

**Architectural Access Board Hearing re: Springfield Quadrangle, March 14, 2005**

Chairman Gerald LeBlanc: OK... complaint hearing as well as a hearing for a variance. The complaint hearing is Docket Number 304208. This hearing is being tape recorded, and the tapes are available during normal business hours of any business day.

I'd like to introduce the board to you. I'm Chairman LeBlanc, and on my far left is Martin Eble, Barbara Labarger. To my right is Paul Moriarity, Diane MacLeod, Doug Semple, Donald Lang, and Nancy Ambley. As far as the...I'd like to have you introduce yourselves. Ma'm?

Sheila McElwaine: I'm Sheila McElwaine. I'm the complainant.

Maria Puppolo: I'm Attorney Maria Puppolo on behalf of the City of Springfield. I'm assistant city solicitor.

Stephen Jablonski: I'm Stephen Jablonski. I'm a self-employed architect from Springfield.

Mark Mason: I'm Mark Mason. I'm counsel for the Springfield Library and Museums Association of the Springfield law firm of Cooley Shrair.

GL: In back?

Joe Carvalho: Joe Carvalho, the executive director of the Springfield Museums.

John DeRosier: I'm John DeRosier.

GL: OK. I'd like you to just raise your hand. I'm going to swear you all in. Do you swear to tell the truth, the whole truth and nothing but the truth in the matters before us today?

All: I do.

GL: Now, in as far as the seeking a variance, it's indicated this is also a variance request. The board can only grant a variance on one of two grounds: one, if it is proved to be technologically unfeasible or that compliance would result in excessive cost without substantial benefits to persons with disabilities. So, as you make your presentation, you need to focus on one of those two grounds. I would like to hear from the complainant first as to her situation.

MP: Yes, Mr. LeBlanc, I will first address the SMA's request for a variance at the Chestnut Street entrance shipping and receiving entrance as the accessible entrance. I do have an aerial view of the Springfield library and museums....

GL: If you could bring the whole thing over here....

[Whispered aside between GL and another member: “She’s not addressing the complaint.”]

GL: Are you addressing the complaint? I had asked the complainant....

SMc: Mr. LeBlanc, I am also a library commissioner, so Attorney Puppolo is representing me in my capacity as a Springfield library commissioner.

GL: No, the commission has a complaint.

Board Member Paul Moriarty: We want to hear first about the complaint that was filed.

GL: Did you file the complaint?

SMc: I did file the complaint.

GL: This is what we want to hear about. This is the complainant, so...

PM: Yes, the other would be a rebuttal to their request for a variance, and that’s what you seemed to be starting to talk about, a rebuttal to a request. What we’re looking for now is to justify the complaint.

SMc: Well, would you like me to go ahead?

GL: Whichever one...we want to hear about the *complaint*.

MP: OK, so sure. Currently, the way the situation is at the library, individuals who are handicapped would have to park in the Edwards Street parking lot.

PM: Excuse me, could you turn that around so they can see, too?

MP: Oh, I’m sorry. Can everybody see this now? Currently, the way the parking situation is at the library is that those individuals who want to utilize the Museum of Fine Arts, which is designated in yellow here, would have to park at the Edwards Street parking lot in the handicap spaces there. Most individuals would then assume that they could enter the main entrance of the library (sic), and they would walk along this route here, which is designated in green, and try entering the main entrance of the library (sic) which is the public entrance...

SMc: The museum.

MP: I’m sorry, the museum. And there’s a sign on the door that says “Handicap entrance on Chestnut Street.” Individuals are not told where Chestnut Street is. Those individuals are...they just turn around and try going down this narrow pathway toward the

Yertle the Turtle exhibit only to find that there is an iron fence that barricades entrance to the library (sic)...

SMc: Museum.

