

OR AND AMUSEMENT DEVICE SAFETY BOARD QUARTERLY MEETING OF ELEVATOR A

DEPOSITION OF MEETING

Taken June 02, 2021



615.221.1089

STATE OF TENNESSEE
ELEVATOR AND AMUSEMENT DEVICE SAFETY BOARD

QUARTERLY MEETING OF THE
STATE OF TENNESSEE
ELEVATOR AND AMUSEMENT DEVICE SAFETY BOARD

June 2, 2021

1 APPEARANCES:

2 Robbie Fox, Chairman
Fixed Amusement Device Representative

3 Mike McPherson
4 Elevator Inspector Supervisor

5 Thomas Jackson
6 Elevator Inspector Supervisor

7 Mike H. Hardy
Amusement Device Manager

8 David Hale, Board Member
9 Tennessee Fair Association Representative

10 Larry R. Moore, II, Board Member
Owner and Lessees Representative

11 Lewis Moorer, Board Member
12 Public-at-Large Representative

13 Kelly O'Connor, Board Member
Public-at-Large Representative

14 Victor LaPorte, Board Member
15 Manufacturer Representative

16 James Roy Pope, Board Member
Traveling Amusement Device Representative

17 Thomas Herrod
18 Assistant Commissioner, State of Tennessee

19 Dan Bailey, Esq.
Legal Counsel, State of Tennessee

20 Kenneth Nealy, Assistant Administrator

21 Mitch Rader, Board Member
22 Insurance Company Representative

23 Jennifer Murphy
24 Board Secretary, State of Tennessee

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APPEARANCES :

GUEST APPEARANCES :

Whitney Hollinger
Nick Miller
Candice Hammond
Jeremy Wooden
Jason Gregory
Bret Hiser

Deborah Fernau, Court Reporter

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A G E N D A

- I. Call Meeting to Order
- II. Introductions and Announcements
- III. Adoption of Agenda
- IV. Approval of the Meeting Minutes on March 3, 2021, and April 13, 2021
- V. Elevator Unit's Report
- VI. Amusement Device Unit's Report
- VII. Old Business
- VIII. New Business
- IX. Open Discussion
- X. Calendar - Scheduled Board Meetings 2021
- XI. Adjournment

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1 P R O C E E D I N G S

2 CHAIRMAN FOX: Good morning, ladies and
3 gentlemen. I'm glad we're back together. We've had a
4 lot of Zoom meetings in the interim since we last met,
5 and I think we've got some things accomplished, but
6 just glad to be back together and look one another in
7 the eye say hi.

8 So that being said, we will call the
9 June 2, 2021, meeting of the Elevator and Amusement
10 Device Safety Board to order.

11 And introductions and announcements. The
12 first thing I would ask you to do, as an announcement,
13 when you speak, all of us on the table up here, press
14 the button and say your name first, this is Robbie
15 Fox, and I want to make this motion, or what have you,
16 so that the lady over here can get our information.

17 But with that being said, I will start
18 with the gentleman over here. Let him introduce
19 himself and go around the room, introduce everyone.

20 MR. NEALY: All right. I'm Kenneth
21 Nealy, assistant administrator of WRC.

22 MS. HERROD: Tom Herrod, assistant
23 commissioner for workplace regulations and compliance.

24 MR. BAILEY: Dan Bailey, legal counsel.

25 MS. MURPHY: Jennifer Murphy, board

1 secretary.

2 MR. HARDY: Mike Hardy, amusement device
3 unit manager.

4 MR. MCPHERSON: Mike McPherson, chief
5 elevator inspector.

6 MR. JACKSON: Thomas Jackson, assistant
7 chief elevator inspector.

8 MR. POPE: James Roy Pope, board member.

9 MR. HALE: David Hale, board member.

10 MS. O'CONNOR: Kelly O'Conner, board
11 member.

12 MR. MOORER: Lewis Moorner, board member.

13 MR. FOX: Robbie Fox, board member.

14 MR. RADER: Mitch Rader, board member.

15 MR. LAPORTE: Vic LaPorte, board member.

16 CHAIRMAN FOX: And the folks in the
17 audience, if you will, stand and tell us who you are,
18 who you represent.

19 MS. HOLLINGER: Whitney Hollinger, Otis
20 Elevator.

21 MR. HISER: Bret Hiser Otis Elevator.

22 MR. MILLER: Nick Miller, Collier
23 Development Company.

24 MS. HAMMOND: Candice Hammond, elevator
25 admin.

1 MR. WOODEN: Jeremy Wooden, Local
2 93 IUEC.

3 MR. GREGORY: Jason Gregory, Local
4 93 IUEC.

5 CHAIRMAN FOX: Glad to have you all here.
6 Just so that we cover this, in the event of an
7 emergency, attendees will be directed to a safe place
8 in the building or instructed to exit the building on
9 the Rosa Parks side of the facility.

