Towski to accept the minutes as corrected. The motion was seconded by Thomas McDermott. **Vote: 5-0; Granted.** David Morgan abstained.

4. **Approval of meeting minutes from August 16, 2022 [Exhibit 5]**

A motion was put forth by Christopher Towski to accept the minutes as written. The motion was seconded by Neil Mullane. **Vote: 6-0; Granted.**

5. **Approval of meeting minutes from August 30, 2022 [Exhibit 6]**

A motion was put forth by Christopher Towski to accept the minutes as written. The motion was seconded by David Morgan. **Vote: 5-0; Granted.** Eric Morse abstained.

6. **Discussion of the Chair's proposal for scheduling future BER meetings:**

The Board briefly discussed changing the current Board of Elevator Regulations meeting schedule. Mr. Morse provided an email dated 10/31/2022 with suggestions on meeting times [**Exhibit 7**]. Mr. Morgan suggested to keep the same schedule. Mr. Mullane stated that he prefers to consolidate the number of times the Board meets and instead extend each meeting.

7. **7 Newbury Street, Boston [Exhibit 8]**

**New Installation**

**524 CMR Section 5.2.1.4.1**

**Petitioner: David Silverman**

The petitioner appeared before the Board seeking a variance from 524 CMR § 5.2.1.4.1, to allow the use of a LULA with a 14" deep pit, while code states the depth of the pit shall be no less than 35". Silverman Trykowski Associates is the architect working on a project at 7 Newbury Street in Boston, MA for Long's Jewelers. Long's Jewelers would like to install a new LULA elevator within their establishment to serve customers in their three floor retail store. The existing building has an elevator that serves the entire building, however it is not large enough to provide handicap accessibility to any floors in the building. The petitioner testified that no work is being done on this elevator at this time. The petitioner is requesting a variance from 524 CMR 5.2.1.4.1, which states that the elevator shall conform to A17.1 Section 2.4.1, requiring a 35" deep pit. The petitioner stated that a 35" pit will endanger an

existing grade beam and the structural integrity of the building, and the structural beam cannot be removed. After reviewing with the structural engineer and building contractor, the petitioner is proposing to use a LULA with a 14” deep pit, which is acceptable and allowed by the LULA manufacturer. The grade beam is approximately 4ft to 4 ½ft deep. The petitioner testified that the unit meets all other conditions of the LULA code and there are no issues with the rise. The lift would not serve the upper tenants and would be strictly accessibility for Long’s Jewelers. Mr. Morgan advised the petitioner that shallow pit full-service elevators have been approved by this Board in the past and there’s a manufacturer that provides a shallow pit elevator. Mr. Morse stated that a LULA is limited to 30fpm, not with this “shallow pit” elevator and gave examples of other locations with similar devices. Mr. Gaudet state he is not convinced by the drawings and layouts provided, that the equipment cannot be located anywhere else. The documentation only demonstrates why the equipment cannot go towards the alley. The petitioner requested, without objection, to withdraw his variance application, in order to research a possible alternative. The Board took no further action. **Withdrawn.**

8. **39 Lafayette Street, Marblehead [Exhibit 9]**

**State ID: 168-P-22**

**524 CMR 35:00 § 2.8.3.3**

**Petitioner: Mark Blake**

The petitioner appeared before the Board seeking a variance from 524 CMR 35:00 § 2.8.3.3, to allow the installation of sprinklers into the hoist ways, pits, machine rooms and control spaces. The petitioner provided a CMS letter stating the denial of payment for new admissions is effective on December 19, 2022, and termination of existing patients is effective on March 29, 2023, if the facility does not comply. The petitioner confirmed that the building is fully sprinkled, with 54 beds, and about 50 patients with one elevator, which is a three-story hydraulic. A motion was made by David Gaudet to grant the petitioner’s request with the justification being hardship resulting from the withholding of federal funding due to an inspection by the Centers for Medicare & Medicaid Services (CMS) for non-compliance with NFPA 13 – 1999 Edition of the Standard for the installation of Sprinkler Systems. Specifically, that sprinklers are not installed in the elevator machine room, hoistway and pits. Established guidelines will be issued with the variance decision. The motion was seconded by Neil Mullane.

**Motion: David Gaudet**

**Seconded: Neil Mullane**

**Vote: 6-0; Granted.**

Neil Mullane recused himself prior to the next hearing at 3:28 p.m.