MP: Strike that, I'm sorry, museum. So most individuals are actually in a cul de sac, so to speak, so they don't know where they're going. So then what individuals would have to do is, from this area, they would backtrack, return to the Edwards Street parking lot and go down Edwards Street, the entire length of Edwards Street. Then they would have to take a left onto Chestnut Street, and then they would enter the Museum of Fine Arts through the back entrance which is currently used as the shipping and receiving entrance. Individuals there have to ring a bell in order to be admitted into the Museum of Fine Arts. And, additionally, the footage from the parking lot to the entrance for the handicapped is well beyond 200 feet.

Individuals who are allowed to enter the Museum of Fine Arts through the back entrance, they are led into this narrow alley which is in violation of the of the CMR regs. It is...there is a lot of material in that alleyway. It is not an unobstructed path to the facility. Plus, these individuals are not able to experience the full grandeur of the main entrance to the Museum of Fine Arts. So, currently, the way the situation is, is that individuals who are handicapped have to enter through the back entrance. Individuals normally don't know where to go. They are not properly guided towards the back entrance. In addition, the footage is well beyond 200 feet. It's quite a hike. And I took that route the other day, and it is well over 200 feet; it's nearly three city blocks.

And there, they have to ring a bell and, you know, they're just standing there. It might be groups of individuals standing there, handicapped individuals with no other access to the library (sic), and they have to ring a bell and told to be let in. It's the inconvenience for these individuals, and it's not the proper way that other individuals enter the library (sic). The universal entrance for public access is through the main entrance. And...do you want me to go on the next issue while I'm up here?

GL: Let's do the entrance...first. Are there any questions?

Member: I'm not clear on where the front entrance to the library is.

MP and GL: The museum?

GL: She says she's with the library; I think that's what's confused all of us.

MP: It's actually right...I don't know if you can see it, in green. The pathway is in green. Correct? It's actually right here you can see it. It faces the Quadrangle.

SMc: It faces this grassy area.

Member: What does that front entrance look like? Do we have a picture of it?

Board Program Coordinator Kate Bernier: It should be in your packet.

SJ: I have a photograph.

GL: Why don't you bring that up?

KB: Gerry? We're going to need a copy of that [aerial view of Quadrangle]. Can you leave that here, the aerial? OK, because that we need to mark that as an exhibit, Gerry.

MP: Sure, that's not a problem.

GL: OK. Mark the large map then as "Exhibit 1" in the corner. You can to show us the front entrance right there [on the Jablonski photographs]?

MP: Sure, the front entrance is actually right here, in this photograph right here. This is the front entrance to the Museum of Fine Arts, and the back entrance, this is the little corridor that...well, this is the door where handicapped individuals would enter, and this is the corridor where they would just pass through and be led towards a different route into the museum.

And they wouldn't be able to experience the full grandeur of the actual entranceway to the Museum of Fine Arts. This is a picture depicting the main entrance to the Museum of Fine Arts, and, immediately upon entering, you can see the paintings, and it's those high ceilings and like a typical museum. It's very...

PM: Once somebody gets inside, you can see all these stairs there. Is there an elevator now that would take them upstairs from there?

MP: There currently is not one right there.

PM: So if they went in the front entrance, they still couldn't get upstairs.

MP: Correct, the way it is, correct.

GL: Maybe at this time we should ask the other individuals what your form of access might be. You're seeking a variance. Are you going to tell us how you're going to get in there, other than the rear entrance?

MM: Certainly, and perhaps I could have Mr. Jablonski address that. I will note that the complaint in the first notice and the second notice has a number of different factors. This is one which we're happy to address. Since it's the first to arise, it certainly is one of the number of issues that have been presented. Many of the other issues have been complied with. We'd like to have an opportunity to address them *after* we address this particular...

GL: Address the rear entrance.

MM: Initially, we would note that, for purposes of 521 CMR, the repairs and the work to the Museum of Fine Arts does not and has not exceeded the amount of \$100,000 over a period of many, many years, and, therefore, the current existing handicap accessible entrance which is located at the legal address for the premises which is used by the public on certain occasions over on Chestnut Street. It does comply with 521 CMR except for the fact that it's a locked door, and that's in principle part the basis for our variance. Currently--Mr. Jablonski will expand upon my comments—currently, individuals who require handicap accessibility park right on Chestnut Street which is located right over here at the Museum of Fine Arts. You can see, right over here, the entranceway, we do have, in fact, the....right over here. Thank you.

