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**FIRE PREVENTION AND BUILDING SAFETY COMMISSION**  
**Department of Homeland Security**

**Written Interpretation of the State Building Commissioner**

**Interpretation #:** CEB-2023-05 [[675 IAC 12-4-12\(b\)](#)]

**Building or Fire Safety Law Interpreted**

[675 IAC 12-4-12\(b\)](#) Additions or alterations may be made to any existing building, structure, or any part of the permanent heating, ventilating, air conditioning, electrical, plumbing, sanitary, emergency detection, emergency communication, or fire or explosion suppression systems without requiring the entire existing building, structure, or system to comply with all the requirements of the rules of the commission provided:

- (1) the construction work within the scope of the addition or alteration conforms to the requirements for new construction, and
- (2) subsections (c) through (f) and (h) are not violated.

(c) No addition or alteration shall cause an existing building, structure, or any part of the permanent:

- (1) heating;
- (2) ventilating;
- (3) air conditioning;
- (4) electrical;
- (5) plumbing;
- (6) sanitary;
- (7) emergency detection;
- (8) emergency communication; or
- (9) fire or explosion suppression;

systems to become noncompliant under the provisions of the current rules of the commission for new construction or with the applicable rules of the commission or its predecessor agencies in effect at the time the original construction or installation was made.

(d) No addition or alteration shall reduce existing fire protection or detection systems or exit capacities to a level less than that required under the provisions of the rules of the commission for new construction.

(e) When there is a change in use or occupancy, the existing building or structure shall not exceed the:

- (1) height;
- (2) number of stories; or
- (3) area;

permitted by the rules of the commission for a new building or structure.

(f) No addition to a building or structure plus the existing building or structure shall exceed the:

- (1) height;
- (2) number of stories; or
- (3) area;

allowed by the rules of the commission for a new building or structure.

(g) [*Statement of allowable structural materials, omitted for lack of relevance to the request.*]

(h) Notwithstanding subsection (g), the following shall meet the requirements of the rules of the commission for new construction:

- (1) The installation or replacement of glass shall meet the requirements for safety glazing.
- (2) The installation or replacement of wall and ceiling finishes shall meet the requirements for flame spread ratings.
- (3) The installation or replacement of any potable water distribution system, or portion thereof, shall be only of lead-free pipe, fitting, flux, and solder.

**Issue**

Whether [675 IAC 12-4-12\(b\)](#) exempts an existing, unenclosed, and decommissioned elevator hoistway from the requirement to be fully enclosed in fire-resistance-rated shaft construction when the hoistway is repurposed as a space for installation of mechanical ductwork or plumbing lines between stories.

**Interpretation of the State Building Commissioner**

Yes, [675 IAC 12-4-12\(b\)](#) exempts an existing, unenclosed, and decommissioned elevator hoistway from the requirement to be fully enclosed in fire-resistance-rated shaft construction when the hoistway is repurposed as a space for installation of mechanical ductwork or plumbing lines between stories, provided the building was lawfully in existence prior to the adoption of the current rules, and there is no change of occupancy group or subgroup in the building. If there is a change of occupancy group or subgroup, the unenclosed former hoistways must meet the requirements of Section 712.1.8 of the *2014 Indiana Building Code (IBC)*.

### Rationale

To fully understand the application of the rules regarding new construction in existing buildings, several of the General Administrative Rules must be considered:

[675 IAC 12-4-7](#) requires new construction of any kind to comply with the currently adopted rules of the commission.

[675 IAC 12-4-11\(a\)](#) allows any building lawfully in existence at the time of the adoption of new rules to have its existing use or occupancy continued without having to bring the building into compliance with the new rules.

[675 IAC 12-4-11\(b\)](#) states that no change in occupancy group or subgroup may take place in an existing building without the building being brought into compliance with the current rules.

[675 IAC 12-4-12\(a\)](#) requires alteration work to comply with the current rules, with specific exceptions.

[675 IAC 12-4-12\(b\)](#) allows additions and alterations to be made to existing buildings without the requirement to bring the entire building into compliance with the current rules if the work meets certain conditions. They are:

- [675 IAC 12-4-12\(c\)](#) – The work does not make the building and its various systems noncompliant with the commission's current rules or those of its predecessor agencies.
- [675 IAC 12-4-12\(d\)](#) – The work does not reduce the fire protection, detection systems, or exit capacities to levels less than required under the commission's current rules.
- [675 IAC 12-4-12\(e\)](#) – When undergoing a change of occupancy group or subgroup, the work may not cause the building to exceed the maximum allowable height, area, or number of stories permitted under the commission's current rules.
- [675 IAC 12-4-12\(f\)](#) – When the work includes an addition, the existing building plus the addition may not exceed height, area, or number of stories beyond the maximum permitted under the commission's current rules.
- [675 IAC 12-4-12\(h\)](#) – Newly installed glass, finish materials, and potable water distribution systems must meet the commission's current rules for safety glazing, flame spread, and lead-free materials, respectively.

Taken in combination, these rules require new work on existing buildings to comply with the current codes, but if that work meets the [675 IAC 12-4-12\(b\)](#) conditions named above, and if there is no change in occupancy group or subgroup, there is no requirement for the rest of the structure to be brought into compliance with those codes.

The alteration project at the core of this request involves an existing building constructed in the early part of the 20<sup>th</sup> century. It includes several unenclosed elevator hoistways that are being abandoned as elevators and repurposed as vertical openings for the installation of mechanical ductwork or plumbing lines that traverse between stories.

If the alteration work in these hoistways is limited to items unrelated to the hoistway construction itself, such as the installation of mechanical ductwork or plumbing lines (and such attachments or devices as needed to fix them in place), and the materials and configuration of the hoistways remain as existing, [675 IAC 12-4-12\(b\)](#) states that this work can occur without triggering the requirement to bring the rest of the building into compliance (i.e., the need to fully enclose the hoistways) provided it meets the stated conditions:

- [675 IAC 12-4-12\(c\)](#) allows the rules of record to be used to establish prior compliance. We do not know whether adopted rules existed at the time of the original construction, but the burden of proof of noncompliance is on the regulatory entity. Without evidence of noncompliance, we may assume the existing conditions were acceptable at the time of construction.
- [675 IAC 12-4-12\(d\)](#) exempts the building from compliance with the current rules if the new work does not reduce the building's fire protection, detection systems, or exit capacities to levels less than those required under the current rules. If the placement of the mechanical ductwork or plumbing lines in the abandoned hoistways does not result in a *reduction* of the efficacy of those existing life safety systems from their existing

levels to resultant levels that are less than that allowed by the current rules, then no hoistway enclosure work is required. The fact that the existing condition is less safe than allowed by current rule is not sufficient. The new work must *decrease* that level of safety.

- [675 IAC 12-4-12](#)(e) exempts the building from compliance with the current rules if the work does not cause the building to exceed the current rules' limits on area, height, or number of stories.
- [675 IAC 12-4-12](#)(f) applies only to additions, so it is irrelevant in this case.
- [675 IAC 12-4-12](#)(h) applies only to construction materials that are irrelevant to this case.

In applying these rules in combination, it becomes apparent that if the alteration work in a hoistway is limited to items unrelated to the hoistway construction itself, such as the installation of mechanical ductwork or plumbing lines, then the only applicable code requirements are those that address those specific work items. If the work leaves the materials and configuration of the hoistways untouched, the hoistways' unenclosed nature is an existing condition that does not require amelioration to achieve compliance.

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