

## **SOHO BEACH HOUSE**

**Issue:** Vertical accessibility to a second level.

**Analysis:** The applicant is requesting a modification to a final order previously issued by the Commission. The project is a historic hotel that is being renovated and the addition of a new tower on the property. The original final order granted a waiver from vertical accessibility to the second floor of the hotel. This area was intended for use as a guest room; however, the applicant would prefer using it for two offices. The application has been submitted because the proposed use of the area has been changed.

### **Project Progress:**

The project is under construction.

**Items to be Waived:** Vertical accessibility to the second floor as required by Section 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:        Soho Beach House

Address:        4385 Collins Avenue, Miami Beach, FL

**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., AIA

Applicant's Address:        Greenberg Traurig, P.A., 1221 Brickell Avenue, Miami, Florida 33131

Applicant's Telephone:        305-579-0826

Fax:        305-961-5826

Applicant's E-mail Address:        [finer@gtlaw.com](mailto:finer@gtlaw.com)

Relationship to Owner:        Legal counsel

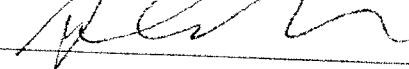
Owner's Name:        Ryder Properties

Owner's Address:        c/o Applicant

Owner's Telephone:        c/o Applicant

Fax \_\_\_\_\_

Owner's E-mail Address:        c/o Applicant

Signature of Owner: \_\_\_\_\_ 

Contact Person:        Robert S. Fine

Contact Person's Telephone:        305-579-0826

E-mail Address: [finer@gtlaw.com](mailto:finer@gtlaw.com)

This application is available in alternate formats upon request.

Form No. 2001-01

**3. Please check one of the following:**

New construction.

**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.)

Hotel 50 hotel rooms-- 35 in the existing building and 15 in the new tower

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**5. Project Construction Cost (Provide cost for new construction, the addition or the alteration):** \$28 million including tower addition at time of project commencement, expected final cost to be higher but cannot be determined at this time

**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.

This application for waiver, which is effectively a request to modify an existing waiver that was previously granted by the Commission, has been filed with the Commission due to changes in the project, including in the area of the subject building that was the subject of the original waiver request

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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(1)(k)(iii), Florida Building Code : Vertical accessibility to an area of the second floor of a historic structure that is separated from the majority of the second floor area that has the required vertical accessibility and cannot be connected due to the historic preservation concerns that were documented in the prior waiver application and hearing.

**Issue**

2: \_\_\_\_\_  
\_\_\_\_\_

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.

See architect's comment.

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

Not applicable

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.

Not applicable

**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.  Not applicable. Please see architect's comment.

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.

The Project consists of alterations to a qualified historic structure and the addition of a new tower. Within the existing historic structure, the second floor is comprised of two main areas--one area is supplied with vertical accessibility by way of an elevator and the other is a wing that may only be accessed by a stair from the main lobby level.

When this project came before the Commission in its prior waiver request (which was granted on historic preservation grounds), the intended use for the area for which the waiver is being sought was as a hotel guest room. Due to changes in the project's program, this same area will now contain two offices for hotel operations. The historic preservation issues in providing vertical accessibility to this area remain the same as in the prior application. The letter from Thomas Mooney, Design and Preservation Manager for the City of Miami Beach, that was included in the 2007 waiver application is included for your reference and to help explain the historic issues.

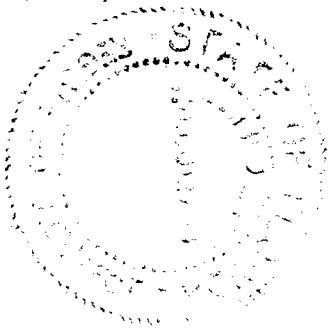
We are applying for this waiver, or a modification to the existing waiver, because the use that was represented to the Commission as the occupancy for the area in question has been changed. The historic preservation challenges, however, are still the same. Accordingly, I respectfully request that the Council and the Commission grant a waiver, or amend the existing waiver to allow for the new proposed use without vertical accessibility based on extreme and unreasonable hardship as providing vertical accessibility to this area would *threaten or destroy* the historic character of the structure.

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*Allen Shulman*      Allen Shulman  
Signature                                  Printed Name

Phone number 305-438-0609

(SEAL)

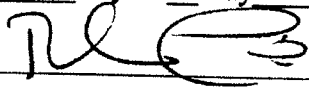


**CERTIFICATION OF APPLICANT:**

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 7 day of May, 2010

Signature



Robert S. Fine, Esq., AIA \_\_\_\_\_  
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