This is the entrance on Chestnut Street. There is a double door which, back in 1995 pursuant to [unintelligible] the city and approved by the city, providing handicap accessibility [unintelligible] that makes an elevator that was installed in 1995 at this entrance, and so [unintelligible] pull up. There's been an application made to the City for two handicap accessible parking spots. (Mr. Jablonski will show you those applications.) There is a curb cut which you can see here. There *is* no ramp contrary to the submittal. There is a sloping sidewalk [with] a slope that goes up to the existing front door.

That door is currently locked, and the reason why it is locked is for security purposes. There is a buzzer at that door. Individuals who are seeking entrance--and the door is marked as handicap accessible as well the front door is likewise marked as handicap accessibility from Chestnut Street. Individuals ring the bell, and the security guards come and open up the door. From that location, they have access throughout the museum. They have access through the elevator which is installed as well as by virtue of a stair lift that was installed some years ago. And it is principally the museum's argument that under 521, whereas they certainly have *not* put in close to 1/3 the assessed value of the building pursuant to Section 3.3.1 and that they haven't even met the \$100,000 threshold that they're not *required* to install public accessibility at the entrance that is on the Quadrangle. Having said that, the variance does seek to have the back door locked. And may I ask Mr. Jablonski to comment on the structure of the entrance which is on the Quadrangle as well as what *would* be necessary to install the handicap accessibility to the extent that we do maintain that any compliance would result in excessive cost without substantial benefit thereby comporting with the standard that you've articulated. So I'm going to ask Mr. Jablonski talk about what the principal set-up is in the front of the building as well as in the back.

GL: Before you do that, is the front door always locked like the back door?

SJ: The front door...the 49 Chestnut Street door...is always locked

GL: Is the front door locked?

SJ: Oh, excuse me, the Quadrangle door? That's only locked when the museum is closed. When the museum's open, it's open.

GL: But the back door is locked all the time.

SJ: That's correct.

GL: You spent \$150,000 in 1995. When was the door done?

SJ: The door was done in, I believe it was 1995. Actually, according to...there is a little bit of confusion as to exact dates...and I've done the best that I could....

GL: I think that Mr. Hopkins might help us.

AAB Director Thomas P. Hopkins: Do you want to swear me in first?

[TH is sworn in.]

TH: We had a difficult time getting permits from the City of Springfield until just last week. And we now have a number of permits that I'm sending around because they weren't part of your packets. [unintelligible] \$390,756 [unintelligible] work that was [unintelligible] with the elevator and that aspect.

GL: Maybe the attorney for the town is unaware of this.

TH: I'm assuming that there are a number of permits that we've received, 15 in total, and on the building department, it has a general reference to buildings that will say things like "Quadrangle Museum" and then it will say "museum building" specifically after that, so I'm assuming that...

GL: There's more than one building permit.

JC: Well, there were three elevators done during that time period. One was an up-grade of the Smith Museum, George Walter Vincent Smith Art Museum, elevator actually was installed, never had one, 1896 building. And then the Springfield Science Museum that was upgraded from a freight elevator to a passenger elevator. And then we, again, upgraded the Museum of Fine Arts all during that time period. Two of them were funded through part, partially funded, through a bond from the city.

PM: Three different buildings?

JC: Three different buildings.

PM: And they're not [unintelligible]

JC: They're separate [unintelligible]

TH: They talk about the Science Museum for \$397...[unintelligible]

MM: Which museum? There are several museums around the Quadrangle.

JC: The Science Museum's did not cost that, that...I'm not sure how the city records it. In fact, I don't doubt that Mr. Hopkins has the right information from what he's [unintelligible] the city, but their records have to be faulty, because we did not spend that amount of money on the Science Museum elevator.

GL: Is this column the Science Museum?

MM: No, this is the Museum of Fine Arts. This is the application for the building permit dated July 7, 1998 for the installation of the elevator at a total cost of \$93,112.