10 And with that, we'll move on to adoption
11 of agenda. And I would entertain a motion to adopt
12 the agenda as presented.

13 MR. POPE: Motion.

14 MR. RADER: Second.

15 CHAIRMAN FOX: Who made the motion?

16 MR. POPE: (Indicates.)

17 CHAIRMAN FOX: Mr. Pope made the motion.

18 MR. RADER: Mitch Rader made the second.

19 CHAIRMAN FOX: Okay. Any discussion?

20 Hearing none, I'll all in favor of the
21 motion by saying aye.

22 IN UNISON: Aye.

23 CHAIRMAN FOX: All opposed a lifetime.

24 Ma'am, do you need us to individually do
25 a roll call on the vote.

1 THE COURT REPORTER: However you would
2 like it on the record. I can put unanimous, or I can
3 mark it as all said aye, or you can do it
4 individually.

5 CHAIRMAN FOX: Okay. We'll declare that
6 that the motion passed. It was a unanimous vote.
7 Does that work?

8 THE COURT REPORTER: Yes.

9 CHAIRMAN FOX: Okay. Thank you.

10 Item No. 4, approval of the meeting
11 minutes meetings on March 3rd, 2021, and April 13th,
12 2021. You should have had that email to you for your
13 perusal and review. And I would entertain a motion to
14 approve the minutes.

15 MR. RADER: Motion to approve Item 4 is
16 presented.

17 MS. O'CONNOR: Kelly O'Conner, I'll
18 second the motion.

19 MR. HALE: Mr. Rader made the motion.

20 CHAIRMAN FOX: Any discussion?

21 Hearing none, all in favor of the motion
22 let it be known by saying aye.

23 IN UNISON: Aye.

24 CHAIRMAN FOX: All opposed a lifetime.

25 Motion carried. Vote was unanimous.

1 Moving along to elevator unit's report.

2 MR. MCPHERSON: All righty. I guess
3 we're going to show some comparisons here from 2020 to
4 2021. It looks like we're still growing. We're happy
5 about that. We've accepted over 400 new conveyances
6 across the state. So we've got 491 still on the books
7 coming in between mod (indiscernible) construction.

8 The biggest thing we're proud of, (a) is
9 no accidents or incidents to report with big injuries.
10 That's always great. Delinquents, we had delinquents
11 for quite a long time. And I've been -- even counting
12 being shorthanded with help, we've worked hard. The
13 guys have worked hard to catch up.

14 We've been able to hire more help;
15 obviously, the pandemic did not help us at all, but we
16 still were able to come up with the extra 1,028
17 inspections this year so far. So we're proud about
18 that.

19 We're working right now with 28
20 inspectors. We just recently had two retire,
21 replaced, and one getting ready to replace the other,
22 30 counting the assistant chief and myself. So we're
23 happy there.

24 We also have vacancies for an assistant
25 inspector, which is kind of like an apprentice. And

1 we tried that once already. It's been a very large
2 success. He's now an Inspector 1, and he'll sit to
3 get his credentials in March, so we're very proud of
4 that.

5 Also, with all the extra work that we're
6 doing in the field, that means we've got a lot of
7 extra work that the damage staff is doing; so more
8 work we do, more work they do. And we've hired two
9 more girls in the office to help out. And everything
10 seems to be an improvement and positive.

11 CHAIRMAN FOX: Your delinquent reduction
12 is great.

13 MR. MCPHERSON: Yes, sir. Thank you.

14 CHAIRMAN FOX: That's a good deal. Thank
15 you for all of your hard.

16 MR. MCPHERSON: Thank you.

17 CHAIRMAN FOX: You and your team.

18 Anything else, sir?

19 MR. MCPHERSON: No, sir.

20 CHAIRMAN FOX: Okay. Moving along to
21 Item 6, amusement device unit report.

22 MR. HARDY: Thank you, Chairman. Yeah, I
23 believe this is the first time we've been together
24 face to face since December of '19 for the board
25 meeting.