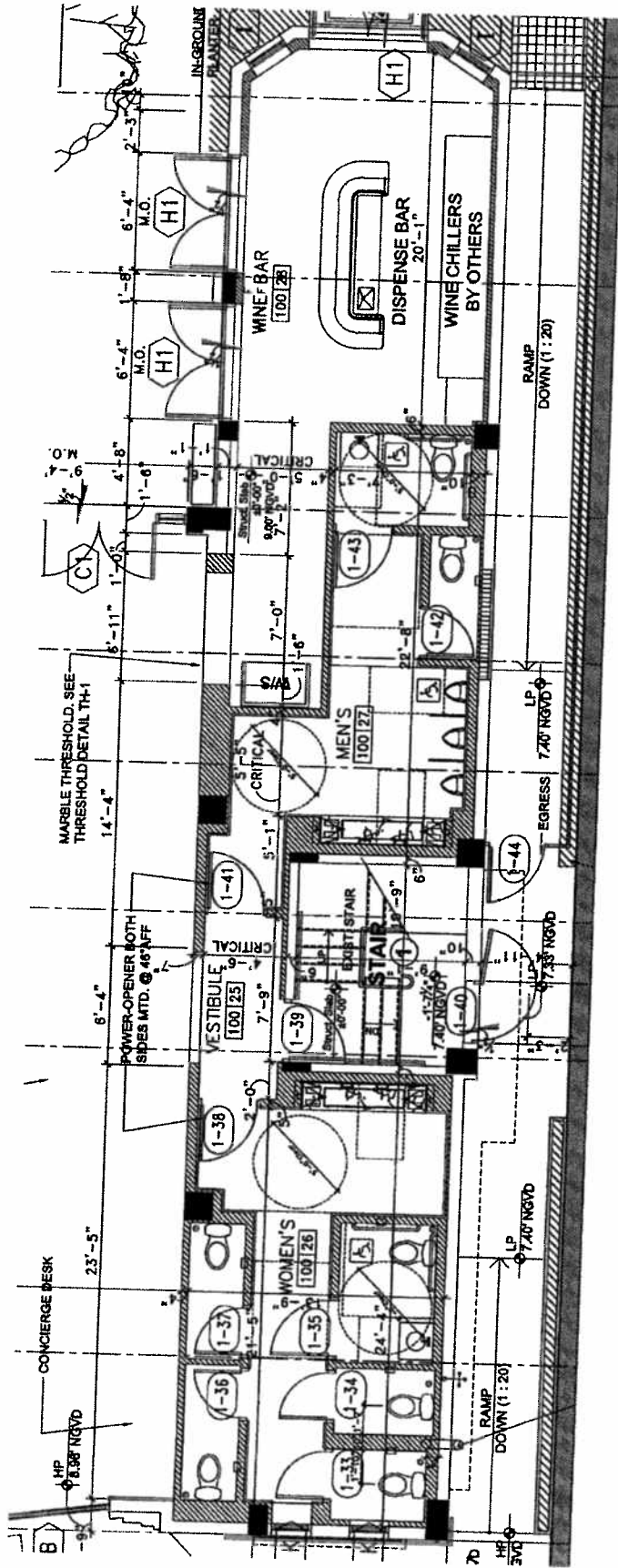
\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Certification Number

\_\_\_\_\_  
Telephone/FAX

Address: \_\_\_\_\_  
\_\_\_\_\_



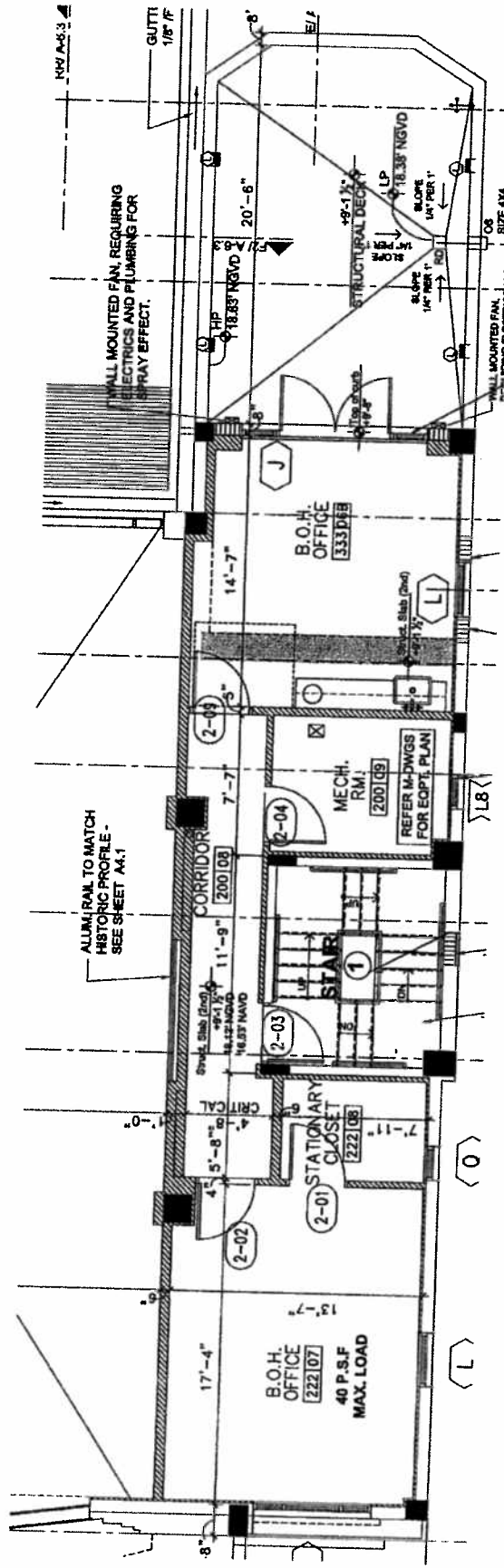


FIRST FLOOR PARTIAL PLAN  
SCALE: 3/8"=1'-0"