GL: And that's the only building permit you're saying that's has been taken out recently?

MM: For the Museum of Fine Arts, that's correct, which is the building that is at issue here.

SJ: I had occasion to, on Friday, look through all of the documentation, and if you'd like to go through them building by building, I'll be happy to point out to you that the address is 49 Chestnut Street, Museum of Fine Arts, and all the rest of the building permits that I received copies of from the building department were for other buildings: the Central Library, the Science Museum, and the George Walter Vincent Smith.

And the reason for the confusion is that there's this situation in Springfield where, up to two years ago, this whole block of space was owned and operated by the city (sic), so when people would go down and apply for building permits, they often put as part of the address, they put 220 State Street which is the main address for the Quadrangle; it's the library address. But when you scrutinize the building permits, it's clear (and if you want to, I'll point out to you) that every building permit other than this one says, is for a different building, it's not for the Museum of Fine Arts. So, I guess...and this is where I, you know, it's, it, it...I don't want to jump right into the variances we're trying to talk about the complaint, but if you could give us some direction as to how we should proceed from here.

GL: Yes.

Female Board Member: I have a question on this application for the variance, why is it when it says "approximately \$150,000 was spent in 1995" [unintelligible]?

SJ: That was, I apologize for that, because when I was putting together the application, our building department, I'm not being critical, but it's basically it's hard to get that information out.

Female Board Member: So you're saying it's totally irrelevant.

SJ: That is, that's why I said approximately. I didn't actually have a copy, this copy, until Friday.

Female Board Member: And what did you say it was?

SJ: It's \$92,112 in 1998.

Female Board member: And so you're, you're wanting to correct what was said, what was 150, is that what you're saying?

SJ: I would, I had said approximate, and this is exact. I'm, I'm, I'm sorry for the...

PM: Excuse me, that's *exactly* what you put down, or whoever did the work, put down. We don't know what it actually cost. Anybody have a contract [unintelligible]?

SJ: I do not have a contract.

PM: Does anybody have a contract?

GL: When was the elevator put in?

SJ: To the best that we can determine, 1998

Second Female Board Member: Mr. Chairman? The building permit that refers to the art museum "remove something exterior stairwell and covering, converting into handicap accessible elevator," and that permit was for \$390,000+ was in 2000. It also has other items in it.

SJ: That's a different museum. That's the George Walter Vincent Smith Museum, and actually, that was a combination project. They did two elevator rehabs under that building permit. One of them was for the Science Museum, and the other was for the George Walter Vincent Smith.

MM: Both George Walter Vincent Smith the Museum of Fine Arts are arts museums.

GL: What's the address on them?

Second Female Board Member: All of these permits say 220 State Street.

JC: Well, that's the administrative address for the entire organization; that's, that's a corporate address.

SJ: I'm sorry there's so much confusion, but, basically, it was because, you know, the city was basically applying for a building permit from itself until....

JC: Not necessarily, that is a corporate address.

KB: But they would still need to be marked if they're not already.

GL: Tom, you had...

TH: Well, there's another permit here for the same *value* \$390,766 which, in the written description, says "alter existing freight elevator to become a passenger elevator."

JC: That's Science.

?MM: That's for the Science Museum.

Female Board Member: Well, there's a Science Museum notation on the one I was looking at, and then there's an art museum notation...

Unknown Male: There are two art museums is what they are saying..

Female Board member: ...if those two aren't it, then where's the building permit that did the adaptation...

JC: Well, it's confusing because we have two art museums. That's part of the confusion also.

SJ: But the critical thing is that the address for the museum that we're talking about, the Museum of Fine Arts—I know it's very confusing, Joe--but I think it's 49 Chestnut Street. And if you look carefully at all the other building permits, you will not find 49 Chestnut Street on any of them, so they're...

TH: You say you just got that Friday?

SJ: Yeah, I just got this Friday after discussing it with you on the phone. I realized it was an important issue, so I went down and asked to get copies of it.

PM: This particular museum, what is the *legal* address?

MM: 49 Chestnut Street.