1 CHAIRMAN FOX: Yes.

2 MR. HARDY: Anyway, if you'll look at
3 your packet, the graphs that are posted, we've issued
4 291 operating permits thus far in this fiscal year of
5 2021. That is actually 71 percent of the 412 permits
6 that was previously issued for fiscal year 2020. And
7 we had the remainder at the month of June to add to
8 these 291 permits.

9 Jennifer has been doing a good job here
10 at the home stretch of our fiscal year. We issued a
11 total of 23 operating permits last week, which was two
12 new companies and 21 renewals. Jennifer has indicated
13 that there are 35-plus companies that should complete
14 their permitting requirements before the end of June.
15 And that would give us a projected 326 for the year,
16 which is still -- still off, as you can see.

17 Comparisons of this fiscal year to fiscal
18 year 2020, we have had 57 companies that have allowed
19 their operating permits to expire. And they have
20 advised us that they are not operating. And that
21 includes, like, fall seasonal attractions that did not
22 renew in 2020, and such as schools that have devices
23 such as inflatables and whatnot that did not renew in
24 2020 as well.

25 We've had 46 companies that are on hold.

1 They have advised us that they are not operating, but
2 they do not wish to renew their operating permit until
3 they -- until they see what's going to happen this
4 year and get more involved into the year. So they're
5 currently undecided about operating the remainder of
6 this year, this fiscal year.

7 And we've had 30 companies that are
8 closed. They've indicated to us that they had closed
9 their businesses or either sold their devices to other
10 companies. So if you take our projected 326 and you
11 add the companies that allowed their permits to
12 expire, 57, those that are on hold, 46, and those that
13 are closed at 30, we'd be at 459 companies permitted.
14 That would basically match the highest number of
15 permits that we've issued back on 2019 of 456. So
16 that's a justification of where we are.

17 It's hard at times to round these guys
18 up. It's not like an elevator or a board that's in
19 the same location every year. So we're doing our best
20 to get that number back up. I think we're going to
21 wind up having a double bell curve before this is over
22 with. But we'd like one clean year, full year without
23 any interruptions to actually see where we can go with
24 our operating permit.

25 Devices inspected, we had a total of

1 2,619 devices that were inspected thus far for 2021,
2 and that is also around 70 percent of the 3,740
3 devices that we received inspections on for 2020.
4 And, again, we have the remainder of the month to add
5 to this number. If you notice, there's a direct
6 correlation in the percentage of the company's
7 permitted and the devices inspected for 2021 as
8 compared to 2020.

9 New operating permits issued, we have
10 issued 32 operating permits to new companies so far in
11 2021. Obviously that's significantly lower than 84
12 new companies that were permitted in 2020, all viewed
13 of COVID-19 from our estimation. Obviously companies
14 are reluctant to start an amusement device related
15 attraction in fiscal year 2001, which I'll remember.
16 And that's really no surprise to us. But we had the
17 remainder of the month to add to these 32 new
18 companies permitted.

19 And reportable accidents, we have logged
20 three reportable accidents thus far in 2021.
21 Actually, these three reportables have all occurred
22 since our last board meeting in March. We've had two
23 reportables involving Mountain Coasters in East
24 Tennessee and one reportable accident involving a
25 Ninja course within a trampoline park here in

1 Nashville.

2 After the two Mountain Coaster incidents
3 that were fairly close together -- John Tarpley is our
4 safety compliance officer for East Tennessee. He and
5 I followed up and conducted safety awareness visits to
6 all of the operating Mountain Coasters in East
7 Tennessee during mid May. There's a couple of them
8 over that are there not operating. We visited with
9 them as well. But the coasters weren't operating for
10 various reasons.

11 The Ninja course area within the
12 trampoline park had two incidents within a short
13 period of time that were significant due to inadequate
14 padding in the area. They aren't trampoline related,
15 they're -- you know, they have -- well, it's a Ninja
16 course. You can climb and swing and do those kind of
17 things.

18 We classified the second one as a
19 reportable so that the company could address the
20 padding issues. These issues were addressed, and the
21 company was given a business resumption letter. The
22 Mountain Coaster incidents were also closed until the
23 postaccident inspection reports were received, which
24 is our normal procedure.

