

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: LOEWS MIAMI BEACH HOTEL / POOL CABANAS

Address: 1601 COLLINS AVE, MIAMI BEACH, FL 33139

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: LOEWS MIAMI BEACH HOTEL

Applicant's Address: 1601 COLLINS AVE, MIAMI BEACH, FL 33139

Applicant's Telephone: 305-604-5431 FAX: _____

Applicant's E-mail Address: atonarelli@loewshotels.com

Relationship to Owner: SAME

Owner's Name: MB Redevelopment, Inc.

Owner's Address: 667 Madison Ave, New York, NY 10065

Owner's Telephone: 212-521-2996 FAX 212-521-2851

Owner's E-mail Address: jlam@loewshotel.com

Signature of Owner: Vincent J. Jurek

Contact Person: ALEX TONARELLI

Contact Person's Telephone: 305-604-5431 E-mail Address: same as above

Receipt 1

This application is available in alternate formats upon request.

Form No. 2001-01

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.)

This project is located on the pool deck of an existing hotel. The project is (2) buildings, each with a footprint of about 800 s.f. The lower/ground level has an indoor space including, toilet and shower room. The exterior of the space is dedicated to a private sun deck area. The structure is one story with the roof being used as additional sun deck space.

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

\$ 1.5 Million

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.

The project was originally held-up in the Miami Beach Building Dept. As there was a request that it needed an elevator/lift to the 2nd Floor Roof Deck. The project needs to be complete by the upcoming season. So it was agreed by city and project owner that it could go into construction while we solved this code issue through your commission. The outcome of your decision will either be to leave the project as originally designed or to submit revised permit drawings showing an elevator/lift to the roof level of the structure. THE city is in agreement with either scenario.

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

Issue EQUIVALENT FACILITATION

Section 2.2 of the ADA Accessibility Guidelines (ADAAG) which has ^{been} adopted by Florida, recognizes the concept of Equivalent Facilitation. This permits the departure from particular technical requirements where alternative designs will provide substantially equivalent or greater access or use of a facility.

2: FBC 11-4.1.3(5) exception 1 an elevator does not have to be provided if the building has less than three stories or less than 3,000 sq. per floor.

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.

see attached letter

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. N/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.

see attached letter dated 7/22/11

Signature

Printed Name

Phone number 954.767.2122

(SEAL)

October 17th, 2011

Re: Loews Miami Beach permit application #B1103686
Request for Waiver from Accessibility Requirements

The project is located at the Loews Hotel in Miami Beach, Florida. The hotel has 790 rooms with convention center services and beach access. The pool area and grounds are existing, and the project under construction and for review by the board is the new Cabana Project. This project consists of 8 cabana units in a two building format. The cabanas themselves are fully accessible to hotel guests with disabilities, including guests with mobility impairments who use a wheelchair or a scooter, and one interior space has been adapted for accessible use (see cabana #2 in the plans provided). The only area under review and question is the roof deck of these two buildings, as both roof decks are used as additional sun deck space. Each building roof deck is approximately 731 square feet for a total of 1,462 square feet of roof deck area.

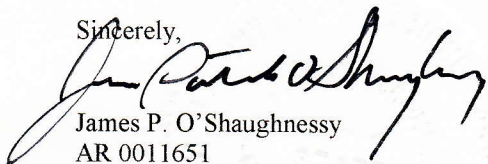
The roof of the cabanas is simply an open space for guests to use as additional sun deck space, and it is currently designed to be accessed by stairs only. Guests renting a cabana have other options for taking in the sun. The area immediately in front of the cabanas is a private sun deck area for guests renting the cabanas as is the sundeck space on the next lower level. These areas are at ground level and are fully accessible to guests with disabilities. Additionally, there is an elevated sun deck area on the roof of the Loews' spa building, which is immediately adjacent to the proposed cabanas and is accessible by elevator. Thus, in the event that a guest with a mobility impairment would like to use a 'rooftop sun deck', the Loews offers accessible facilities which are in close proximity to the cabanas, actually this location is directly across from the cabanas about 20 feet away from cabana #1.