ALLAN T. SHULMAN ARCHITECT, P.A.  
 100 WEST STREET, NO. 3, MIAMI, FL 33137  
 TEL: (305) 576-2617

SOHO BEACH HOUSE  
 RENOVATION AND ADDITION  
 CONSTRUCTION DOCUMENTS  
 SHEET A4.00a  
 APRIL 23, 2013



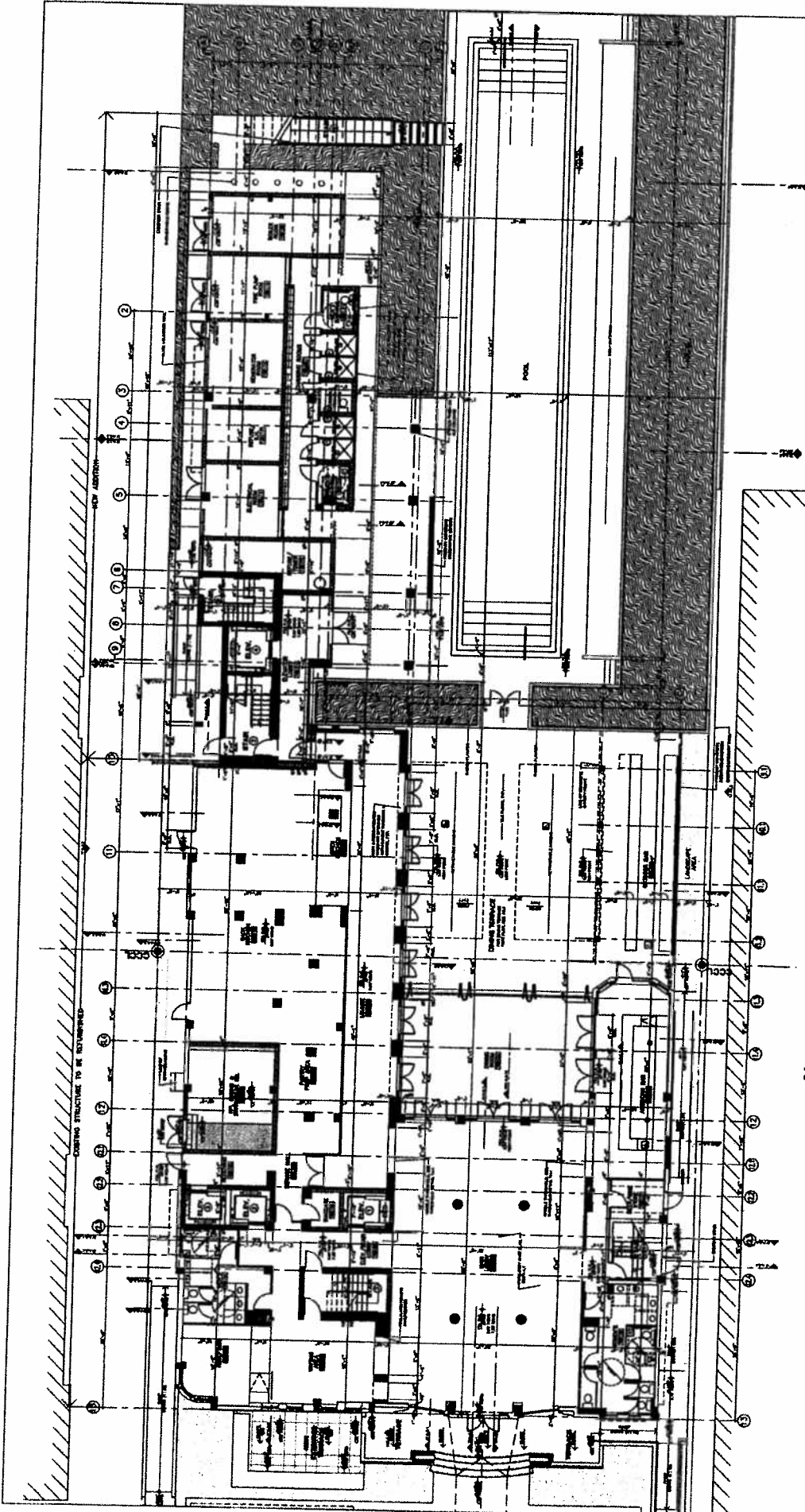
SECOND FLOOR PARTIAL PLAN  
SCALE: 1/8"=1'-0"