25 After review of these postaccident

1 reports, we issued business resumption letters to both
2 of those companies with the Mountain Coasters. And
3 also wanted to note that the carts that were involved
4 in these incidents were taken out of service pending
5 further investigation by the company and other
6 parties.

7 MR. MOORER: Can I ask you a question?

8 MR. HARDY: Yes, sir.

9 MR. MOORER: How did the accidents occur
10 on the Mountain Coasters? Were they car related?
11 Seat belt related?

12 MR. HARDY: The first one we believe, and
13 the company believes, to be seat belt related. I was
14 talking to Chairman Fox earlier. The company that
15 provides most of those carts and tracks over there for
16 Mountain Coasters is a company from Germany, Austria,
17 named Wiegand. And they had sent -- I mean, prior to
18 these incidents, they had sent out some bulletins and
19 alerts regarding a possible defect with their latching
20 devices.

21 The major accident at Gatlinburg Mountain
22 Coasters, the buckles were -- did not appear to be --
23 upon view, to have the defects that Wiegand set the
24 alert on. But nevertheless, they have quarantined
25 that car until they see, you know, how this accident

1 is going to play out and then maybe have Wiegand
2 people there to observe and try to figure out actually
3 what the root cause was. But the only explanation
4 that we have is a failure in the seat belt mechanism
5 in some way. That was a significant injury.

6 The second one was basically a bump on
7 the track. I mean, it was -- it was pretty much a
8 nothing. A cart was allowed to -- or did stop on the
9 track, and then the second car, even though they have
10 a braking system, automatic breaking system, they can
11 come and kiss each other. So that was reported and
12 that car was taken off.

13 Fair season, we're finally looking
14 forward to a full and successful fair season this
15 year. Again, it's our intent to visit all the
16 first-time players. And Jennifer knows that we know
17 about three carnivals. It's their first time coming
18 to Tennessee, so we're working with them to make sure
19 that they get all the requirements done and are issued
20 operating permits.

21 The safety compliance officers always do
22 a good job of going on sight prior to opening and
23 working with these fairs and our amusement customers.
24 We'll continue spot checking for county fairs, making
25 sure that, number one, the company has a valid

1 operating permit, and, number two, that the devices
2 that are on the ground, on site, match the devices
3 that we have registered to them, which subsequently
4 have a valid inspection report.

5 So we have been out there before.
6 Jennifer and I had been out. And a traveling carnival
7 company had a new device. You know, the explanation
8 was, Yeah, I picked that up a couple of months ago.
9 So that's some of the kind of things that we catch on
10 site. And we wouldn't allow that device to run until
11 they had an inspector out there, a certified
12 inspector, and had submitted inspection reports to us.
13 So we try to catch and cover all of the fairs and
14 festivals that have amusement device, carnivals
15 operating.

16 We now have a qualified inspector
17 directory on our website. I think -- I don't know if
18 we mentioned before, in March might have mentioned it
19 briefly, but the NAARSO site is almost impossible for
20 a local person in Tennessee to go and pick and choose
21 an inspector. There's not even a Tennessee search
22 engine with a NAARSO site anymore. At one time they
23 put a full spreadsheet of all the inspectors, which is
24 over a thousand. So that in itself is hard enough to
25 pinpoint people that would come into Tennessee and do

1 inspections.

2 So we had gleaned -- Kevin Klutts is our
3 safety compliance officer in West Tennessee, and he's
4 taken on this project to contact the inspectors, if
5 they would like to be added to the list and make sure
6 that their credentials are valid. We have a
7 questionnaire for them to fill out. And once they've
8 gone through that process, we add them to the
9 qualified inspector directory on the website. And
10 there are listings there from NAARSO, AIMS, and ACCT,
11 which are the three certifying agencies that were
12 recognized.

13 So that is up. That's been great for us.
14 I think it's been a great help for our customers to
15 have that, instead of having to try to go through the
16 individual website and find someone to inspect their
17 devices.

18 And, finally, elevator and amusement
19 device rules revision, our most recent rule revision
20 goes into effect on July 16th. And most of the
21 amusement device portion was a much-needed -- just a
22 cleanup from the previous version. We eliminated the
23 previous device fees, as you remember that we once
24 had, that are no longer applicable.