Section 2.2 of the ADA Accessibility Guidelines (ADAAG) which has been adopted by Florida recognizes the concept of equivalent facilitation. This permits the departure from particular technical requirements where alternative designs will provide substantially equivalent or greater access or use of a facility. I respectfully suggest that the current cabana design plan should be approved as currently designed because the Loews has satisfied the criteria for equivalent facilitation. Property-wide, the Loews offers guests 49,700 square feet of sun deck area space, and 9,800 square feet of that space is assessable 'roof deck' that is one level above grade. In comparison, the proposed cabana roof sun deck area is only 1,462 square feet, or less than 3% of the total sun deck area space at the Loews. As discussed above, guests with disabilities will have full access and use of private sun deck area space at ground level immediately in front of the cabanas, as well as an elevated sun deck area in the building immediately adjacent to the cabanas. Thus, guests with disabilities will have substantially equivalent access and use of the Loews' sun deck area facilities.

In addition to the above, we believe that the code does not require a building of our size (1,462 s.f) to have accesses to this level. FBC 11-4.1.3 (5) Exception 1 states that an elevator does not have to be provided if the building has less than three stories or is less than 3,000 square feet per floor. Our local building department is also in agreement with us under this provision, and their recommendation is part of this application.

In conclusion, the purpose of the Americans With Disabilities Act (ADA) and the Florida accessibility laws and building code is to ensure that individuals with disabilities can use and access facilities at places of public accommodation, such as the Loews. The Loews' proposed cabana structure, in combination with its other guest facilities, satisfies this goal. We would thus appreciate your approval on this matter and thank you for your consideration.

Sincerely,



James P. O'Shaughnessy
AR 0011651
Principal, DEMA Architecture and Design

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 20th day of AUGUST, 20 11

Vincent F. Vinleau
Signature

VINCENT F. VINLEAU
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. Florida statutes 553.509 Vertical Accessibility to all levels requirement. / 2007 FBC 11-4.1.6(1)(f)

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: \$1,499,956.82

Comments/Recommendation: During review we request compliance with vertical accessibility to all levels. We recommend that the waiver be issue since the building has less than three stories and the area is less than 3,000 square feet per floor; as per FBC 11-4.1.3(5) exception 1 an elevator do not have to be provided if the building has less than three stories or less than 3,000 sq ft per floor.