**ALLAN T. SHULMAN ARCHITECT, P.A.**  
 100 WEST STREET, NO. 2, MIAMI, FL 33137  
 TEL: 305.358.9476 FAX: 305.358.9478

**SOHO BEACH HOUSE**  
 RENOVATION AND ADDITION  
 CONSTRUCTION DOCUMENTS  
 APRIL 23, 2004  
**A-4.00b**

ALLAN T. SHULMAN ARCHITECT, P.A.  
 100 WEST STREET, NO. 2, MIAMI, FL 33137  
 TEL: 305.358.9476 FAX: 305.358.9478



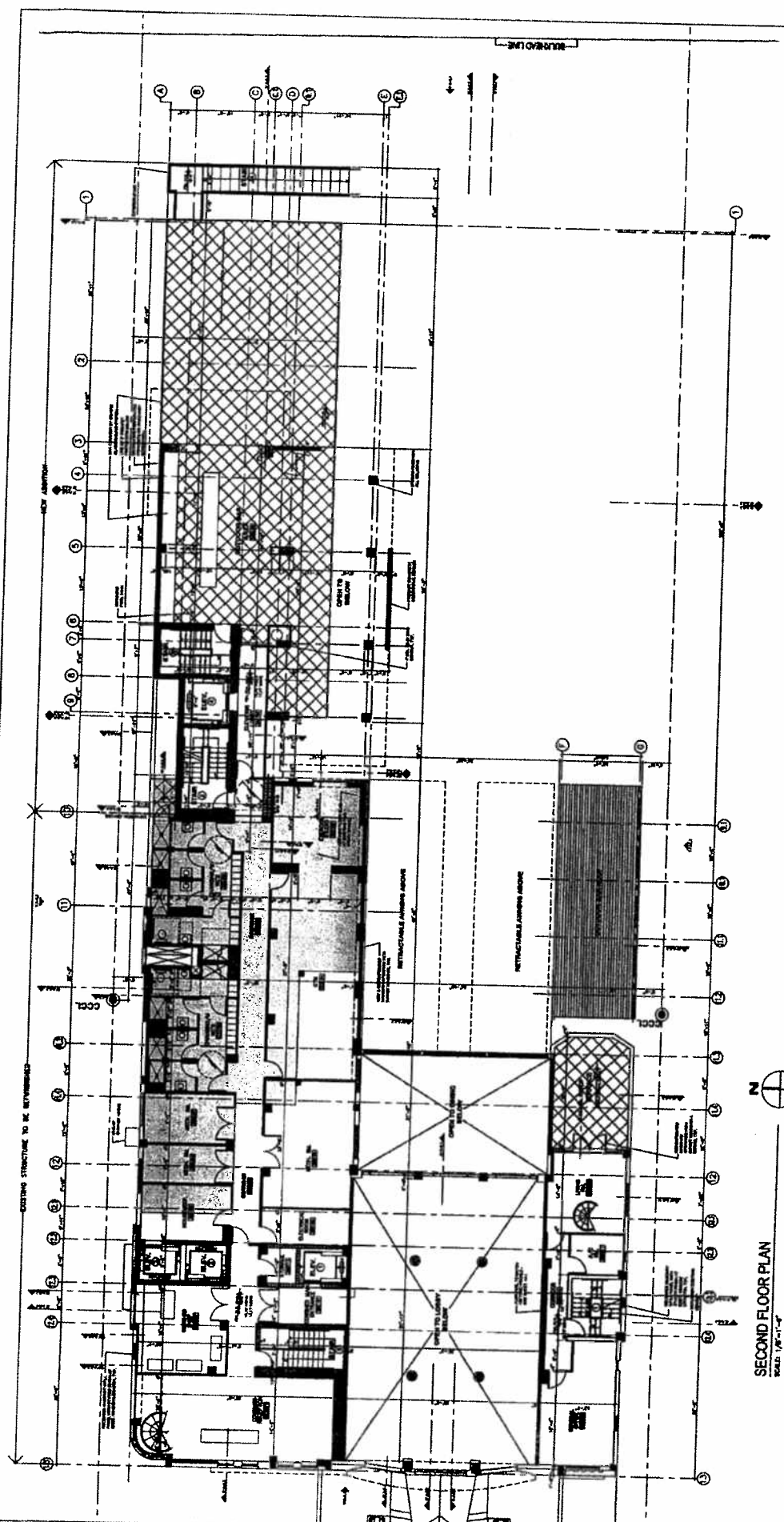
FIRST FLOOR PLAN  
SCALE: 1/8" = 1'-0"



