

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

ARCHITECTURAL ACCESS BOARD
Docket Nos. C24-040 &V24-154

In re)
)
Ruth Barkley Cathedral Development)
42 Harrison Archway)
Boston)
)
_____)

BOARD DECISION

Procedural History

This decision addresses a complaint before the Architectural Access Board (“Board”) regarding elevator outages at 42 Harrison Archway, one of the buildings in the Ruth Barkley apartment complex in Boston, managed by the Boston Housing Authority (the “BHA” and also the “Respondent”). The Complaint alleges noncompliance with 521 CMR 2.6 (maintenance of access features) and 28.1 (Vertical Access), as both elevators at this location have unable to operate consistently. One elevator is currently offline and undergoing significant repairs pursuant to a variance granted by this Board, as described below.

On June 21, 2024, the Board received a complaint regarding the above-referenced address, and a First Notice of Violation was sent. On July 24, 2024, the Board received a response from the BHA. On August 22, 2024, the Board received an application for variance, and at that meeting the Board voted to grant temporary relief from compliance with 521 CMR 2.6 until March 3, 2025, on the condition that if at any point both elevators were out of service, Respondent must offer mitigation including temporary relocation with a guarantee of return. On September 6, 2024, the Board received the Complainant’s response to the BHA’s variance application. On December 5, 2025, Board staff was informed that both elevators were intermittently out of service and requested that a hearing be scheduled, and the Board did so. On December 6, 2024, a Notice of Hearing was sent to all appropriate parties.

A hearing was held on March 24, 2025, in accordance with G.L. c. 30A, §§ 10 and 11; 801 CMR 1.02 *et seq.*; and 521 CMR 4.00.¹ Dawn Oates, Complainant, testified, as did William Joyce, Executive Director for the Board, along with David Gleich, Deputy Administrator for Housing Programs, and Helene C. Maichle, Senior Attorney, and James Worden, Counsel, on behalf of Respondent. The witnesses were sworn in by the Board Chair. The instant decision now memorializes the determinations made at that time.

¹ Pursuant to An Act Making Appropriations for the Fiscal Year 2023 to Provide for Supplementing Certain Existing Appropriations and for Certain Existing Appropriations and for Certain Other Activities and Projects (chapter 2 of the Acts of 2023), the hearing was held online via the Microsoft Teams platform.

Applicable Laws & Regulations

521 CMR 2.6 requires that “[a]t all times, accessibility features must be maintained and fully operational. (i.e. access aisles kept clear at all times, mechanical devices be kept in operating condition, etc.). 3.1 requires that “[a]ll construction, reconstruction, alteration, remodeling and changes of use of public buildings or other facilities open to the public shall conform to these Regulations.”

521 CMR 28.1 mandates that, “[i]n all multi-story *buildings* and *facilities*, each level including *mezzanines*, shall be served by a passenger elevator. If more than one elevator is provided, each passenger elevator shall comply with 521 CMR 28. *Accessible* elevators shall be on an *accessible route* and located within the *space* with which it is intended to serve.”

Exhibits

The following documentation was entered into evidence:

- Exhibit 1: Board Packet AAB 1-51, including the complaint, variance application, and all correspondence.
- Exhibit 2: Respondent’s PowerPoint presentation from hearing.

Factual Findings

The following findings of fact and conclusions of law are supported by substantial evidence, based on the credited testimony of the witnesses, documents admitted into evidence and AAB records. G.L. c. 30A, § 11(2), § 14(7).

- 1) This is a 13-story residential apartment building with 66 units that serves a low-income population, including those with mobility limitations. Ex. 1, AAB 17, 29.
- 2) The emergency repairs currently being performed to elevator 1-P-9629 are estimated to cost \$424,180; Respondent’s service provider estimated that it would take 12 weeks for necessary parts to be manufactured, and an additional 17 weeks for repairs to be performed. Ex. 1, AAB 19.
- 3) The repairs were not completed by March 3, 2025, but Respondent anticipates they will be completed by early April. Hearing testimony.
- 4) The assessed value of the building is \$33,853,900. Ex. 1, AAB 19.

Discussion

The Board’s jurisdiction is established pursuant to 521 CMR 2.6. 521 CMR 2.6 requires that “[a]t all times, accessibility features must be maintained and fully operational. (i.e. access aisles kept clear at all times, mechanical devices be kept in operating condition, etc.). 3.1 requires that “[a]ll construction, reconstruction, alteration, remodeling and changes of use of public buildings or other facilities open to the public shall conform to these Regulations.” Petitioner acknowledges the Board’s jurisdiction over the property.

The hearing began with Complainant, who stated that the day before the hearing, she was trapped on the 9th floor at 42 Harrison Archway, with a disabled resident, and the elevator call buttons were not working. She noted that she has been involved in discussions with Respondent's team regarding elevator issues across the whole Ruth Barkley complex, and that despite some good conversations, the overall issues remain unresolved. Complainant shared her view that failure to provide working elevators reflects a troubling pattern of neglect and disrespect for those with accessibility needs. In addition to the elevator outages, Complainant explained that the Respondent's communications with residents, and the residents' ability to communicate with Respondent about problems that need to be fixed, as well as accommodations during outages, all need improvement. Complainant noted, as this Board well knows, the human cost of elevators not working -- residents become effectively trapped in their apartments, and miss social opportunities, necessary medical appointments, and other important aspects of life. Complainant added that she received a text message during the hearing indicating that both elevators were again out of service for repairs at that time.

