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Division of Elevator Safety
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**MINUTES
ELEVATOR SAFETY REVIEW BOARD MEETING
Thursday, November 12, 2009
Des Plaines, Illinois**

Board Members Present: Chairman, Frank Christensen
William Bogdan
David Dattilo
Thomas Ganiere
Craig Grant
Mark Hertsberg
Richard Jandora
Tom Jirik
K. Douglas Jones
Darrel G. Swienton
Kelly Weller
Gerald Wolin

Board Members Absent: Rod Gilles

OSFM Staff Present: John Fennell, Legal Counsel
Joseph August, Deputy Director
Robert Capuani, Director of Elevator Safety
James Aubin, Inspector
Elaine Del Greco
Edwina Wohlgemuth

Call to Order

The meeting was called to order at 8:30 a.m. by Chairman Frank Christensen.

The first order of business was the selection of a Board secretary. Jerry Wolin moved to nominate Richard Jandora and Tom Ganiere seconded the motion. The motion carried 11-0.

Mark Hertsberg moved to approve the minutes of the October 22, 2009 meeting and Tom Ganiere seconded the motion. The motion carried 11-0.

Old Business

A. Bob Capuani reported that through November 10, 2009 there have been 1,031 permits issued, 2,967 licenses issued, 30,144 conveyances registered and 5,473 certificates of operation issued.

B. Jerry Wolin moved to accept the Elevator Safety Review Board rules and Darrel Swienton seconded the motion. The rules were then discussed. Mr. Fennell stated that the motion was to authorize the administrator to submit the Rules to JCAR for the Board. Mr. Jandora asked if this motion was to adopt or accept the rules, and Mr. Fennell explained that the Board could not approve the rules and then make comments; comments could be made during the 45 day comment period. Mr. Fennell stated that corrections must match the Statute; however, the rules could be discussed at this time.

Mr. Jandora then went through the Rules starting with Section 1000.20 (c) - He would like to add exclusion under this part for ANSI A10.4. Mr. Capuani pointed out that ANSI A10.4 was deleted from Section 1000.60. Mr. Fennell stated it could be in both places.

Mr. Jandora commented on Section 1000.30 Definitions. The section states that a Certificate of Operation is issued by the OSFM. The Act also allows municipalities to issue Certificates. Mr. Fennell stated that a Certificate of Operation is from the OSFM and that the definition speaks to the Administrator and the Board, not the Municipality.

Mr. Jandora questioned Section 1000.40 (a) (1). Section states that the local authority can issue construction permits. He would like the section to state construction/alteration permits or just permits. Mr. Fennell stated this change could be made. Mr. Jandora would like to strike the word "license" from Section 1000.40 (b). Mr. Fennell will check to see if this complies with the Act.

Mr. Jandora commented on Section 1000.60 (a) (1) (c) - Safety Code - ASME A17.3-2008 is cited, and the Board is currently in the 2005 edition. Mr. Fennell stated that including the 2008 edition in the Rules equates to the Board's adoption of the Code.

The next section Mr. Jandora addressed was 1000.80 - Registration requirements -- Section (i) (1). The section refers to (e) (3) and he feels it should refer to (f) (2). This section exempts private residence conveyances from registration. Mr. Jandora then referred to Section 1000.120 and a discussion regarding a grace period for registration of conveyances ensued. Mr. Jandora feels strongly that a grace period of 90 days should be given from turnover to register a conveyance. Mr. Grant pointed out that Section 1000.180 Implementation Schedule addresses registration and Certificates of Operation.

Mr. Jandora requested that a wording change be made to Section 1000.120 (d) - Registration. Change the word "elevator" to "conveyance" when referring to the control panel and equipment room.

Mr. Jandora asked if Section 1000.130 (i) (1) could be changed to reflect a longer period of time to revoke a permit if work is not commenced after the date of issuance. The section states 6 months. Mr. Jirik moved to amend "6 months" to "one year". Mr. Grant seconded the motion and the motion carried 11-0.

The next item discussed was Section 1000.140 (d) (3). Mr. Jandora would like a language change stating that the Category 1 pressure test is only a part of the annual test process and would like this to state “Category 1 tests”. Mr. Capuani explained that only the Category 1 pressure test was language approved by the Board. Mr. Jandora then listed all the tests that have to be performed annually. Mr. Fennell stated that he is asking for an amendment to the Rule and this would be a Board discussion.