25 And we also referenced only the base

1 standards everywhere. ASTM standards were called out
2 in the rules. We listed only the base standard in
3 this rule revision because the suffix of those
4 standards signifies the date that that standard is
5 issued.

6 Chairman Fox, and most of you here know,
7 if you're familiar with NAARSO and ASTM, that those
8 standards are required to be reviewed at every two
9 years, I think it is. So if we put the suffix in the
10 rules like we had them before, basically, our rules
11 would become obsolete within a year or two, because
12 the standard would be obsolete. So we're going with
13 the base standard on that.

14 And that's basically all I have for the
15 report. But I would be glad to try to answer any
16 questions anyone might have.

17 CHAIRMAN FOX: Any questions from the
18 board?

19 MR. BAILEY: Mr. Chairman, I just want to
20 correct one thing. The new rules go into effect
21 July 18th and not July 15th. I want to make sure
22 everybody . . .

23 MR. HARDY: Thank you, Dan. I started
24 giving you -- get you to nod your head on that,
25 anyway -- spit it out. But anyway, that's my error,

1 July 18th for the new rules.

2 CHAIRMAN FOX: Well, Mr. Bailey is here
3 to keep us all . . .

4 MR. HARDY: That's right.

5 CHAIRMAN FOX: That's your role.

6 MR. HARDY: Anymore questions? I'll be
7 glad to try to answer.

8 CHAIRMAN FOX: Sounds like you-all have
9 been doing a good job.

10 MR. HARDY: Thank you, Chairman.

11 CHAIRMAN FOX: Thank you.

12 Mr. Herrod, is there anything else that
13 we need to know? Inquiring minds want to know.

14 MR. HERROD: I don't think there's
15 anything else I can add to the two reports, just that
16 the elevator unit has done an outstanding job getting
17 the delinquents down. As you know, one of the -- or
18 one of the findings from the 2018 audit had to do with
19 delinquents and inspections.

20 And since that time, since Mr. McPherson
21 has been the chief and Thomas Jackson assistant chief,
22 their number one objective is to get the delinquents
23 down. And our commissioner, Jeff McCord, has been
24 instrumental in getting us additional positions for us
25 to hire inspectors and get that number down. So

1 they've done an outstanding job.

2 At some point it will flatten out, and
3 we'll have to -- unless we get these vacancies filled
4 and people, at that point we should be, essentially,
5 zero when we get to that 100 percent number of
6 inspectors in the field. So looking forward to that
7 date. But another outstanding job by the elevator
8 unit.

9 MS. O'CONNOR: May I ask a question?

10 Mr. Herrod, do you have any concerns
11 about getting those positions filled with the current
12 labor shortage that we're having in this area?

13 MR. HERROD: Yes. One of the -- well, I
14 will say the plan of attack in getting those positions
15 was this: First of all, we had to get additional
16 positions, and we had to try to get them filled. And
17 then to attract our inspectors, we had to pay a
18 competitive salary. And that's in the process now of
19 being reviewed by HR, by our human resources group.
20 So what we're trying to do is get those salaries up to
21 attract more candidates to get people in here.

22 Now, we have recruited much better in the
23 last couple of years of getting people in. But I
24 think even then it's hard to keep people. So you're
25 right, in order to do that, additional people. But to

1 get the additional people, we had to -- we're going to
2 have to get our elevator fees up some. So that's
3 another thing we're going to have to get approved here
4 shortly.

5 So plan of attack: Get our fees up, get
6 positions filled, and get salaries up. And at that
7 point in time, we should be able to get these
8 delinquents down.

9 CHAIRMAN FOX: Any other questions?

10 Thank you-all very much.

11 Moving along to old business and talk
12 about the status, the jurisdiction of state
13 inspections of residential elevators used in resorts,
14 lodges, et cetera. Who is going to speak to that?
15 Anybody?

16 Mr. McPherson.

17 MR. MCPHERSON: I'll just reiterate, I
18 know we had a meeting first meeting about that and, of
19 course, we had a special meeting. If you don't mind,
20 I'll just re-read the definition of a private
21 residence elevator, and that is, (as read) An elevator
22 private residence is a power passenger elevator that
23 is limited in size, capacity, ride, and speed, and is
24 installed in a private residence.