PM: And 220 State Street is what?

JC: That's our corporate, that's the Springfield Library and Museums Associa-....

PM: That's, that's...it says it's "situated at" 220 State Street. We have to take that as the address where the work is being done. I mean, they all read the same thing....

SJ: If I could just interject here for a minute that this is probably—you know, as an architect, I'm trying to think if I can paint a picture, that's why we're here—is that, you know, when you apply for a variance, you have to show that there's something specific about the building that is different from, you know, common buildings.

And what's different about the Quadrangle is that it's a unique urban space where several buildings front onto this greenspace, but they also in certain cases like the library and the Museum of Fine Arts front onto public streets, and so it becomes a, an interesting question that we're prepared to address: Our side of the story is that what is the actual public entrance? And I guess that what we're prepared to say is that, obviously, the Quadrangle entrance is the main public entrance to the museum, but our contention is that 49 Chestnut Street *is* the legal address for the building, and it *is* accessible, and it has been since 1998 with the exception of what we're applying for the variance for which is the security issue of the locked door.

PM: Can you show me where the 220 State Street is?

SJ: Yes, let me...Is this map here any more readable than the...?

PM: Use the aerial.

SJ: The aerial? This is 220 State Street right here, the central library. And then this is the Quadrangle that I'm talking about, the Museum of Fine Arts. This is the public street, Chestnut Street, and then the other two museums that are being mentioned, the Science and the George Walter Vincent Smith. So there's...it's a unique really microca—it's a beautiful environment, but it presents a lot of different challenges. And also this building, the Museum of Fine Arts, it was designed in 1930, Depression era, and it's amazing the number of stairs that are in there, but that's what we're dealing with. And I'm prepared, if you'd like to listen, to give you a short capsule summary of why I think that, independent of the specifics of 521, that, that this Chestnut Street entrance for *this particular building* is the best way to...would you like me to?

Female Board Member: Not yet.

GL: If you can't get in, it's not accessible.

Male Board Member: Where's the application for the elevator permit for the museum... 49 Chestnut Street?

MM: I believe that you...Is that the one \$92,000?

PM: Changing office space to a kitchen dining area, \$92,000... where's the...

[long silence, papers flipping, scribbling, sigh]

SJ: I'm not sure of...

PM: ....Well, an elevator cost another \$90,000 even on its own.

SJ: That's a possibility.

PM: It's not a possibility, it's *your own testimony*.

SJ: I guess what I'm saying is it's hard for me, because the place that I go to get evidence.... I did not do the drawings for that new elevator, someone else did.

GL: Who did, and where's the permit?

SJ: It was, I believe it was...I'm not sure [unintelligible] architect for the....

PM: Well, do we have a copy of the permit for the elevator?

SJ: I thought that this was the, because this was the only...

Male Board Member: Well, you can see that it was not.

Male Board Member: And you're saying that the elevator cost how much?

SJ: I... this is the....

GL: It has to be under \$7,000.

PM: Yeah (laughs).

MM: Well, the tax assessed value of the premises is \$700,000...

SJ: Well, this is, my interpretation was that, and I believe this will stand up, is that it's hard the way this was written, but, since this is the only one that referred to the Museum of Fine Arts, I took this to mean that the elevator [unintelligible] the mechanicals...

Male Board Member: It doesn't say anything on there about an elevator.

JC: That's another permit.

SJ: I do admit that it's unsettled.

GL: It's clear that you spent more than \$100,000, so how you going to make that rear entrance handicap accessible?

[Permits accepted as exhibits; confused discussion on elevator continues]

TH: ..the values are the same at the bottom, the description of the work is different on them...

MM: If I could just comment?

KB: Can you just hold on a minute so we can get the exhibits marked in?

TH: ..the values are the same at the bottom, but the description of the work is different...

KB: What's that permit for, Gerry?

PM: It's for a kitchen. The elevator was done at the same time.

JC: No, no, that was, the kitchen was done in '98, the elevator was done in '95.

PM: Oh, so they *were* two different permits.

