

THE PALMS HOTEL AND SPA

Issue: Vertical accessibility to the front entrance of a historic building.

Analysis: The applicant is requesting a waiver from providing an accessible front entrance of a hotel undergoing alteration work to its guest rooms and suites. The front entrance is located seven steps above a sloped driveway without a parallel sidewalk. The building's owners have provided an additional pedestrian entrance at the side of the building, for use by the general public as well as persons with disabilities. This was done so that a safer alternative away from vehicular traffic. The structure is a qualified historic building and making changes to the main entrance would substantially damage the historic character of the hotel.

Project Progress:

The project is in plan review.

Items to be Waived:

Vertical accessibility to the front entrance, as required by Chapter 553.509, Florida Statutes.

553.509 Vertical accessibility. Nothing in Sections 553.501-553.513 or the guidelines shall be construed to relieve the owner of any building, structure or facility governed by those sections from the duty to provide vertical accessibility to all levels above and below the occupiable grade level regardless of whether the guidelines require an elevator to be installed in such building, structure or facility, except for:

- (1) Elevator pits, elevator penthouses, mechanical rooms, piping or equipment catwalks and automobile lubrication and maintenance pits and platforms;
- (2) Unoccupiable spaces, such as rooms, enclosed spaces and storage spaces that are not designed for human occupancy, for public accommodations or for work areas; and
- (3) Occupiable spaces and rooms that are not open to the public and that house no more than five persons, including, but not limited to equipment control rooms and projection booths.

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: The Palms Hotel & Spa

Address: 3025 Collins Avenue, Miami Beach, FL 33140

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: Robert S. Fine, Esq.

Applicant's Address: 1221 Brickell Avenue, Miami, Florida 33131

Applicant's Telephone: 305-579-0826 **FAX:** 305-961-5826

Applicant's E-mail Address: finer@gtlaw.com

Relationship to Owner: Legal counsel

Owner's Name: The Palms, Inc., c/o Hamid Abdulhafid

Owner's Address: 3025 Collins Avenue, Miami Beach, FL 33140

Owner's Telephone: 305-908-3354 **FAX:** _____

Owner's E-mail Address: _____

Signature of Owner:  as counsel for Owner _____

Contact Person: Robert S. Fine, Esq.

Contact Person's Telephone: 305-579-0826 **E-mail Address:** finer@gtlaw.com

3. Please check one of the following:

- New construction.
- 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.)

Historic oceanfront hotel containing restaurant and entertainment areas, and approximately 240 guest rooms/suites.

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

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

- Under Design Under Construction*
- In Plan Review Completed*

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

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

Issue

1: ___ § 553.509, Florida Statutes; § 11-4.1.6(iii)f), Florida Building Code (2007). Vertical accessibility from the public sidewalk into the public and common use levels i.e., lobby level) of the building

Issue

2: _____

Issue

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.

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

Providing vertical accessibility to the main entrance of the building would significantly and negatively impact the historic character of the front elevation of the building. In addition, the main entrance of the building is a vehicular entrance and creates difficulties for pedestrians (both with, and without disabilities) to safely go from the sidewalk to the entrance. As such, the Palm's owners have included creating a separate pedestrian entrance from Collins Avenue into the building for both disabled and non-disabled patrons and guests.

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.

Cost is not a component of the hardship basis for this application.

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 8 day of May, 2009



Signature

Robert S. Fine, Esq

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.

REVIEW AND RECOMMENDATION BY LOCAL BUILDING DEPARTMENT.

Please state why the issue is being referred to the Florida Building Commission as well as a recommendation for disposition. The Building Official or his or her designee should review the application and indicate that to the best of his or her knowledge, all information stipulated herein is true and accurate. Further, if this project is complete, explain why it is being referred to the Commission. The Building Official or his or her designee should sign a copy of the plans accompanying this application as certification that such plans are the same as those submitted for building department review. Please reference the applicable section of the Accessibility Code.

a. _____

b. _____

c. _____

Has there been any permitted construction activity on this building during the past three years? If so, what was the cost of construction?