25 With that being said, the elevator

1 doesn't -- "passenger" means have access to a private
2 residence and is not defined as a private residence
3 elevator and must comply with commercial or public
4 elevator codes.

5 And as far as the elevator unit, we
6 believe that if it's used for commercial use they
7 should be inspected and permitted.

8 CHAIRMAN FOX: Okay. And that's your
9 recommendation, that we move in that fashion?

10 MR. MCPHERSON: Yes, sir.

11 CHAIRMAN FOX: What's the pleasure of the
12 board? Or better yet, any discussion? How do you-all
13 feel about making those elevators that are inside
14 commercial ventures subject to inspection by our state
15 inspector?

16 MR. HALE: Mr. Chairman, David Hale. I
17 guess my question would be probably to Mr. Bailey is,
18 do we need to make a rule change, or exactly how do we
19 need to go about putting this in place to ensure that
20 they're inspected?

21 MR. BAILEY: I don't think a rule change
22 is necessary. It's a matter of interpretation,
23 whether or not this is residential versus commercial.
24 It's just a matter of how you're interpreting it.

25 MR. HALE: So would the motion need to

1 include some type of definer that says, If you're --
2 if it's rented out, if it's -- what defines it as
3 being commercial, I guess? Isn't that part of the
4 problem, that there's not a definition that
5 establishes whether it's commercial or not?

6 MR. BAILEY: Well, I think that Mike, in
7 his email, pretty much defines it.

8 You know, I don't think there's any gray
9 area there, Mike, is there?

10 MR. MCPHERSON: No, sir.

11 MR. BAILEY: So I think that sets
12 out the definition. If it fits that parameter, then
13 it's commercial; if it doesn't, then it's residential.

14 MR. LAPORTE: Mr. Bailey, if I can add to
15 that. The rule changes that will be adopted, which
16 are actually identical in this particular area to what
17 we're currently under, we've written out private
18 residence elevators, not the private residences.

19 The elevator unit already has
20 jurisdictional responsibility to look at these units.
21 In some rare cases, people have put commercial
22 elevators in a private residence. In that case, they
23 should be permitting and inspecting that elevator.

24 So I think it's -- what we've talked
25 about is it really doesn't have to do with what

1 they're classifying the building as, it's dependent on
2 what the unit is.

3 Now, in commercial property, I think the
4 big discussion came in where we understand there's
5 private residence elevators and the commercial
6 property being commercially used, which is something
7 else that should come under the elevator unit and
8 dealt with also. But I question if we really even
9 have to take a vote on anything. Because the elevator
10 unit should already be inspecting these.

11 CHAIRMAN FOX: This is Robbie Fox. I
12 think we need to give him just some sort of direction
13 that they should pursue that.

14 MR. LAPORTE: Understood.

15 CHAIRMAN FOX: Because there was --
16 obviously there had been a question, and I think we
17 just need to clarify and clear it up. Would that
18 be --

19 MR. BAILEY: I think that'd certainly be
20 proper. I do agree with Vic, that it's -- you know,
21 really, if it falls in that category, then they should
22 be inspecting it anyway. But this has kind of -- been
23 kind of a gray area. And so having the support of the
24 board I think would be, you know, a good move.

25 And also on the rules, they are to go

1 into effect July 18th, if the government operations
2 committee approves them. We go to Capital Hill on
3 June 16th to appear before the government operations
4 committee who will question us about those rules, and
5 they have to give the final approval.

6 We certainly expect that they will. But
7 they could delay it. They could vote them down. You
8 know, so they'll go into it that July 18th if the
9 government operations committee approves them on
10 June 16th.

11 CHAIRMAN FOX: Okay. Any other questions
12 about it? If not, I would entertain a motion to
13 approve a recommendation to inspect the commercial
14 elevator -- or elevators on commercial property, i.e.,
15 as it pertains to resorts, lodges, et cetera.

16 MR. HALE: Let me -- can I ask one more
17 question? Does the motion need to specify that
18 residential elevators are not acceptable for use in
19 commercial settings? Is that a necessity, or is
20 that -- do you believe that it's already defined?