Jurisdiction City Of Miami Beach

Building Official or Designee Gladys N. Salas, PE (B.O. Designee)
Signature

Gladys N. Salas, PE
Printed Name

PX0001401
Certification Number

305-673-7610 ext. 6888/ 786-394-4087
Telephone/FAX

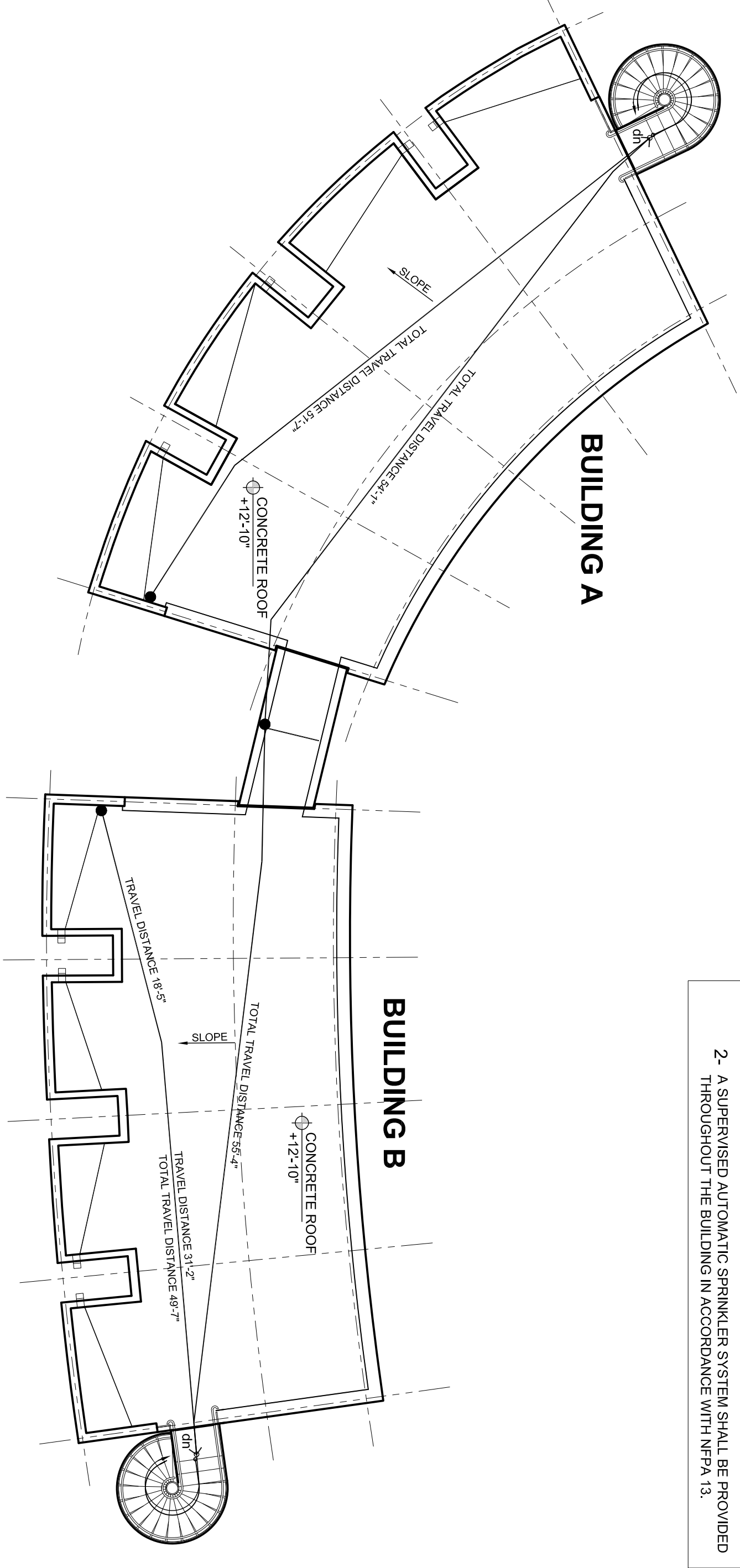
Address: 1700 Convention Center Dr. Miami Beach, FL 33139, 2ND Floor.

- 1601 Collins Av, Miami Beach, FL- Loews Hotel



1 LIFE SAFETY FLOOR PLAN
1/8" = 1'-0"

NOTE:
1- COMMON PATH OF EGRESS TRAVEL = 50 FT.
2- OCCUPANCY LOAD PER UNIT 7
2- A SUPERVISED AUTOMATIC SPRINKLER SYSTEM SHALL BE PROVIDED THROUGHOUT THE BUILDING IN ACCORDANCE WITH NFPA 13.



2 LIFE SAFETY ROOF PLAN
1/8" = 1'-0"

NOTE:
1- ROOF OUTDOOR SPACE MAXIMUM TRAVEL DISTANCE 100 FEET
2- OCCUPANCY LOAD OF ROOF 50

RENOVATED SPACE IS CONSIDERED PART OF POOL DECK AREA

CODE ANALYSIS:

GENERAL:
NOTE: ALL MATERIALS AND APPLICATIONS SHALL COMPLY WITH FLORIDA BUILDING CODE HIGH VELOCITY WINDBORNE DEBRIS REGULATIONS.

