

Determination

under the

Building Act 1991

No. 94/002: Access for people with disabilities in the conversion of a dwelling to a medical centre

1. The matter to be determined

- 1.1 The matter before the Authority was whether a lift was required in a building two storeys high proposed to be converted into "professional rooms generally of a medical nature".
- 1.2 The Authority takes the view that it is being asked to determine whether, as required by section 46(2)(a) of the Building Act 1991, the building, in its new use but without a lift, will comply with clause D1.3.4(c)(iv) of the New Zealand Building Code (the First Schedule to the Building Regulations 1992) as nearly as is reasonably practicable to the same extent as if it were a new building.
- 1.3 In making its determination the Authority has not considered whether the plans and specifications of the proposed building comply with any other provisions of the New Zealand Building Code.
- 1.4 The owner of the building was the applicant, the territorial authority concerned was the other party.

2. The building

- 2.1 The building was originally a single storey house. Some time ago it was altered by lifting the house so that it became the upper level of a two storey building in which the ground floor was used as a health-care clinic and the upper floor continued to be used as a house.
- 2.2 The owner now proposes to change the upper storey from a house to "professional rooms generally of a medical nature". The plan supplied to the Authority shows the upper floor as containing two "professional rooms", a secretary's room, a waiting room, a staff kitchen, and toilet facilities. The ground floor is shown as containing two "professional rooms", a "communal consultation" room, a waiting and reception area, an X-ray room, and accessible toilet facilities. No lift is shown, but otherwise it is not disputed that adequate and reasonable access and facilities for people with disabilities are intended to be provided on the ground floor.

3. Discussion

- 3.1 Clause D1.3.4(c)(iv) of the New Zealand Building Code requires in effect that a lift shall be provided to any upper floor that is to be used for the purposes of public reception areas of, amongst other things, "medical and dental surgeries, and medical, paramedical and other primary health care centres". The Authority takes "public reception areas" in such buildings to be all those areas to which the public needs to have access for treatment.
- 3.2 In previous determinations concerning lifts in two-storey buildings, the Authority has taken account of the fact that customer services available on the upper floor were also available on the ground floor, so that wheelchair users, and other people with disabilities that prevented them from using the stairs, would be able to carry out normal activities and functions on the ground floor. However, the buildings concerned were banks having their public reception areas on their ground floors. The normal activities that people with disabilities carry out in a primary health care centre, such as a medical centre, cannot properly be compared with those that they carry out in a bank. The Authority considers that people who do not have access to the room of the professional they have come to consult cannot carry out normal activities in the building concerned.
- 3.3 The owner contends that the introduction of a lift is not reasonably practicable because it would "compromise other client services" and because the cost would be excessive.
- 3.4 As to compromising other services, the owner explored possible locations for a lift.
The Authority recognises that each suggested location has disadvantages, particularly by taking space intended for other purposes and by interfering with light from a window. However, the Authority considers that the disadvantages to the owner of installing a lift do not outweigh the disadvantages to people with disabilities of not having access to the upper floor.
- 3.5 As to costs, the owner submitted that a lift would cost \$41,800 plus GST, and contended that it would be unreasonable to require that expenditure when the other costs of converting the upper floor amounted to less than \$9,000. The Authority does not accept that contention. The proper comparison is to the cost of converting the original house, which in the Authority's estimate would have been more than \$50,000. Furthermore, although cost is a consideration it is only one of the matters that must be taken into account when considering what is "reasonably practicable" in any particular case. In this case it may well be that the cost of providing a lift makes the project uneconomic.
- 3.6 It should be mentioned that the cost of \$41,800 mentioned above was for the installation of a "residential type" lift. Such a lift does not fully comply with the dimensional requirements of New Zealand Standard 4121 "Code of practice for design for access and use of buildings and facilities by disabled persons", but the Authority considers that in some cases such a lift could be acceptable in the alteration of an existing building. However, the Authority makes no determination on that point because it has not been asked to consider whether a particular lift would be acceptable in the building concerned, it has been asked to determine whether the building, in its new use but without a lift, will comply with the relevant provisions of the New Zealand Building Code as nearly as is reasonably practicable to the same extent as if it were a new building.

4. The Authority's decision

- 4.1 The Authority therefore determines that the use of the upper floor of the building shall not be changed as proposed unless a lift is provided.

Signed for and on behalf of the Building Industry Authority on this 27th day of June 1994

J H Hunt
Chief Executive