Mr. Jandora then referred to Section 1000.180 - Implementation Schedule. He would like all references to “Certificates of Operation” removed from this section. He cannot understand why a current Certificate of Operation is needed to work on a conveyance and discussed the implications of this. He is definitely concerned with public safety and feels this is a hindrance in that regard. Mr. Capuani explained that a conveyance owner could apply for an extension to obtain their certificate and this process would work the same as the registration extension request. When an extension is requested a response is given within 24 hours. Mr. Weller stated this is a regulatory requirement. Mr. Jandora then moved to strike all references to a Certificate of Operation from the Implementation Schedule. There was no second to this motion and the motion failed.

Mr. Weller moved to authorize Mr. Fennell to submit the rules with noted changes to JCAR for public comment. Mr. Bogdan seconded the motion and the motion carried 11-0. Mr. Fennell pointed out that any other changes or suggestions must be in writing.

C. Mr. Capuani reported that he visited the Oglesby Mansion and viewed the elevator. An architect needs to look at the conveyance and suggest changes. They will come back to the Board at a later date.

D. Mr. Capuani also visited the Aloft Hotel in Bolingbrook. He cautioned the Board to not consider financial implications or opening dates when taking a variance into consideration. Safety is the Board’s main concern. Mr. Christensen reiterated the safety aspect and stated that this was a variance that should not have been granted. Mr. Bogdan asked if the Elevator Safety inspectors could inspect a conveyance first and then decide on the variance. Mr. Christensen responded that this could be done and in the future this should be done if there are questions regarding the variance. Mr. Ganiere questioned that if we were provided with wrong information could a variance be revoked and the answer to that question is also a “yes”. Mr. Christensen stated that in this case correct information was provided and the clearances were OK, just not enough. Mr. Fennell pointed out that a majority of a quorum (6) constitutes a meeting and a meeting can be conducted at other locations. Mr. Christensen suggested that Board members need to see an elevator and how it works. Mr. Wolin agreed and suggested that if enough time is allowed when a variance is received the inspection could be done ahead of time.

New Business

A. A report on variances approved by the Administrator was given to the Board.

B. A discussion ensued regarding contractor inspectors witnessing pressure relief tests. Mr. Christensen pointed out that the Board gave the OK for an elevator contractor or inspector company to witness the pressure relief tests. Mr. Fennell pointed out that even though a contractor can witness a test, if a municipality that has an agreement with us says no, then it is no. The municipality can be more stringent than the Act. This is the intent of the statute.

C. Mr. Fennell asked if the Board could amend the agenda in order to go into Closed Session to discuss pending litigation after agenda item 8. Other. Mr. Ganiere moved to amend the agenda to go into Closed Session and Mr. Bogdan seconded the motion. The motion carried 11-0.

Public Comment

Brian Skoczylas, Urban Elevator, raised questions regarding third party inspections which are scheduled either by the municipality or the conveyance owner. Inspection companies are billing the maintenance companies for these inspections, and, in turn, the maintenance companies are passing the costs onto the conveyance owner. He feels that the contractor is being forced to hire the third party inspectors and that is not their responsibility. Inspection companies should be billing the conveyance owners directly and not the contractors. Mr. Grant pointed out that it was never the intent of the Act for a contractor to arrange for a third party inspection. Mr. Skoczylas explained why this is happening and feels that the Board can control this. Mr. Ganiere asked if anti-trust laws come into play. Mr. Fennell explained that a municipality has the authority to hire inspectors/inspection company. The inspection company is then forcing the contractors to do this because the Act gives them the authority. Mr. Hertsberg stated that the conveyance owner hires a maintenance company and an inspection company. They should not be combined. Mr. Fennell will investigate what the Act and the Rules can or cannot require. This discussion was tabled until the next meeting.

Brian Skoczylas, Urban Elevator, presented Urban Elevator's Continuing Education Program to the Board for their approval. After discussion Mr. Weller moved to accept this program and Mr. Jones seconded the motion. The motion carried 11-0.

Other

Mr. Ganiere moved to adjourn the meeting at 9:45 a.m. to go into closed session. Mr. Hertsberg seconded the motion and the motion carried 11-0.

Mr. Weller moved to end the closed session at 10:23 a.m. and Mr. Bogdan seconded the motion. The motion carried 11-0. Mr. Christensen then moved to adjourn the meeting at 10:25 a.m. and Mr. Grant seconded the motion. The motion carried 11-0.

Respectfully submitted,

(original signed by)

Richard Jandora
Secretary, Elevator Safety Review Board

rj/ed