APPLICABLE BUILDING CODES:
2007 FLORIDA BUILDING CODE WITH 2009 REVISIONS.
2007 FLORIDA ACCESSIBILITY CODE
2007 FLORIDA FIRE PREVENTION CODE
2007 FLORIDA FLOODING CODE, 5807 FLORIDA MECHANICAL CODE.

1st FL BUILDING A - APPROX.	638 SQ. FT.
1st FL BUILDING B - APPROX.	548 SQ. FT.
TOTAL GROUND LEVEL	1,186 SQ. FT.
ROOF FL BUILDING A - APPROX.	749 SQ. FT.
ROOF FL BUILDING B - APPROX.	713 SQ. FT.
TOTAL ROOF LEVEL	1,462 SQ. FT.

OCCUPANCY: GROUP R 1,
CONSTRUCTION TYPE II - B FULL SPRINKLED.
MAXIMUM AREA OF EXTERIOR WALL OPENING (TABLE 704.8)
SEPARATION FROM EXISTING BUILDING
TOTAL AREA OF EXTERIOR WALL
MAXIMUM ASPECT OF EXTERIOR WALL OPENINGS ALLOWED AS PER TABLE 704.9
PROTECTED DISTANCE GREATER THAN 10 FEET
AREA OF EXTERIOR WALL OPENING
INTERIOR FINISHES CLASS C

POOL CABANAS
1601 COLLINS AVENUE
MIAMI BEACH, FL 33139

OWNER:
LOEWS HOTELS
667 MADISON AVENUE
NEW YORK, NY 10021-8087
T: 212-521-2752
F: 212-521-2753

ARCHITECT AND INTERIOR DESIGNER:
13011 SE 2ND COURT #1
FORT LAUDERDALE, FL 33301
TEL: (954) 767-2122
SBU@V@DEMA-ARCHITECTURE.COM

LANDSCAPE ARCHITECT:
LANVASCAPES, INC.
1000 N. W. 11TH AVE., SUITE 444
MIAMI GARDENS, FL 33169
T: 305-279-9914
F: 305-653-8209

STRUCTURAL / MEP ENGINEER:
G. BATISTA & ASSOCIATES
10400 GRIFFIN ROAD #201
COOPER CITY, FL 33328
T: 954-434-2053
F: 954-434-2058