21 MR. BAILEY: I don't think that would be
22 necessary, no.

23 MR. HALE: I'll make that motion.

24 CHAIRMAN FOX: Okay. Mr. Hale made the
25 motion.

1 MR. LAPORTE: I second.

2 CHAIRMAN FOX: Mr. LaPorte made the
3 second. Any other discussion?

4 Hearing none. All in favor of the
5 motion, let it be known by saying aye.

6 IN UNISON: Aye.

7 CHAIRMAN FOX: All opposed lifetime.
8 Motion carried unanimous.

9 Okay. Moving right along to new
10 business, Item No. 8, Rouse Construction. You're
11 going to speak?

12 MR. MILLER: Yes.

13 CHAIRMAN FOX: Okay. Again, for the
14 record, we need your name, address and phone number.

15 MR. MILLER: Hello. My name is Nick
16 Miller. My address is 2339 Gold Rush Road, Pigeon
17 Forge, Tennessee 37863. And my phone number is
18 (865) 235-6621.

19 So what we are seeking today is a
20 variance on a modification to our elevator at our
21 Creekstone Inn property. We've had an elevator that's
22 been continuously in service since the late '80s. It
23 has gone through several retrofits and modifications
24 over that time. But it has reached the -- pretty much
25 the end of its useful life. Many of the components

1 for it are becoming unserviceable or are no longer
2 manufactured.

3 Because this location is a six-stop
4 location, the recommendation for the manufacturer is
5 to switch from a hydraulic elevator to a traction
6 elevator. When we began investigating making that
7 switch, one of the main hurdles is the depth of the
8 elevator pit. The existing pit is 4 feet deep, which
9 it complies for a hydraulic elevator, but an
10 attraction elevator calls for a 5-foot deep pit, if I
11 understand the code correctly.

12 With that, then this structure, the
13 elevator pit is also -- the base of that pit is the
14 foundation system that supports the hoistway. And
15 that pit slab foundation is about a foot thick. So in
16 this instance it would be very challenging to get a
17 deeper elevator pit, because we would have to remove
18 90 percent of the foundation system that is there to
19 support that structure.

20 Now, we could -- what we would do if we
21 were to go that route is, once we remove that
22 foundation, do some underpinning and place another
23 foundation below it. Well, there's a substantial
24 amount of risk due to the conditions, such as not
25 having a foundation there while that work is being

1 done and given the load created by that hoistway.

2 So what we are requesting is is basically
3 to grandfather our pit, even though it is changing
4 style, changing the type of elevator from hydraulic to
5 traction, just to comply with the manufacturer's
6 recommendations and what's really now the current
7 thing.

8 CHAIRMAN FOX: Anyone have any questions
9 for Mr. Miller?

10 MR. BAILEY: Are we even able to do that,
11 in terms of grandfathering this property, this pit?

12 MR. JACKSON: This is Thomas Jackson,
13 assistant chief elevator inspector. We've been
14 giving -- we've issued this type of a variance in the
15 past. What we need to know is what are you projecting
16 the toe guard length to be?

17 And that's what we always mainly address
18 is the toe guard length. Because reducing the
19 buffer -- I mean, excuse me, reducing the depth of the
20 pit, then you're going to have to reduce the length of
21 your toe guard. So what's your tow guard length going
22 to be if you get this variance?

23 MR. HISER: Would there be a minimum
24 requirement for that length?

25 THE COURT REPORTER: I'm sorry, who's

1 speaking?

2 MR. HISER: I'm sorry, Bret Hiser with
3 Otis Elevator.

4 MR. JACKSON: If I'm not mistaken, I
5 think the board has set a variance limit in the past
6 of 39 1/2 inches for the toe guard length.

7 CHAIRMAN FOX: I believe you're correct,
8 sir.

9 MR. HISER: Yes, we would be able to
10 conform to that measurement.

11 MR. JACKSON: And that makes variances,
12 and the code has approved in the past.

13 CHAIRMAN FOX: And with that being said,
14 you would make a recommendation to approve their
15 request?

16 MR. JACKSON: Yes, sir. They need to --
17 Thomas Jackson, assistant chief elevator inspector.
18 They would need to be sure they don't put a
19 retractable toe guard or retractable handrail on top
20 of the car. We don't accept either one of those. The
21 State doesn't accept either one of those.

22 So as long as all your other clearances
23 work, you're 39 1/2 on your toe guard is really the
24 only issue that you're addressing at this point, then
25 the elevator unit doesn't have an issue with that.

1 CHAIRMAN FOX: Okay. Comments?
2 Questions from the board?

3 MR. LAPORTE: One comment, one question.
4 Okay. Are there any other equipment modifications
5 required besides the length of the apron guard?