ALLAN T. SHULMAN ARCHITECT, P.A.  
 1910 BETHUNEWAY, SUITE 400, MIAMI, FL 33137  
 TEL: 305.358.0000 FAX: 305.358.0001

SOHO BEACH HOUSE  
 4100 COLLIER AVENUE, MIAMI BEACH, FL 33146  
 JOB NO. 0808  
 RENOVATION AND ADDITION  
 08.03.07

FIRST FLOOR PLAN  
**A-1.1**



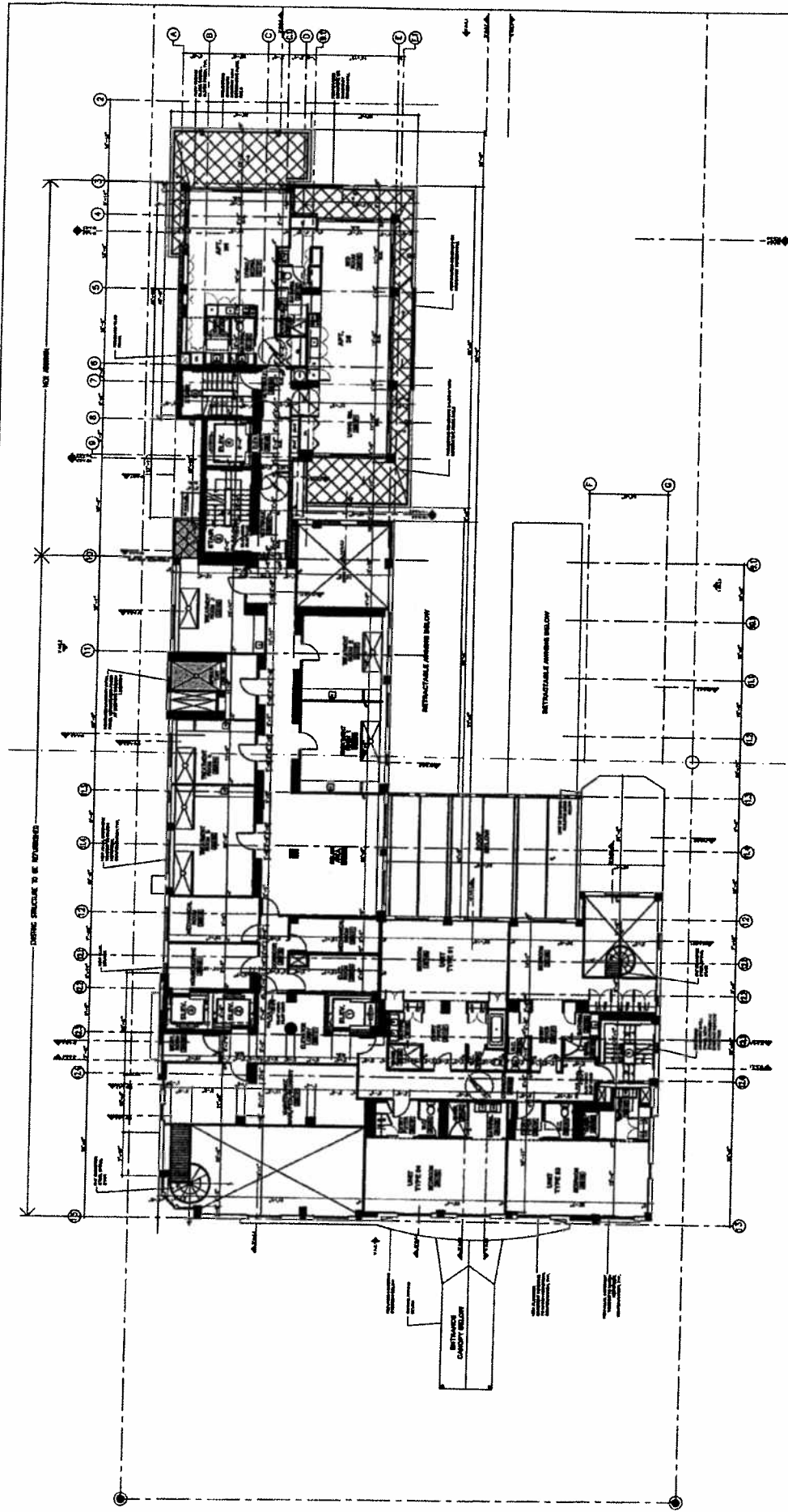
SECOND FLOOR PLAN  
SCALE: 1/8"=1'-0"



**ALLAN T. SHULMAN ARCHITECT, P.A.**  
 100 WEST BAYVIEW AVENUE, SUITE 200  
 MIAMI BEACH, FLORIDA 33139  
 TEL: 305.673.1111 FAX: 305.673.1112

**SOHO BEACH HOUSE**  
 100 WEST BAYVIEW AVENUE, SUITE 200  
 MIAMI BEACH, FLORIDA 33139  
**RENOVATION AND ADDITION**  
 PERMIT APPLICATION

SECOND FLOOR PLAN  
**A-12**  
 04.12.07



3RD FLOOR PLAN  
SCALE: 1/8"=1'-0"



**ALLAN T. SHULMAN ARCHITECT, P.A.**  
 5010E 10TH STREET, SUITE 100, MIAMI, FL 33137  
 TEL: 305.366.8888 FAX: 305.366.8170

**SOHO BEACH HOUSE**  
 100 COLLIER AVENUE, MIAMI BEACH, FL 33139  
 JOB NO. 0808  
**RENOVATION AND ADDITION**  
 SHEET A-1.3 OF 1.3



# MIAMI BEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139. [www.miami-beach.fl.gov](http://www.miami-beach.fl.gov)

PLANNING DEPARTMENT  
Tel: 305-673-7550, Fax: 305-673-7559

May 4, 2007

State of Florida Building Commission and Accessibility Advisory Council  
Department of Community Affairs, Office of Codes and Standards  
2555 Shumard Oaks Boulevard  
Tallahassee, FL 32399-2100

Re: 4385 Collins Avenue - The Sovereign Hotel

Dear Sir/Madam:

The City of Miami Beach Historic Preservation Board has approved a Certificate of Appropriateness for the substantial renovation and restoration of the above noted hotel complex. Constructed in 1941 by noted Miami Beach architect Roy France, the subject structure is classified as contributing in the City's Historic Properties Database, and is located in the Collins Waterfront Local Historic District.

The applicant is proposing a complete renovation of the existing Sovereign Hotel, including the replacement of all windows and doors and restoration of the lobby. A portion of the northeast corner of the building will be demolished, in order to allow the construction of a new stair tower, which will service the new 14-story tower addition. The Board and the Planning Department are supportive of the changes to the existing structure reflected in the application. Even with the changes proposed, the existing building will still maintain its historic status, as it will be substantially rehabilitated.

In addition to these significant exterior features, the subject structure also contains architecturally significant public interior spaces, which are protected under the Historic Preservation section of the City Code. Any new elevator or lift structure proposed for the exterior of the existing structure, in order to access the subject interior unit, would substantially impact the architectural and historic character of the building.

