

KIDDIE ACADEMY DAYCARE FACILITY

Issue: Mounting heights of fixtures in toilet rooms designed for children.

Analysis: The applicant is requesting a waiver from installing toilet fixtures in children's toilets in day care facilities. The project has been referred to the Commission because Chapter 11 makes no specific provision for toilets used for this purpose. This is a new, \$1,412,000 building and in addition to the classroom toilet rooms, toilets complying with the code and usable by staff and the public are available. The applicant has expressed interest in using the Guidelines for Children's Facilities adopted by the Access Board and Department of Justice.

Project Progress:

The project is under design.

Items to be Waived:

Toilet room mounting heights.

11-4.16.3 Height. The height of water closets shall be 17 inches to 19 inches measured to the top of the toilet seat.

11-4.19.2 Height and clearance. Lavatories shall be mounted with the rim or counter surface no higher than 34 inches above the finish floor.

Waiver Criteria: There is no specific guidance for a waiver of this requirement in the code. The Commission's current rule, authorized in Section 553.512, Florida Statutes, provides criteria for granting waivers and allows consideration of unnecessary or extreme hardship to the applicant if the specific requirements were imposed.

**REQUEST FOR WAIVER FROM ACCESSIBILITY REQUIREMENTS
OF CHAPTER 553, PART V, FLORIDA STATUTES**

Your application will be reviewed by the Accessibility Advisory Council and its recommendations will be presented to the Florida Building Commission. You will have the opportunity to answer questions and/or make a short presentation, not to exceed 15 minutes, at each meeting. The Commission will consider all information presented and the Council's recommendation before voting on the waiver request.

1. Name and address of project for which the waiver is requested.

Name: Kiddie Academy Daycare Facility– Sawgrass Lakes Commercial Center

Address: 3401 Darwin Boulevard, Port St. Lucie, St. Lucie County, Florida 34953

2. Name of Applicant. If other than the owner, please indicate relationship of applicant to owner and written authorization by owner in space provided:

Applicant's Name: David F. Hannan

Applicant's Address: 7301 NW 4th Street, Suite 102, Plantation, Florida 33317

Applicant's Telephone: (954) 581-9388 **FAX:** (954) 581-9347

Applicant's E-mail Address: Dhannan1@BellSouth.net

Relationship to Owner: Attorney for Owner

Owner's Name: Portofino Plaza (Port St. Lucie), LLC, a Florida limited liability company

Owner's Address: C/O: Murray Realties, Inc., 13248 West Broward Boulevard, Plantation, Florida 33325

Owner's Telephone: (954) 474-8585 **FAX:** (954) 474-8434

Owner's E-mail Address: NwarrenStein@aol.com

Portofino Plaza (Port St. Lucie), LLC

Signature of Owner: By: Warren Stein, Manager

Warren Stein *Manager*

Contact Person: David F. Hannan

Contact Person's Telephone: (954) 581-9388 **E-mail Address:** Dhannan1@BellSouth.net

3. Please check one of the following:

New construction.

This application is available in alternate formats upon request.
Form No. 2001-01

Addition to a building or facility.

Alteration to an existing building or facility.

Historical preservation (addition).

Historical preservation (alteration).

4. Type of facility. Please describe the building (square footage, number of floors). Define the use of the building (i.e., restaurant, office, retail, recreation, hotel/motel, etc.)

The building is a free standing one story structure comprising approximately 10,000.00 square feet of useable space. The building will be utilized as Kiddie Academy Daycare Center providing child care (temporary, part time or full time), before and after school activity or educational services. Children from toddlers through school age will be served.

5. Project Construction Cost (Provide cost for new construction, the addition or the alteration):

The construction cost of the Kiddie Academy facility is \$1,412,000.00

6. Project Status: Please check the phase of construction that best describes your project at the time of this application. Describe status.

Under Design (as to interior buildout) Under Construction-(Site Work- vertical construction about to commence)*

In Plan Review Completed*

- Briefly explain why the request has now been referred to the Commission.

The site work is underway and the Contractor is ready to commence vertical construction. This matter is referred to the commission because a preliminary review of the interior floor plan by a municipal plan reviewer brought to the attention of the Owner that the code does not allow for children's size toilets. Additionally, in the bathroom facilities for children age two to four, the design has sinks (lavatories) not in the stalls.

7. Requirements requested to be waived. Please reference the applicable section of Florida law. Only Florida-specific accessibility requirements may be waived.