Respondent's team explained that they have now engaged a large provider, Schindler, to perform maintenance on the elevators at this building going forward. Further, they are in the process of designing elevator modernizations for 8 of the 15 elevators at this apartment complex, but that work will be subject to public bidding, and for that reason cannot begin immediately. Respondent's team described the BHA's budget challenges, asserting that the BHA has \$1.5 billion in capital needs at this time, but receives only \$30 million annually to maintain its properties. Respondent's team then shared with the Board some of the measures it has put in place to reduce elevator outages that are not caused by failure of the machinery itself. For instance, because fire alarms and smoke alarms require elevator access to be shut off, they have increased security efforts to prevent wrongdoers from setting off those alarms, including a video intercom system that allows residents to see who is requesting entry. Respondent's team acknowledged that there are things they can always do better, and pointed to a substantial reduction in work order requests from residents as evidence that systemwide, management has improved its addressing of residents' needs.

With respect to the elevator currently being repaired, Respondent stated that repairs began on January 7, 2025, and that Respondent has directed the repair team to work 10 rather than 8-hour days in order to reach conclusion sooner. Respondent expects the first elevator to be finished with repairs in a couple of weeks, and the second elevator 60 to 90 days after that (approximately July 2025). Respondent recently distributed a list of available accommodations to residents in three languages at a meeting, and has not yet posted them in the building, but was willing to do so. Respondent offered permanent relocation to the building's residents (the Board had conditioned the variance on temporary relocation with a guarantee of return), and two residents elected to move.

Michael Muehe of the Boston Center for Independent Living noted that these elevator failures amount to civil rights violations, and are unacceptably disruptive to daily life. Both he and Complainant support the imposition of fines by the Board based on these circumstances, and Mr. Muehe also encourages the Board to require more frequent and detailed data regarding repairs and outages.

The Board has now considered the evidence, including the submitted documentation and the witnesses' detailed testimony, and the Board's decision is reflected in the order below. The Board notes that it is extremely distressed and disappointed to learn that the ongoing repairs were not completed during the variance period, that the other elevator is

also suffering intermittent outages, that residents have not been fully informed of mitigation opportunities, and that residents' requests for assistance are not being responded to in a timely manner. The Board has already discussed the possibility of stringent enforcement action and a substantial fine if noncompliance is not rectified.

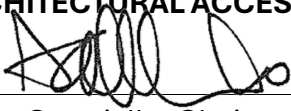
Conclusion and Order

In light of all of the foregoing, the Board votes as follows:

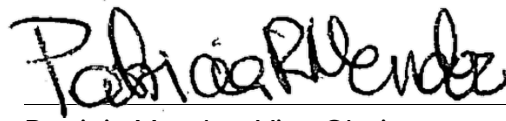
- to ***FIND*** that violations of 521 CMR 2.6 (maintenance of access features) and 28.1 (vertical access) occurred;
- to ***ORDER*** Respondent to:
 - within 48 hours of receipt of this Decision, post in all elevator lobbies and cabs at this location the list of available accommodations and how to request them, as well as the process for residents to report elevator issues to Respondent;
 - provide to the Board, by April 7, 2025, proof that repairs have been completed on elevator 1-P-9629;
 - provide to the Board, as soon as possible, a copy of the completed inspection certificate for 1-P-9629;
 - provide to the Board, within 30 days of receipt of this decision, a log of outages for each of elevators 1-P-9628 and 1-P-9629, including:
 - (a) date and time outage reported; (b) date and time returned to service; and, (c) issue;
 - provide to the Board within 60 days after receipt of this decision, a log of outages for each of elevators 1-P-9628 and 1-P-9629, including:
 - (a) date and time outage reported; (b) date and time returned to service; and, (c) issue; and,
- to ***EXPEDITE*** this decision.

A true copy attest, dated: March 25,
2025

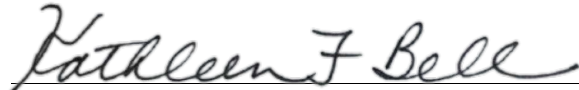
ARCHITECTURAL ACCESS BOARD By:



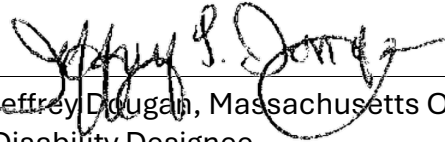
Dawn Guarriello, Chair



Patricia Mendez, Vice Chair



Kay Bell, Executive Office of Elder
Affairs Designee



Jeffrey Dugan, Massachusetts Office on
Disability Designee

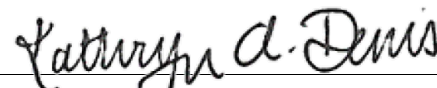


Elizabeth Myska, Member

David Johnson, Member (Not Present)



Joseph Prochilo, Member



Katie Denis, Member



Pamela Daly, Member

A complete administrative record is on file at the office of the Architectural Access Board.

This constitutes an order of the Architectural Access Board. In accordance with G.L. c. 30A, §14 and G.L. c. 22, §13A, any person aggrieved by this decision may appeal to the Superior Court of the Commonwealth of Massachusetts within thirty (30) days of receipt of it.