CIVIL ENGINEER:
ALVAREZ ENGINEERS, INC.
10085 NW 41 STREET, SUITE 103
T: 305-640-1345
F: 305-640-1346

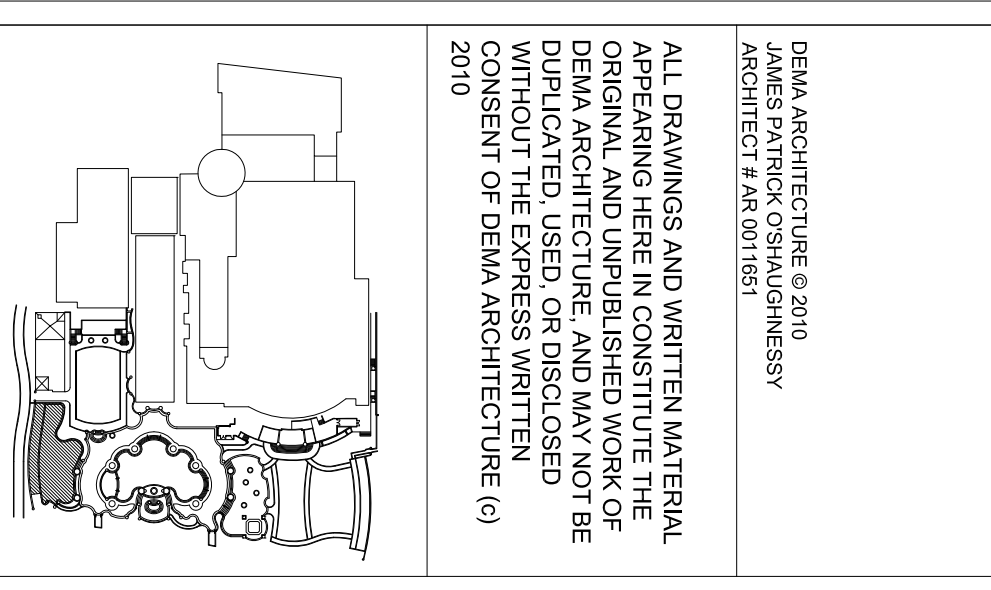
REVISIONS

No.	Description	Date
1	BID SET	07-21-2010
2	CITY COMMENTS	07-21-2011

DEMA ARCHITECTURE © 2010
JAMES PATRICK O'SHAUGHNESSY
ARCHITECT # AR 071051

ALL DRAWINGS AND WRITTEN MATERIAL PREPARED HEREIN ARE THE PROPERTY OF DEMA ARCHITECTURE, AND MAY NOT BE DUPLICATED, USED, OR DISCLOSED WITHOUT THE EXPRESS WRITTEN CONSENT OF DEMA ARCHITECTURE (c) 2010

SEAL



LIFE SAFETY PLAN

Project Number: 0705
Issue Date: 03/01/2010
Drawn By: Sam Vinasco
Checked By: Steve Dajay

Scale: 1/8" = 1'-0"

LS-1



FLOOR PLAN

1/4" = 1'-0"

- 1.0. ALL NEW OR RELOCATED ELECTRICAL PLUMBING AND MECHANICAL EQUIPMENT MUST BE IDENTIFIED THEREAS.
- 2.0. ALL NEW MATERIAL, INSTALLED BELOW THE BFE MUST BE FLOOD RESISTANT MATERIAL.
- 3.0. ALL STAIRS TO HAVE NON-SLIP STRIPPING AT STAIR NOSE.
- 4.0. ALL WALKING SURFACES SHALL BE SLIP RESISTANT UNDER CONCRETEABLE CONDITIONS.
- 5.0. THERE IS NO ELECTRICAL OR MECHANICAL EQUIPMENT UNDER ALL OUTDOOR NOTIFICATIONS COME FROM THE EXISTING HOTEL BUILDING.
- 6.0. NEW LANDSCAPED LIGHTING SHALL BE CONNECTED TO EXISTING LANDSCAPE EMERGENCY LIGHTING SYSTEM.

FLOOR PLAN

Project Number: 0705
 Issue Date: 03/01/2010
 Drawn By: Sam Viasco
 Checked By: Steve Dalry

A3

Scale: 1/4" = 1'-0"

DEMA ARCHITECTURE © 2010
 JAMES PATRICK O'SHAUGHNESSY
 ARCHITECT # 04070181

ALL DRAWINGS AND WRITTEN MATERIAL ARE THE PROPERTY OF DEMA ARCHITECTURE. NO PART OF THIS DOCUMENT MAY BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, WITHOUT THE EXPRESS WRITTEN CONSENT OF DEMA ARCHITECTURE (c) 2010

REVISIONS	No.	Description	Date
1	BID SET		07/21/2010
2	CITY COMMENTS		07/21/2011
3	CITY COMMENTS		08/08/2011

OWNER:
LOUIS HOTELS
 667 MADISON AVENUE
 NEW YORK, NY 10021-8087
 T. 212-521-2122
 F. 212-521-2123

ARCHITECT AND INTERIOR DESIGNER:
DEMA ARCHITECTURE
 1301 SE 2nd COURT #1
 FORT LAUDERDALE, FL 33301
 TEL. (954) 471-7149
 FAX. (954) 471-7149
 SBURG@DEMA-ARCHITECTURE.COM

LANDSCAPE ARCHITECT:
ENVIROSCAPES, INC.
 488 444
 MIAMI GARDENS, FL 33169
 T. 305-279-9914
 F. 305-653-8209

STRUCTURAL / MEP ENGINEER:
G. BAIKISTA & ASSOCIATES
 10400 GREEN ROAD #201
 COOPER CITY, FL 33328
 T. 954-434-2053
 F. 954-434-2058