JC: Well, uh, I don't ha-- [unintelligible] I again, I hope the attorney does...

GL: So \$150,000 is the elevator in 1995?

MM: No. Mr. Jablonski indicated approximately \$150,000. It's his understanding the \$52,000 mechanical line item on the exhibit that you have just marked relates to the elevator.

ME: Except it's in the wrong year by three years.

MM: Well, well, then he, Mr. Carvalho, might say that he's not certain that it's 1995, so... but the *only* building permit that the city has that Mr. Jablonski got--and maybe the city has another permit--but the only permit that he found related to the MFA, the Museum of Fine Arts, was the permit that we have just given you. And therefore, it was Mr. Jablonski's conclusion that that was the permit that was pulled when they did the work over at the Museum of Fine Arts, and that the mechanical line item of \$52,000 related to the elevator. If the city has another permit, then that's all we have.

Male Board Member: What you're submitting, which is Exhibit 2 here, which shows exactly what was done including the kitchen. We can't, you know, the supposition is that this is for the elevator. and I...

MM: I understand it doesn't say the elevator, but not having created the document when it was back in 1998, it's our assumption and understanding that that was the same permit that was...

ME: Well, counselor...

Male Board Member: If you could agree that you could spend \$98,000 for a kitchen...

MM: I think \$98,00 for a kitchen is a little high...

ME: Counselor, it's your position that there's no jurisdiction here?

MM: As to...that's correct, that...

ME: Then why are you asking for a variance?

MM: Well, I'll let Mr. Jablonski respond. There's a variance that's necessary as to the rear entrance, there's no question, because...

ME: If there's no jurisdiction, there's no need for a variance.

MM: At the time that the rear entrance was made handicap accessible, it should have, a variance perhaps should have been applied for to ensure complicity with 521 to the extent that it was a locked door. And so the argument is the main public entrance does not require compliance with 521, but that the rear door does.

ME: I'm not following your chain of rationale here. Either there is jurisdiction by the board and a variance is required or there is no jurisdiction and there is no variance required. Which one of those buckets are we pouring this into?

SJ: I'd like to address Mr. Ebel's question. I apologize for the confusion, but basically, you know, with the resources at my command, and with the research ability of going down to the building department to look through these records, which is, you know, the city attorney has presented the same evidence that I was able to look up, as a matter of fact, she very kindly gave me a copy of her building permits. When I was responding, in order to do it in a timely fashion, I knew that an elevator, obviously, was put at some time in the '90s so I, that's why I said "approximately \$150,000" because I wasn't sure what the issue was.

After doing more research, there's two parts to the variance. One is for the Quadrangle entrance to be made accessible, and upon my doing more research with finding the assessed value, which, by the way, in 1998, the assessed value was \$714,710. And, if you'll accept it--I don't blame you for being skeptical of whether that was the actual cost of the elevator--but that's my contention, because that's all I could find in the records, so, once I realized that, and if there was no other document specifically relating to 49 Chestnut Street—there was a lot of other, you know, the library, a lot of money spent elsewhere, then I realized it didn't trigger in a three-year period, and I guess that's my...

[Tape change interruption.]

SJ: Yes, I'm responding to the question of why we are applying for a variance. We applied for two issues in the variance. The first was because we were responding to the

complaint. The complainant referenced the Quadrangle entrance as not being accessible, so I was trying to answer that. And I wasn't able in a timely fashion to get the documentation from the building department, so I submitted what I thought was an approximate value for the elevator, and I said, "I'm not sure whether this triggers the 30% assessed value. I need to know what the assessed value because it was a city-owned property, a quasi-city..." I wasn't sure until I went down and talked with the assessor that there actually *was* an assessed value. I did that after submitting written documentation, and that's why, if you want to say that I'm verbally appending my written documentation, that's correct.