Issue

1: Installation of toilets with appropriate mounting height and size in facilities for children age two to four. Waiver of mounting height to allow for ADAAG children sized fixtures and layout. Code

provision: FBC: 11-4.16.3 (Plumbing Code: 404.3.4)

Issue

2: Installation of ADAAG approved lavatories (children) not within standard stalls in facilities for children age two to four. Code provision: FBC: 11-4.17.3 (Plumbing Code: 404.4.3)

8. **Reason(s) for Waiver Request:** The Florida Building Commission may grant waivers of Florida-specific accessibility requirements upon a determination of unnecessary, unreasonable or extreme hardship. Please describe how this project meets the following hardship criteria. Explain all that would apply for consideration of granting the waiver.

[X] The hardship is caused by a condition or set of conditions affecting the owner which does not affect owners in general.

The owner is building the daycare facility for its tenant Kiddie Academy for use as above. The tenant requires age appropriate plumbing facilities to accommodate the children entrusted to its care. A daycare facility providing services to young children is unique in its requirements. Owners in general building or designing facilities are not involved with the exclusive care of children for extended hours during the day. The Accessibility Code states it based on adult dimensions and anthropometrics clearly mandating waivers for facilities such as being developed by the owner herein.

[] Substantial financial costs will be incurred by the owner if the waiver is denied.

[] The owner has made a **diligent investigation** into the costs of compliance with the code, but cannot find an efficient mode of compliance. Provide detailed cost estimates and, where appropriate, photographs. Cost estimates must include bids and quotes.

9. **Provide documented cost estimates for each portion of the waiver request and identify any additional supporting data which may affect the cost estimates.** For example, for vertical accessibility, the lowest documented cost of an elevator, ramp, lift or other method of providing vertical accessibility should be provided, documented by quotations or bids from at least two vendors or contractors.

a. _____

b. _____

c. _____
_____.

10. **Licensed Design Professional:** Where a licensed design professional has designed the project, his or her comments **MUST** be included and certified by signature and affixing of his or her professional seal. The comments must include the reason(s) why the waiver is necessary.

PLEASE NOTE: The floor plan submitted with this Application **was not** prepared by a licensed Florida design professional but rather was provided by the staff of the tenant. The project's architect has yet to be engaged to modify or finish the interior lay-out and specific plans to accommodate the bathroom facilities. As the project is being developed to serve young children, the need for the waivers to allow age appropriate facilities is self evident. Final plans will of course meet all code requirements as to fixture floor clearances and ADAAG and Florida accessibility requirements.

Signature **Printed Name**

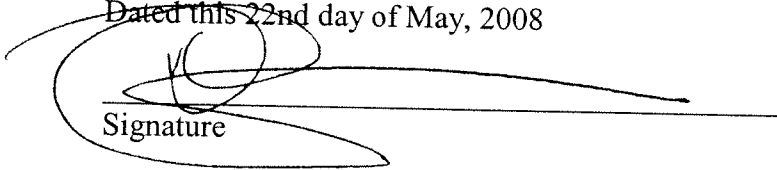
Phone number _____

(SEAL)

CERTIFICATION OF APPLICANT:

I hereby swear or affirm that the applicable documents in support of this Request for Waiver are attached for review by the Florida Building Commission and that all statements made in this application are to the best of my knowledge true and correct.

Dated this 22nd day of May, 2008



Signature

David F. Hannan
Printed Name

By signing this application, the applicant represents that the information in it is true, accurate and complete. If the applicant misrepresents or omits any material information, the Commission may revoke any order and will notify the building official of the permitting jurisdiction. Providing false information to the Commission is punishable as a misdemeanor under Section 775.083, Florida Statutes.

Law Offices of
DAVID F. HANNAN
A Professional Association

DAVID F. HANNAN, ESQUIRE

7301 NW 4th Street
Suite 102
Plantation, FL 33317
Telephone: 954-581-9388
Telecopier: 954-581-9347
E-Mail: Dhannan1@BellSouth.net

May 22, 2008

Via Federal Express

Department of Community Affairs
Florida Building Commission
2555 Shumard Oak Boulevard
Tallahassee, FL 32399-2100

Re: Application for Waiver – Accessibility Requirements – Daycare Facility

Gentlemen:

I am the attorney for the owner/developer of a Kiddie Academy Daycare facility in Port St. Lucie, Florida. As such I enclose a completed Request for Waiver.

We seek a waiver from two provisions of the Code so as to allow the installation of three ADAAG approved children's toilets in lieu of adult toilets and for sinks not in stalls to serve youngsters ages two to four.

I accompany the application with two large floor plans and two reduced floor plans. As we are only dealing with plumbing fixtures and placement, this is all that is presented. I have highlighted the relevant fixtures on one of each.

I and/or the owner will attend the Advisory Council and Commission meetings.

If there is anything further you may require for this Application, I trust you will so advise and allow us to file it as a supplement.

I thank you for your consideration.

Very truly yours,



David F. Hannan
DFH/lr

Enclosures