CIVIL ENGINEER:
ALVAREZ ENGINEERS, INC.
 2008 NW 41 STREET, SUITE 103
 MIAMI, FL 33145
 T. 305-640-1345
 F. 305-640-1346

POOL CABANAS
 1601 COLLINS AVENUE
 MIAMI BEACH, FL 33139

CABANA SITE
(project under construction)

EXISTING ROOF TOP SUN DECK



LOEWS HOTEL POOL DECK

POOL CABANAS
140 COLLETT AVENUE
MANTOLoking, NJ 07020

OWNER:
LOEBER HOTELS
100 WEST 30TH STREET
NEW YORK, NY 10018-6807
TEL: 212-512-2200
F: 212-512-2200

ARCHITECT AND INTERIOR DESIGNER:
LUNGGARINI ARCHITECTS
1301 W. 20th STREET, 4TH FLOOR
NEW YORK, NY 10011-3301
TEL: 212-512-2200
F: 212-512-2200

LANDSCAPE ARCHITECT:
LUNGGARINI ARCHITECTS
1301 W. 20th STREET, 4TH FLOOR
NEW YORK, NY 10011-3301
TEL: 212-512-2200
F: 212-512-2200

MECHANICAL ENGINEER:
S. KAPLAN & ASSOCIATES
2000 GRIFFIN ROAD, 20TH FLOOR
NEW YORK, NY 10011-3301
TEL: 212-512-2200
F: 212-512-2200

ELECTRICAL ENGINEER:
S. KAPLAN & ASSOCIATES
2000 GRIFFIN ROAD, 20TH FLOOR
NEW YORK, NY 10011-3301
TEL: 212-512-2200
F: 212-512-2200

20th FLOOR ENGINEER:
ALVAREZ ENGINEERS INC.
100 WEST 30TH STREET, 20TH FLOOR
NEW YORK, NY 10011-3301
TEL: 212-512-2200
F: 212-512-2200

REVISIONS:

No.	Description	Date
1	ISSUED FOR PERMIT	05/01/2010

DATE: 05/01/2010

PROJECT NUMBER: 050102010





SCALE: 1" = 80'

OVERALL SITE PLAN

LEGEND:

- EXISTING HOTEL BUILDING
- EXISTING ROOF/TERRACE DECK-ACCESSIBLE
- EXISTING SUN DECK-ACCESSIBLE
- CABANA PROJECT



-  EXISTING HOTEL BUILDING
-  9,800 S.F. EXISTING ROOF/TERRACE DECK-ACCESSIBLE
-  40,000 S.F. EXISTING SUN DECK-ACCESSIBLE
-  CABANA PROJECT

OVERALL SITE PLAN
1" = 80'



BTM ARCHITECTS

RENDERING BY DIGITART3D.COM



BTM ARCHITECTS

RENDERING BY DIGITART3D.COM



November 7, 2011

MEMO

To: Jefferson Lam
From: David Kessler
Re: **Loews Miami Beach Hotels**
Pool Cabanas

The purpose of this memo is to review Loews' obligation to provide vertical access in the new pool cabana building at Loews Miami Beach Hotels (the Hotel). The pool cabana building is covered under the following:

- Americans with Disabilities Act Accessibility Standards (ADAAG)
- 2007 Florida State Building Code.

Americans with Disabilities Act

The Hotel is a *Public Accommodation* as defined under Title III of the ADA. The U.S. Department of Justice is currently in the process of transitioning to a new design standard. Until March 15, 2012, entities have the option of complying with either *The 1994 ADA Standards for Accessible Design* or *the 2010 ADA Standards for Accessible Design*. After this date all buildings must comply with the 2010 Standards. Both the 2010 and the 1994 ADA Standards only require elevators in *multistory buildings*. From the 1994 ADA Standards:

4.1.3 Accessible Buildings: New Construction. (5)* One passenger elevator complying with 4.10 shall serve each level, including mezzanines, in all multi-story buildings and facilities unless exempted below. If more than one elevator is provided, each full passenger elevator shall comply with 4.10.