And that according to, I guess, what we'd like to present, is that at no time throughout the 80s and the 90s did the museum or the Museum of Fine Arts spend over more than 1/3 or, going back into the 80s, 20% of the assessed value, so they never triggered the point where all entrances had to be accessible. And that the one project that they *did* do, which I contend is \$98,000 (I may be wrong, but unless someone shows me "This is the building permit..."). And, you know, I, I, I can go back and try to do more research-- I'm willing to do that--but in any case, what I'm saying is the value of the elevator did trigger full compliance with 521 CMR, and, at that point, if someone had pointed out to the museum through the building department—again, I wasn't the architect that did the plans--but if someone had said, "Hey, wait a minute, what about this door? You're not in compliance. You are going to have to get a variance," we/they would obviously have applied then, but because the complaint has come in when it when it has, and, and, and frankly, the museum has had accessed for seven years now by this method, that that's why basically there's the confusion over that. I hope that that clears it up.

ME: Not at all.

MM: If I can respond to your question in particular. The portion of the MFA which has access on Chestnut Street had work which was less than \$100,000, and it is the museum's position that, under 3.3.1, that for work which is less than \$100,000 that only *that work* needs to comply with 521.

ME: So why are you asking for a variance?

MM: Because that door is locked. Unless the...

ME: What does that have to with meeting the jurisdictional requirement for money?

MM: It...it doesn't, but that's a separate matter.

GL: Let me ask a question here. Have you had this elevator, supposed elevator or alleged elevator...

MM: Oh, there is an elevator

GL: ...that *wasn't* put in, did you have it reviewed by the elevator board?

MM: There certainly is an elevator that is located at 49...

GL: Did you have the elevator board look at it, the certificate? Do you know when that was done? Did anyone check?

SJ: I have not checked, but it's been inspected. It's a regular...

GL: When was it inspected for the changeover? It was a working elevator, now it's a passenger elevator.

SJ: Correct.

GL: So, when was that done?

SJ: Well, that's again, the only, the best I can do right now, because I didn't actually, you know, do that work myself, my firm, is respond to the evidence, as shoddy, frankly, as it is, of the...I, I'd have to say, in 1998?

GL: If \$92,000 was spent for the kitchen, certainly you spent more than \$8,000 for the changeover of an elevator. Is that correct?

MM: No one is maintaining that the kitchen cost \$92,000—I could ask Mr. Carvalho, but I've...

GL: It's saying right on the building permit, right there.

Man's voice: There's a building permit that says that.

Man's voice: That's the best evidence.

MM: That's correct, and if the \$52,500 doesn't relate to the kitchen; it relates to the elevator.

?ME: There's absolutely no evidence for that.

GL: So you mean, so you mean you worked on the elevator in 1995, and three years later you did the mechanicals?

MM: No, no.

GL: Of course not.

MM: The elevator...this is Mr. Jablonski's understanding: The elevator was installed in 1998 at the same time there was kitchen work which was also done. The combined total of all that work was \$92,000. That building permit does not say elevator; there's no

question about it and, and, you know, nonetheless, it is Mr. Jablonski's understanding that that is the building permit that related to the elevator. And the best he might discern from it is that the mechanical items of \$15,000 related to the elevator, not the kitchen, and Mr. Carvalho, perhaps, you know, can speak to the nature of the kitchen that is if it wasn't a \$93,000 kitchen.

JC: Again, I wasn't the physical plants manager at that point, although all the equipment in there was donated by a bank, came from BayBank, and all of the...so, that, basically, they took it out of one building and put it in another, so it saved us a lot of money, Exactly...

Man's Voice: The value of the work on the building permit...

PM: You're sinking yourself now, because the value of what you put in, not that it was donated, which is going to bring the cost *over* \$92,000 now, well over.

JC: I'm just telling you the truth. I, I'm not...it was donated, and so I...

Man's Voice: You've go to *add* to it, as donations.

GL: Yes?

Woman Board Member: Should we offer to them the opportunity to have a continuance on these proceedings and see if we can get this stuff straightened out a little bit?

MM: It certainly would be greatly appreciated since this is...

Woman Board Member: We can't really tell based on what we've got here.

GL: Let me tell you *true statements, true building permits*, and *no* dreamy ideas.

MM: No, this the only building permit that we found with the city that related to the MFA.