9. **466 River Street, Mattapan [Exhibit 10]**

**State ID: 1-P-23353**

**524 CMR 35:00 § 2.27.2 of ASME A17.1-2013**

**Petitioner: Michael Kizelewicz**

The petitioner's representatives appeared before the Board seeking an interpretation from 524 CMR § 2.27.2 of ASME A17.1-2013 – Emergency or Standby Power System. The petitioner's representative stated the above address is an important community investment in Mattapan, as it serves low- and modern-income citizens. Approximately 3,000 applicants applied for residency through a lottery, and 135 will be chosen. The petitioner's representative stated the elevator failed inspection due to a stand-by emergency generator that is not mounted on the roof, and there are procurement issues the roof unit is not in place. The existing elevators are paired together, meaning a duplex elevator but only one being on a generator, no selection switch, and only one elevator would recall. There is battery backup, but it is not operable during standby. Mr. Trickett stated the unit was installed in full compliance with the electrical code and the existing generator is on a trailer, on a property owned by the MBTA. Mr. McDermott expressed the department and inspector's concern. Mr. Morse stated there is nothing in code that prevents the application of a temporary generator. Mr. Morgan stated the key switch in the lobby is a major concern. Mr. McGinnis stated the plans that were bid on were to be one elevator battery and the other a generator. The other unit passed inspection and received a state certificate. Mr. McDermott stated the plans called for the generator to be on the roof for the EMS elevator, and they did not conform to the plans that were submitted. Mr. Gaudet stated the unit is code compliant but was not built to the specifications submitted to the department. Mr. McGinnis stated the roof generator should be installed sometime in February, but the time frame of installation is not guaranteed. Mr. McDermott stated the department would have to retest with a new generator. Mr. Morse stated the second elevator not being on generator is concerning. Mr. Morgan agreed with Mr. Morse and stated he doesn't know how the second elevator passed code, and that both elevators should be running off the generator, and that the code citations on the inspector's report are not clear. Mr. Morse stated the Board cannot say the elevator is fully compliant with the list of citations, only that the generator setup is code compliant. Mr. Morgan stated according to Section 1 of the code, he does not believe the department can continuously issue a 90-day temporary certificate of compliance and since this is a new

construction, a licensed elevator mechanic has to be on site and run the unit. Mr. Morse stated the department should decide what to do and by reissuing the violations muddies the issue, and the units need to be reinspected by the department. Mr. McDermott explained that the first violation was corrected and reissued. A motion was made by David Gaudet that permanent power is not addressed in code, a temporary generator is not prohibited by the code, and both cars must be code complaint. 524 CMR 35.00 Section 2.27.2.4 states, where the emergency or standby power system is not capable of operating all elevators simultaneously, the elevators shall conform to requirements of Sections 2.27.2.4.1 through 2.27.2.4.6. The motion was seconded by David Morgan.

**Motion: David Gaudet**

**Seconded: David Morgan**

**Vote: 5-0. Neil Mullane recused himself prior to the hearing.**

**10. 129 Sturbridge Road, Charlton [Exhibit 11]**

**State ID: 54-V-21318**

**524 CMR 35:00 § 32.08**

**Petitioner: Mark Farley**

The petitioner appeared before the Board seeking a variance from an inspector's report from August 18, 2022, citing "Operating Protective Safety Switch – § 32.08 no SOS". The petitioner stated the above device is a roped hydraulic unit with an inverted piston. The manufacturer of the equipment, until recently was not aware that this device was required. This lift is designed to rest the carriage on the floor at the lower landing and as a result, the cables supporting the carriage could go slack. An SOS switch could then potentially be tripped causing the lift to be disconnected from the power. Since this is a device that has to be manually reset each time it would not be possible to operate the lift. Because of this design, according to the manufacturer there is no good way to incorporate an SOS device. Also, Atlantic Elevator has invested much time to design a way of adding a manual resettable SOS switch on this unit but must concur with the manufacturer, Autoquip's conclusion. Mr. Morgan explained the reason for having SOS and how it operates. A motion was made by David Morgan to place the case on hold for 90 days (February 13, 2023) for manufacturer to present a code complaint solution of SOS non-manual resetting type. Further Board action to be determined. The motion was seconded by Thomas McDermott.

**Motion: David Morgan**

**Seconded: Thomas McDermott**

**Vote: 6-0. Placed on hold for 90 days.**

**Motion to Adjourn: Christopher Towski**

**Seconded: David Morgan**

**Vote: 6-0; Adjourned.**

Hearing concluded at 5:12 p.m.

Prepared by: Ruthy Barros

**Exhibit List:**

- Exhibit 1: OPSI Constant Contact dated 1/31/2019
- Exhibit 2: Car blocking device pictures
- Exhibit 3: Memo and pictures dated 10/5/2022 from David Griefenhagen
- Exhibit 4: Meeting minutes August 2, 2022
- Exhibit 5: Meeting minutes August 16, 2022
- Exhibit 6: Meeting minutes August 30, 2022
- Exhibit 7: Email from Eric Morse dated 10/31/2022
- Exhibit 8: Variance packet for 7 Newbury Street, Boston
- Exhibit 9: Variance packet for 39 Lafayette Street, Marblehead
- Exhibit 10: Variance packet for 466 River Street, Mattapan
- Exhibit 11: Variance packet for 129 Sturbridge Road, Charlton