Because the applicant is only seeking relief as to one single unit, and the remainder of the building is otherwise fully ADA and "Florida Accessibility Code" accessible, the Planning Department, on behalf of the Historic Preservation Board, supports the waiver request.

If you have any questions relative to the historic significance of the existing structure, or you need additional information, please do not hesitate to contact me.

Sincerely,

Thomas R. Mooney, AICP  
Design & Preservation Manager

TRM:tm  
F:\PLAN\5ALLIGEN\_CORR\EXTERNAL\ITM-SHPO SOVEREIGN.DOC

*We are committed to providing excellent public service to all who live, work and play in our vibrant, tropical, historic community.*

Fine

STATE OF FLORIDA  
BUILDING COMMISSION

In the Matter of )  
SOHO BEACH HOUSE, )  
Petitioner )  
\_\_\_\_\_ )

No. DCA07-HC-122

FINAL ORDER

The Application for Waiver by Petitioner, SOHO BEACH HOUSE, came before the State of Florida Building Commission (the "Commission") in accordance with Section 553.512(1), Fla. Stat. (2006), and Fla. Admin. Code R. Ch. 9B-7 (2006), at the meeting of the Commission on June 26, 2007, upon a recommendation by the Accessibility Advisory Council (the "Council"). At that meeting, the Commission made the following findings of fact:

1. The Owner is Ryder Properties, 41 East 60<sup>th</sup> Street, 6<sup>th</sup> Floor, New York, NY 10021 (the "Owner").
2. The Applicant is Robert S. Fine, Esq., Greenberg Traurig, P.A., 1221 Brickell Avenue, Miami, Florida 33131 (the "Applicant"). The Applicant represented himself at the June 25, 2007 meeting of the Council.
3. The project for which the Applicant seeks a waiver involves the \$28 million alteration of a 44-room historic hotel. The Applicant seeks a waiver from having to provide accessibility to newly created living space on the second floor of the hotel. The hotel will have three fully accessible rooms once construction is completed. The project is located at 4385 Collins Avenue, Miami Beach, FL.
4. An earlier waiver application came before the Commission on July 11, 2006 for a renovation/restoration project to the structure that is the subject of the current waiver application.

The Commission granted the earlier application, with the condition that a letter from the appropriate local authority first be provided to Commission staff attesting to the historic character of the structure and supporting the waiver application.

5. The alterations as envisioned in the original waiver application described in paragraph 4 above were never undertaken and therefore the requested letter was never provided to the Commission staff.

6. The granting of the aforementioned waiver application by the Commission was never reduced to the form of a written Final Order.

7. The Applicant submitted the current waiver application based upon a plan of alteration different from the one envisioned by the earlier waiver application, and this time supplied a letter from the City's Design and Preservation Manager attesting to the historic character of the structure and supporting the waiver application.

8. The accessibility requirements which the Applicant seeks to waive are set forth in Section 553.509, Florida Statutes (2006), which states that the Owner shall provide vertical accessibility to all levels above and below the occupiable grade level.

9. Section 553.512(1), Florida Statutes (2006) provides for a waiver of the Section 553.509 accessibility requirements upon a determination of "unnecessary, unreasonable, or extreme hardship".

10. A letter from the architectural firm of Allan T. Schulman Architect, P.A., included with and made part of the waiver application, stated that the installation of a lift would "either ruin the spatiality of the unit in one of the two possible configurations, or conflict with the historical character and integrity of the building in the other." The Applicant demonstrated that it would be technically infeasible and create an extreme hardship to provide accessibility.



11. Section 11-4.1.7, Florida Accessibility Code for Building Construction (Code) relieves an Owner from the obligation to satisfy the vertical accessibility requirements of Section 553.509, Florida Statutes (2006) for "qualified historic buildings", as that term is defined in Section 11-4.1.7 of the Code, and provides for alternative accessibility requirements.

12. The building to which the Applicant is making alterations, located within the City of Miami Beach's John F. Collins Waterfront Historic District and classified as "contributing" in the City's Historic Properties Database, is a "qualified historic building" as that term is defined in Section 11-4.1.7 of the Code.

13. Based upon the Council's consideration of the foregoing information, the Applicant's representations regarding project design and construction, and all applicable legal requirements, the Council members present unanimously recommended approval of a waiver for vertical accessibility due to technical infeasibility, extreme hardship, and the historic nature of the structure in question. The Council further unanimously recommended that the local building official be reminded that he or she has the authority to except a "qualified historic building" from vertical accessibility requirements without requiring an Applicant to apply for a waiver from the Commission.

Having considered the foregoing findings of fact, together with the recommendations of the Council, the Commission hereby agrees with those recommendations and concludes that the Applicant's request for a waiver of vertical accessibility requirements should be, and hereby is, GRANTED, and that the local building official be reminded that he or she has the authority to except a qualified historic building from vertical accessibility requirements without requiring an Applicant to apply for a waiver from the Commission.

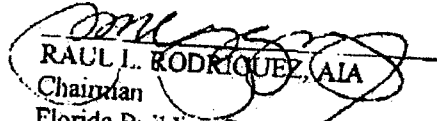
This Final Order is intended for the enforcement of the Florida Americans With Disabilities Accessibility Implementation Act, as amended, section 553.501 et seq., Fla. Stat. (2006), and other

than as modified by this Final Order, any construction or post-construction activities which deviate from the requirements of that Act will be deemed to be a violation of this Final Order.

