

STATE OF NEW YORK
DEPARTMENT OF LABOR
STATE OFFICE BUILDING CAMPUS
ALBANY, NEW YORK 12240-0100

----- X
In the Matter of : COMMISSIONER'S
Part 8 of Title 12 of the Official Compilation : DECISION
of Codes, Rules and Regulations :
of the State of New York : APPLICABLE
(Cited as 12NYCRR 8) : VARIANCE
(Effective March 1, 1923) : (AV 99)
Code Rule Section 8-1.10 : ELEVATORS
Subdivisions (a), (b) and (c) : PLAN AND FEE
SUBMISSION
DATED:
JANUARY 3, 1995
----- X

Pursuant to Section 30 of the Labor Law, the Commissioner of Labor has reviewed the aforesaid provisions of Industrial Code Rule 8 relating to the requirements for the submission to the Department of Labor of elevators, dumbwaiters, escalators, hoists and hoistway plans and the prohibition of the installation of such devices and hoistways prior to the approval of such plans; and

The Commissioner of Labor has also reviewed the March 30, 1994 correspondence of the City of Buffalo, Elevator Safety Review Board, concerning duplication of requirements for plan submission and approval, as well as the collection of fees, by both the New York State Department of Labor and the City of Buffalo, when such occurs in factory and/or mercantile establishments; and

The Commissioner of Labor has also reviewed the provisions of Part 1062 of the New York State Uniform Fire Prevention and Building Code and Article 12 of Section 1250.4 of the same code, as such Part and Article relate to elevators; and

Based on these combined reviews, the Commissioner of Labor finds that the issuance of an applicable variance from the aforecited provisions of Industrial Code Rule 8, as such pertains to the filing of plans and specifications and the payment of fees for the approval of elevators, dumbwaiters, escalators, hoist and hoistways to be installed or altered in factories and/or mercantile establishments, would not violate the spirit and purpose of the said rules and would secure the safety of all persons utilizing such conveyances.

APPLICABLE VARIANCE

A variance from the aforecited provisions of Industrial Code Rule 8 relative to the need to file plans and specifications, and to pay fees for the approval of new or altered elevators, dumbwaiters, escalators, hoists and hoistways located in factory and/or mercantile establishments, with the New York State Department of Labor, is hereby GRANTED, subject to the following conditions:

1. Any city, town or village having a department, board or officer charged with the review of plans and the enforcement of the New York State Uniform Fire Prevention and Building Code associated with new and altered elevators, dumbwaiters, escalators, hoists and hoistways in factory and/or mercantile establishments, may file a duly certified copy of a resolution adopted by its local legislative body assuming full responsibility for enforcing the provisions of said code sections with the Commissioner of Labor. Upon receipt of a certification of receipt of such resolution by the Commissioner, which shall be issued no later than sixty days from the date of filing of such resolution, such city, town or village shall have all the powers of the Commissioner of Labor in enforcing the provisions of said rules in lieu of the exercise of such authority by the Commissioner.
2. The provisions of Condition No. 1, however, shall not apply to any such city, town or village sixty days after the filing with the Commissioner of Labor of a duly certified copy of a resolution adopted by its local legislative body terminating its enforcement responsibilities.
3. Upon completion of the review of plans and specifications, the initial testing of the elevator, dumbwaiter, escalator or hoist, and the acceptance of the installation, the city, town or village shall give written notification to the Program Manager,

Industry Inspection Bureau, New York State Department of Labor at the Department's offices in Albany, New York, setting forth the name and address of the owner of the premises where the elevator, dumbwaiter, escalator or hoist is located, the location of the elevator, dumbwaiter, escalator or hoist, and the date of acceptance of the installation.

4. Should any accident occur involving the use of an elevator, dumbwaiter, escalator or hoist approved under the terms of this variance, the city, town or village shall notify the Program Manager, Industry Inspection Bureau, in writing within two working days as to the location and nature of such accident as well as the final disposition of any investigation conducted of such accident.

This variance shall apply to and shall be applied by all enforcement officials to all persons and in all places to which the aforecited provisions of Industrial Code Rule 8 apply with the same force and effect as if this variance were duly granted upon separate petition for the use and benefit of every city, town or village affected by the aforecited provisions of Industrial Code Rule 8.

ROBERT F. GOLLNICK
INTERIM COMMISSIONER OF LABOR

BY *Maria L. Colavito*
MARIA L. COLAVITO, DIRECTOR
DIVISION OF SAFETY AND HEALTH