Yes No Cost of Construction _____

Comments/Recommendation _____

Jurisdiction _____

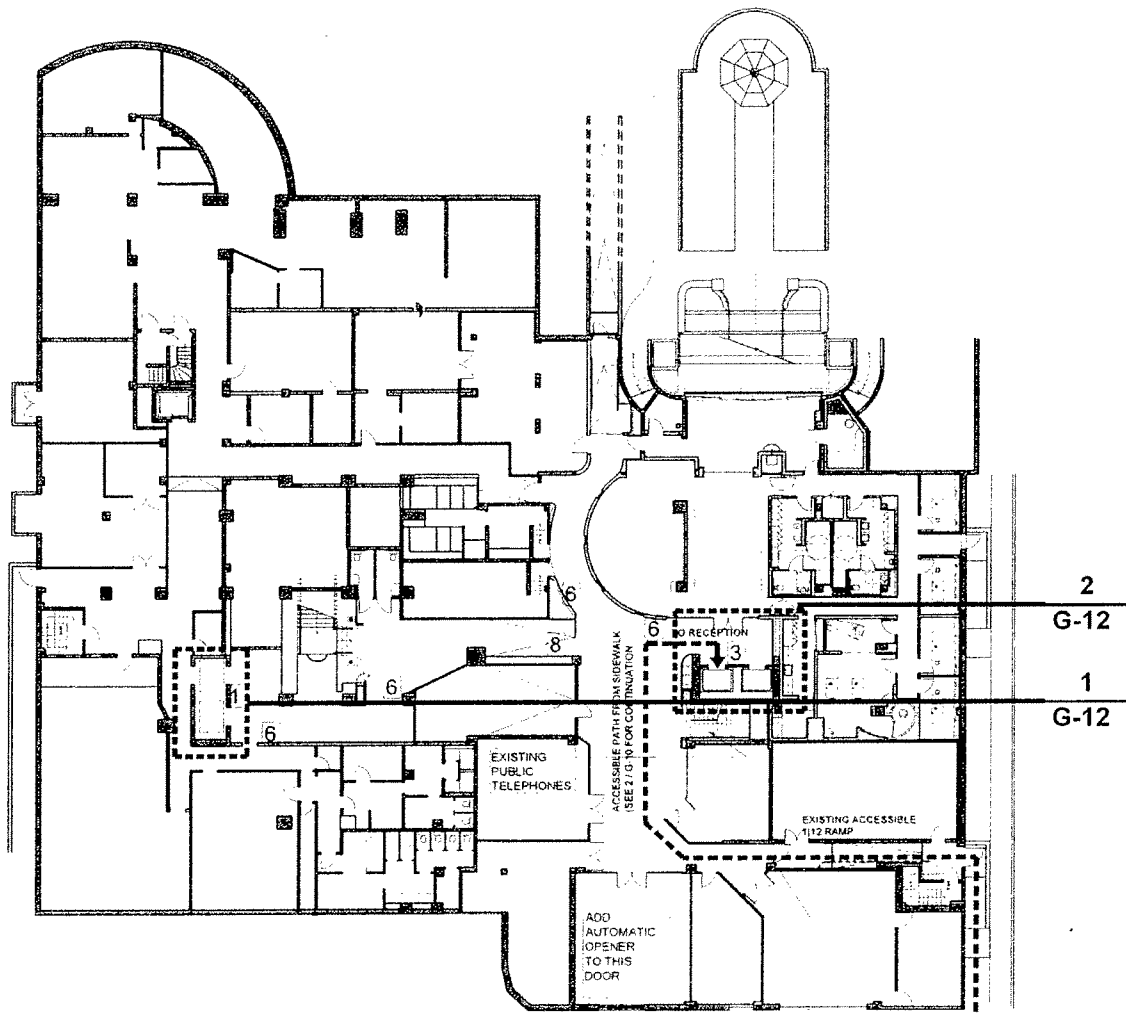
Building Official or Designee _____
Signature