6 MR. MILLER: No. We'll be able to
7 conform to all the other --

8 MR. LAPORTE: I thought so. I just
9 wanted the verify that. And, also, that 39 1/2 inches
10 is minimum. The preference is the longest toe guard
11 that you can install without striking the pit floor;
12 however, 39 1/2 is again the minimum.

13 CHAIRMAN FOX: Any other questions?
14 Comments from the board?

15 Okay. I would entertain a motion to
16 approve the request.

17 MR. POPE: I make a motion we approve.

18 CHAIRMAN FOX: Mr. Pope has made the
19 motion.

20 MR. RADER: Mitch Rader, second.

21 CHAIRMAN FOX: Mitch Rader is second.

22 Any discussion?

23 Hearing none, all in favor of the motion,
24 let me know by saying aye.

25 IN UNISON: Aye.

1 CHAIRMAN FOX: All opposed lifetime.

2 Motion carries. Unanimous vote.

3 UNIDENTIFIED SPEAKER: Are you also going
4 to do --

5 CHAIRMAN FOX: Yes.

6 The Rouse Construction, Governor's
7 Crossing Resort. And, Mr. Miller, you're going to
8 address that as well?

9 MR. MILLER: Yes, sir. At this location
10 we have four elevators that were put in service in
11 2004 and 2005, serving either five or six ops,
12 depending on their location. They face the same
13 changes, as they were hydraulic elevators initially
14 installed. And we're looking to modernized those as
15 well into a traction elevator.

16 They're coming due for their overhaul to
17 remain in service. And given the expense of the
18 overhaul, we would just as soon go ahead and do a
19 complete replacement, because it seems more
20 financially viable. So we would like to make that
21 same change at that location with the same type of
22 elevator from Otis.

23 CHAIRMAN FOX: Okay. Mr. McPherson.
24 Mr. Jackson.

25 MR. JACKSON: Thomas Jackson, assistant

1 chief elevator inspector. That means that he's asking
2 for the same variance that was just granted, exact
3 same requirements --

4 MR. MILLER: Yes.

5 MR. JACKSON: -- 39 1/2 inches,
6 everything else meets A17.1 Code. No retractable toe
7 guards and no retractable car top handrail.

8 CHAIRMAN FOX: Questions? Comments from
9 the board?

10 Hearing none, I would entertain a motion
11 to approve.

12 MS. O'CONNOR: Kelly O'Conner, I'll make
13 the motion to approve this request.

14 MR. LAPORTE: Nick LaPorte, I'll second.

15 CHAIRMAN FOX: We have a motion and a
16 second. Any discussion?

17 Hearing none, all in favor of the motion
18 let me know by saying aye.

19 IN UNISON: Aye.

20 CHAIRMAN FOX: All opposed lifetime.

21 The motion carries. Unanimous vote.

22 MR. MILLER: Thank you.

23 CHAIRMAN FOX: Thank you.

24 Okay. Moving right along to open
25 discussion. Mr. Herrod, we don't have anything, which

1 is a good deal.

2 And so the next most important item that
3 we have on the schedule is notifying everyone that the
4 next meeting will be September 8, 2021, 9 a.m. Central
5 Daylight Time. And the following meeting will be
6 December 8, 2021, 9 a.m. Central Standard Time.

7 And with that, do we have a motion for
8 adjournment?

9 UNIDENTIFIED SPEAKER: So moved.

10 CHAIRMAN FOX: We have a motion for
11 adjournment. We are adjourned.

12 (Proceedings adjourned at 9:50 a.m.)

13 END OF PROCEEDINGS.

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REPORTER'S CERTIFICATE

I, Deborah M. Fernau, a Notary Public in the State of Tennessee, do hereby certify:

That the within is a true and accurate transcript of the proceedings before the Elevator and Amusement Device Safety Board and the Chief Inspector or the Chief Inspector's Designee, Tennessee Department of Labor and Workforce Development, Division of Workplace Regulations and Compliance, Elevator and Amusement Device Unit, on the 2nd day of June, 2021.

I further certify that I am not related to any of the parties to this action, by blood or marriage, and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 25th day of June, 2021.

Deborah Fernau

Deborah M. Fernau, LCR No. 306
Expiration Date: 06/30/2022

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