PM: Suggest you go down to the 13<sup>th</sup> floor to the elevator division and find out what they...

GL: Go right downstairs and see when they approved your changeover, right down the 13<sup>th</sup> floor.

Woman Board Member: 1301. I'd also suggest to you that there are probably other records with the city about what was done when and what the cost was which might assist in this since there does seem to be a little problem with the records.

GL: The addresses on the building permits. Yes, Donald?

Donald Lang: On the two permit applications for the large amount which do seem to be the same, but it could have been the same contractor filled the same thing out for two buildings, and just put down the same information, because it's easier. There is a reference on one of them to plans being filed, and, on the other one, there's no plans being filed, so, if they're going to go and really find the real permits, we could actually get the real plans and try to figure out in case the addressing the property isn't really clear, looking at the plans, you could tell which is...

GL: Give that information... [to Attorney Mason] Do you have that information?

MM: Actually, if we could just make sure...

Man's Voice: The top is stamped October 16, 2000, and the other one is February 1, 2000.

PM: You might look in the building department at the electrical permits, too. You may find...because you're going to need electrical for the kitchens and for the elevator.

GL: And plumbing...

PM: Certainly plumbing with the kitchen.

GL: Yeah, plumbing, the electrical mounts up to a lot of money.

PM: HVAC if there's anything, but that could be the mechanicals.

[unintelligible exchange]

GL: The fire...

Man's soft voice: Is it possible that this could be the equipment that was installed in the kitchen? It might be for the [unintelligible] system? Those are all mechanical items.

GL: Did you require a [unintelligible] system?

JC: Yeah, fire suppression system, is that what that is? Absolutely.

Man's voice: \$50,000 is probably fairly appropriate for that.

GL: \$50,000 would *maybe* cover that.

Woman Board Member: It's just you aren't going to get an elevator for \$50,000.

JC: No, no, no, no. Right, right.

Man's voice: Not an elevator and [unintelligible]

KB: So, do you want a list of what was installed in the kitchen? Is that what you're requesting?

PM: Probably.

Man's voice: Or a set of plans to show.

GL: A set of plans or something...

ME: Unless you're willing to stipulate the jurisdiction, in which case we can just move on.

MM: Yeah, I think that that's what is racing through my head here, that it might make sense to do that. Presuming that's the case and perhaps if we can move forward in the alternative presuming that there is jurisdiction relative to....

ME: Well, I'm not sure the board is willing to move forward *assuming* that, but if you're willing to *stipulate* to it, then we can move forward.

MM: OK, that's fine.

GL: OK, let's do that.

Male voice: Jim, shall we have a motion finding in favor of the complainant and go into the...

Female voice: Can we just be clear with them that they know what they're assenting to? Because if...basically, I think what we're talking about assenting that the work was worth more than \$100,000?

MM: Well, can I just [unintelligible] for a minute? Yes.

KB: Gerry, can you just mark those other permits as exhibits, please, the ones, the other permits that were submitted?

GL: We, we got those from Tom.

KB: They were submitted today, correct? They need to be exhibit 3 and 4 or are there more?

[Exhibits numbered]

Woman's Voice: Mr. Chairman, I want to move to continue these proceedings for a period of 30 days or until Mr. Hopkins can re-schedule us in order for the museum to get

some clarity on exactly what work was done where for how much which is the real question.

GL: Because, as it works out, as it works out, certainly you spent more than \$100,000 so the rear entrance has to be handicapped accessible...

MM: Absolutely and...

GL: ...and with no buzzer. The way we're talking about an elevator I've heard the tune of \$350,000 which puts you well over 1/3 of the assessed value. We're talking 100% accessibility, so you're going to have 30 days in which to get all the information and get it from, as I've said, from plumbing, from electrical, from the elevator board. Find out when they inspected it. If they didn't inspect it, then you've got more troubles.

GL: So there was a motion made to extend this for 30 days or until we can come up with a date.

PM: Does that motion include and the complaint *and* the request for the variance?

MOTION PASSES.

GL: Thank you.