Printed Name

Certification Number

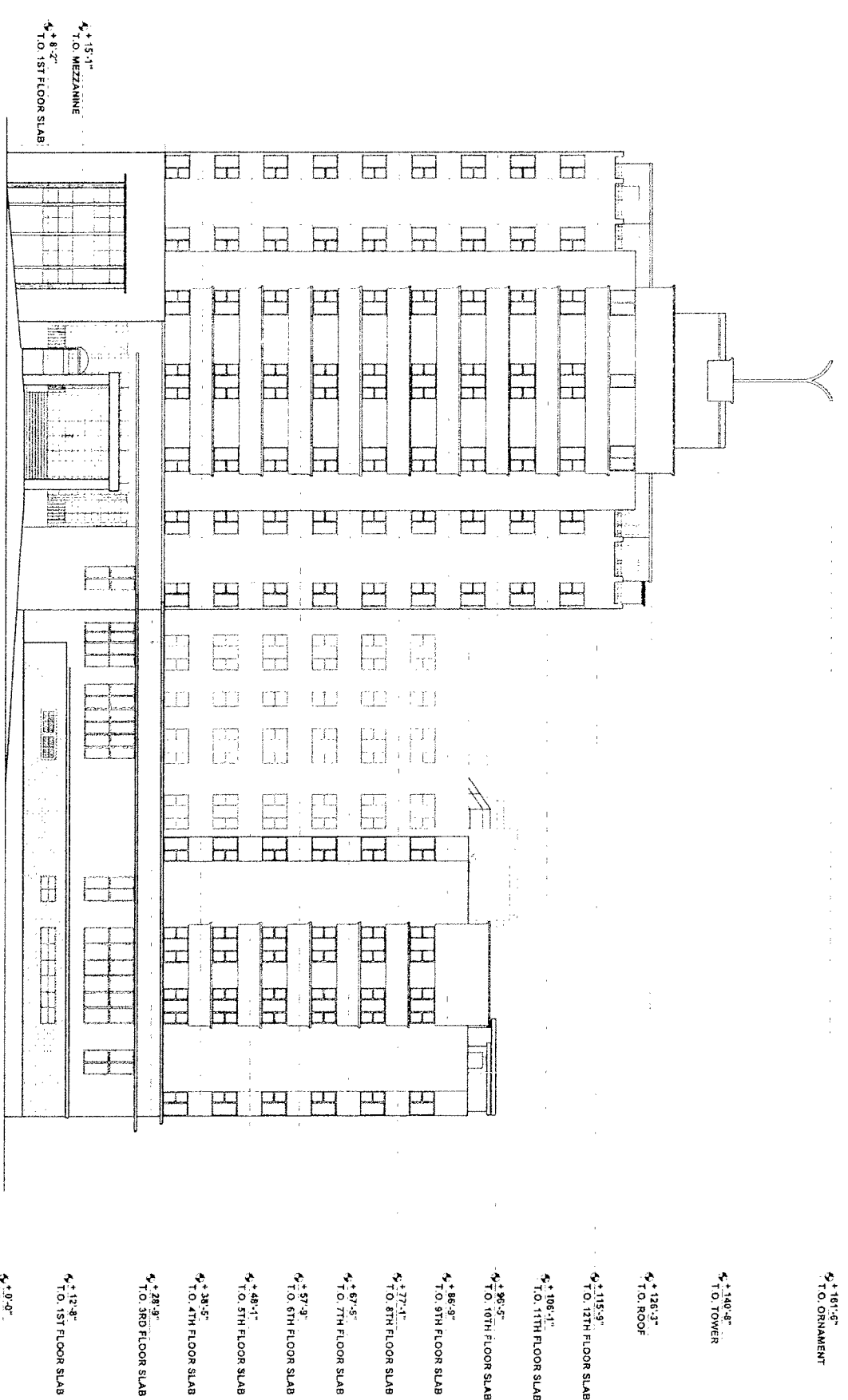
Telephone/FAX

Address: _____



2 EXISTING ACCESSIBLE BATHROOM AND SIGNAGE AT BASEMENT PLAN

SCALE 1/2"=1'-0"



1 AS BUILT - WEST ELEVATION
 SCALE 1/16" = 1'-0"