Responsibility for the enforcement of this Final Order and for enforcement of the Americans With Disabilities Accessibility Implementation Act shall rest with the building official of the local government with permitting authority for the project. Section 553.513, Fla. Stat. (2006). Nothing in this Final Order shall be construed to relieve the Owner of any duties it may have under the Americans With Disabilities Act of 1990, Pub. L. No. 101-336, 42 U.S.C. section 12101 et seq. (2000), or the regulations under the Act. The waiver granted in this Final Order shall expire one (1) year from the date of the Order unless the construction has commenced within that time.

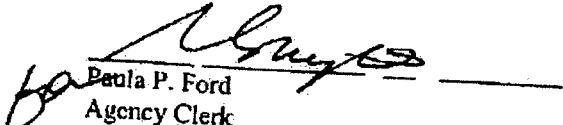
Petitioner and all other interested parties are hereby advised of their right to seek judicial review of this Order in accordance with section 120.68(2)(a), Fla. Stat. (2006), and Fla. R. App. P. 9.110(a) and 9.030(b)(1)(C). To initiate an appeal, a Notice of Appeal must be filed with Paula P. Ford, Clerk of the Florida Building Commission, Department of Community Affairs, Sadowski Building, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100 and with the appropriate District Court of Appeal not later than thirty (30) days after this Order is filed with the Clerk of the Commission. A Notice of Appeal filed with the District Court of Appeal shall be accompanied by the filing fee set forth in section 35.22(3), Fla. Stat. (2006).

DONE AND ORDERED this 2nd day of August, 2007 in Miami, Dade County, State of Florida.

  
RAUL L. RODRIGUEZ, AIA  
Chairman  
Florida Building Commission  
Department of Community Affairs  
Sadowski Building  
2555 Shumard Oak Boulevard  
Tallahassee, Florida 32399-2100

**NOTICE OF FILING AND SERVICE**

I HEREBY CERTIFY that the above document has been filed with the Department's designated Agency Clerk and that true and correct copies have been furnished to the persons listed below in the manner described, on the 2nd day of August, 2007.

