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November 12, 2010

Florida Building Commission
Florida Department of Community Affairs
Division of Housing and Community Development
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399

**PETITION FOR DECLARATORY STATEMENT - REQUEST FOR A DETERMINATION
OF EQUIVALENT FACILITATION BETWEEN THE FLORIDA ACCESSIBILITY CODE
FOR BUILDING CONSTRUCTION AND THE 2010 ADA STANDARDS FOR THE
NORTH BROWARD HOSPITAL DISTRICT
RE: ALLIANCE FOR ADA COMPLIANCE, INC., AND
VATRICE RIVERA VS NORTH BROWARD HOSPITAL DISTRICT
CASE NUMBER 02-60856-CIV-COHEN/SNOW
PROJECT NO 10165.00**

Dear Members of the Florida Building Commission:

This letter/petition is a request for the Commissions acceptance for a declaratory statement as it relates to the current Florida Accessibility Code for Building Construction (FACBC) and the use of the currently adopted 2010 ADA Standards which have been adopted and published on September 15, 2010 by the Department of Justice (DOJ) for the agreed upon accessible corrective work that will be taking place June 30, 2017 by the North Broward Hospital District as outlined in the agreement for the federal ADA lawsuit that is referenced above.

The current FACBC states the following under section 11-2.2 that departures from particular technical and scoping requirements of this code by the use of other designs and technologies are permitted where the alternative designs and technologies used will provide substantially equivalent or greater access to and usability of the facility.

With the adoption of the new 2010 ADA Standards by the DOJ, they have stated that these standards will take effect March 15, 2012 and replace DOJ's original ADA standards. DOJ is allowing immediate use of the 2010 standards as an alternative to the original 1991 standards. DOJ's standards apply to facilities covered by the ADA, including places of public accommodation, commercial facilities, and state and local government facilities. Therefore an entity can use either the current 1991 ADA Standards, of which the FACBC is based upon but they would be allowed to use the requirements of the 2010 ADA Standards if they wish.

The Florida Building Commission has formed an ADAAG Workgroup to pursue the updating of the FACBC to harmonize it with the new 2010 ADA Standards as well as reviewing the Florida specific requirements to see if they are covered within the new 2010 ADA, to incorporate them into the proposed new FACBC and to evaluate the Florida specific items for their

AR 7443

DCA10-DEC-286
FILING AND ACKNOWLEDGEMENT
FILED, on this date, with the designated
Clerk, receipt of which is hereby
acknowledged.
Paula P. Ford 11/16/10
Paula P. Ford
Commission Clerk
Date

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Florida Building Commission
Petition for Declaratory Statement - Request for a Determination of
Equivalent Facilitation Between the Florida Accessibility Code for Building
Construction and the 2010 ADA Standards for
the North Broward Hospital District
Re: Alliance for ADA Compliance, Inc., and
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applicability and to recommend the deletion of certain Florida specific items. Therefore the 2010 ADA Standards will be the basis for the new FACBC.

Based upon these facts it is this petitioners desire, based upon the length of time that has being established within the settlement agreement, till June 30, 2017, that the North Broward Hospital District be allowed to utilize the enacted 2010 ADA Standards for the work to be accomplished for compliance with the agreement since the length of the work to be done will exceed the enactment of the enforcement date of the 2010 ADA Standards of March 12, 2012 at which time the North Broward Hospital District will have to follow the applicable requirements of the 2010 ADA Standards.

There is no guarantee that the updating of the FACBC will be finalized within that time frame since the harmonizing and approval of the updated FACBC will require approval by the Florida legislation (which requires a statutory change by the legislation) as well as review and acceptance by the Department of Justice; which is required by Florida Statute 553.502 which states that the purpose and intent of ss. 553.501-553.513 is to incorporate into the law of this state the accessibility requirements of the Americans with Disabilities Act of 1990, Pub. L. No. 101-336, 42 U.S.C. ss. 12101 et seq., and to obtain and maintain United States Department of Justice certification of the Florida Accessibility Code for Building Construction as equivalent to federal standards for accessibility of buildings, structures, and facilities. All state laws, rules, standards, and codes governing facilities covered by the guidelines shall be maintained to assure certification of the state's construction standards and codes. Nothing in ss. 553.501-553.513 is intended to expand or diminish the defenses available to a place of public accommodation under the Americans with Disabilities Act and the federal Americans with Disabilities Act Accessibility Guidelines, including, but not limited to, the readily achievable standard, and the standards applicable to alterations to places of public accommodation.

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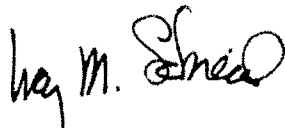
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The Department of Justice has so noted that states that have had their accessibility codes certified by the DOJ will have to update their existing accessibility codes and resubmit their revised/updated accessibility code if they wish to continue to maintain their certification with the new 2010 ADA Standards.

By the approval of this request this project would be allowed to use the 2010 ADA Standards, while still maintaining the current Florida specific items as so noted in section 553.504. This would provide clarification to the local AHJ that the use of the current 2010 AD Standards would be acceptable for this work.

We thank you for your consideration and look forward to your favorable response to this request. If you have any questions please do not hesitate to contact this office

Sincerely,

A handwritten signature in black ink that reads "Larry M. Schneider". The signature is written in a cursive, flowing style.

Larry M. Schneider, AIA
Principal
LMS/lis