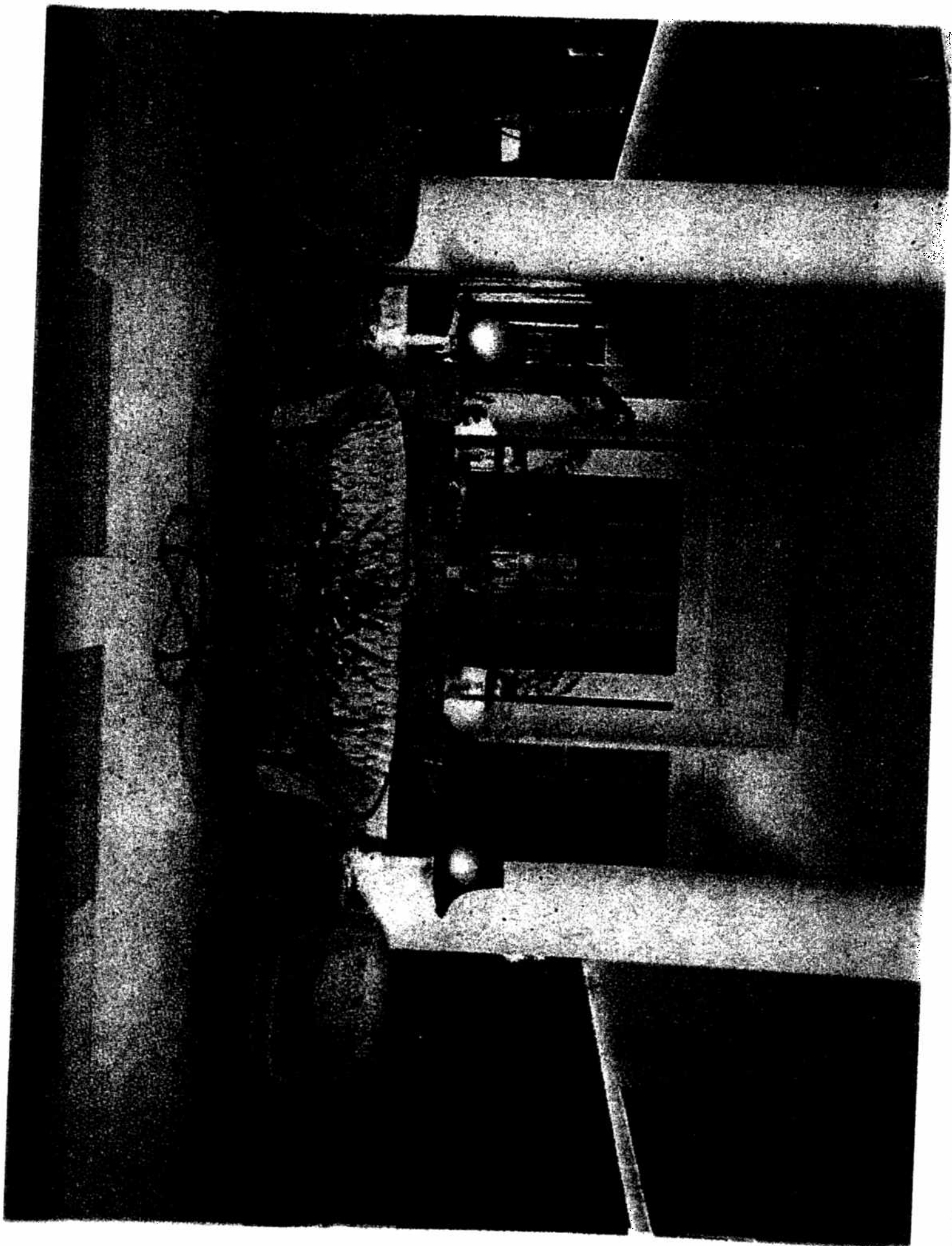
  
Paula P. Ford  
Agency Clerk

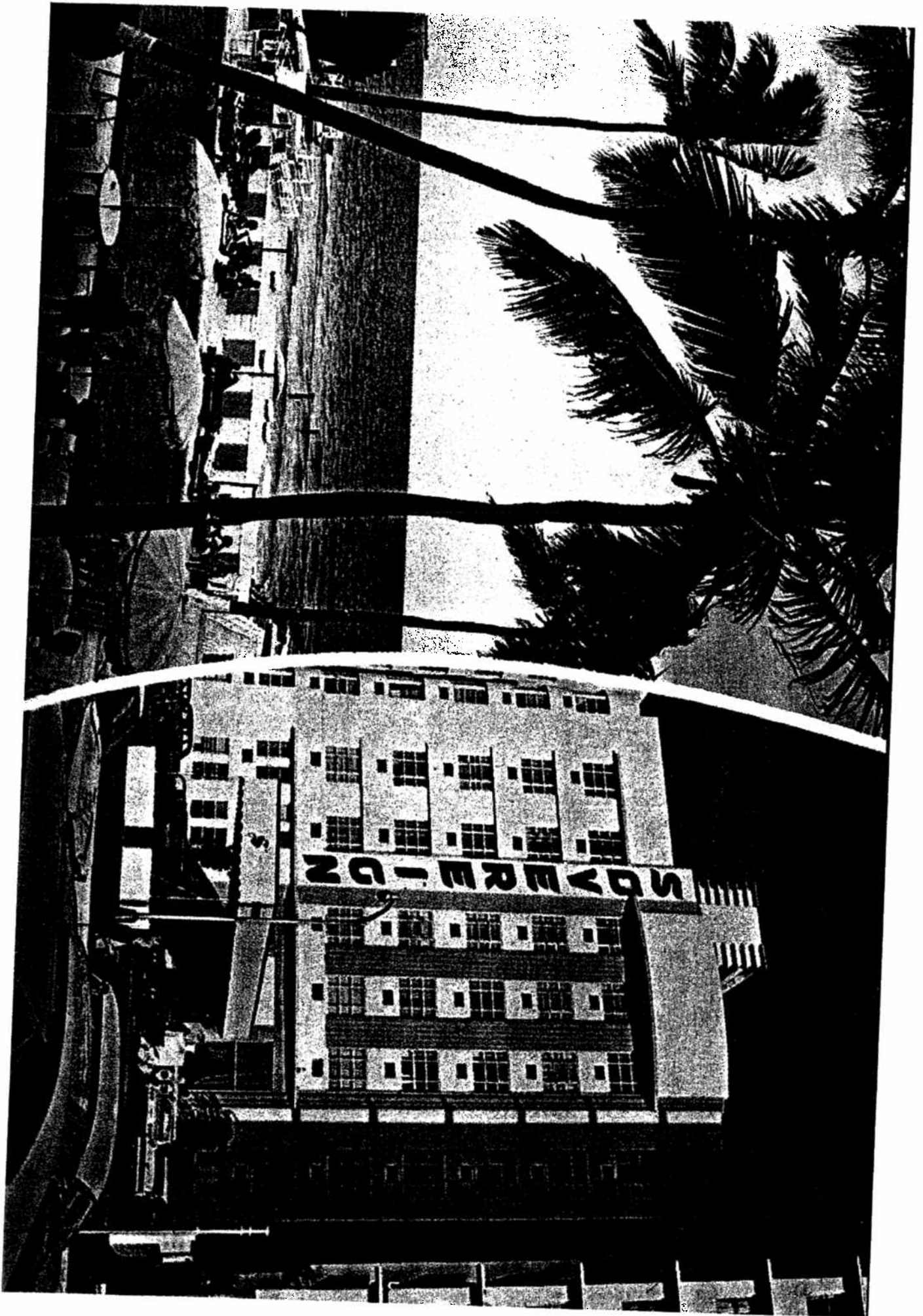
By U.S. Mail:

Neil Melick, Chairman  
Advisory Accessibility Council  
City of West Palm Beach  
P.O. Box 3366  
West Palm Beach, Florida 33042-3366

Robert S. Finc, Esq.  
Greenberg Traurig, P.A.  
1221 Brickell Avenue  
Miami, Florida 33131

Thomas A. Velazquez  
Building Official  
1700 Convention Center Drive  
Second Floor  
Miami Beach, FL 33139





SOVEREIGN HOTEL  
COLLINS AVE.  
MIAMI BEACH, FLA.

2263

SOVEREIGN

THE SURF CLUB