From the 2010 ADA Standards:

206.2.3 Multi-Story Buildings and Facilities. At least one accessible route shall connect each story and mezzanine in multi-story buildings and facilities.

Florida State Building Code

The 2007 Florida Building Code (FBC) incorporates the *1994 ADA Standards for Accessible Design* as its accessibility standard with certain amendments. As of March 15 2012, Florida Building Commission will require mandatory compliance with 2010 Florida building code, which has incorporated *The 2010 ADA Standards for Accessible Design* as its accessibility standard, with certain amendments. The building permit was filed under the 2007 Florida Building Code and therefore is the ruling standard.

The 2007 Florida Building Code contains the same basic requirement for when an

elevator is required:

11-4.1.3 (5) One passenger elevator complying with Section 11-4.10 shall serve each level, including mezzanines, in all multistory buildings and facilities unless exempted below. If more than one elevator is provided, each full passenger elevator shall comply with Section 11-4.10.

Both the 2007 and 2010 FL Building Code refers to 553.509 of the Florida Statute, Chapter 533 Building Construction Standards, which states:

553.509 Vertical accessibility.—

(1) This part and the Americans with Disabilities Act Standards for Accessible Design do not relieve the owner of any building, structure, or facility governed by this part from the duty to provide vertical accessibility to all levels above and below the occupiable grade level, regardless of whether the standards require an elevator to be installed in such building, structure, or facility, except for:

(a) Elevator pits, elevator penthouses, mechanical rooms, piping or equipment catwalks, and automobile lubrication and maintenance pits and platforms.

(b) Unoccupiable spaces, such as rooms, enclosed spaces, and storage spaces that are not designed for human occupancy, for public accommodations, or for work areas.

(c) 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.

(d) Theaters, concert halls, and stadiums, or other large assembly areas that have stadium-style seating or tiered seating if ss. 221 and 802 of the standards are met.

(e) All play and recreation areas if the requirements of chapter 10 of the standards are met.

(f) All employee areas as exempted in s. 203.9 of the standards.

(g) Facilities, sites, and spaces exempted by s. 203 of the standards.

(2) However, buildings, structures, and facilities must, as a minimum, comply with the Americans with Disabilities Act Standards for Accessible Design.

Story is defined in section 3.5 of ADAAG as:

That portion of a building included between the upper surface of a floor and upper surface of the floor or roof next above. If such portion of a building does not include occupiable space, it is not considered a story for purposes of these guidelines. There may be more than one floor level within a story as in the case of a mezzanine or mezzanines.

It is KMA's opinion, confirmed with a Technical Specialist at the U.S. Access Board, that an occupiable roof does not constitute a "multi-story" building and therefore does not require an elevator.

Please call if you have any questions.

October 17th, 2011

Re: Loews Miami Beach permit application #B1103686
Request for Waiver from Accessibility Requirements

Outline of hardships as per section 554.512 Florida Statutes, which states The Florida Building Commission shall provide by regulation criteria for granting individual modifications of, or exceptions from, the literal requirements of this part upon a determination of unnecessary, unreasonable or extremes hardship, provided such waivers shall not violate federal accessibility laws and regulations.....

1. The applicant is requesting waiver based that there is unnecessary and unreasonable hardship due to exceptional cost without substantial benefits to persons with disabilities. Reason being is that there are equal facilities of roof and elevated outdoor deck space throughout the pool grounds area that are equal or greater in access and use for persons with disabilities. The application includes a plan graphic showing the distribution of over 50,000s.f. of outdoor ‘accessible’ sun deck space. The cabana roof deck is two buildings of about 730s.f. each.

Within the application is a photo of some of the existing accessible roof deck space just to the west of the cabana project. The existing roof deck in this photo is directly adjacent to the cabana roof decks and currently offers about 1,800s.f. of accessible roof sun deck space. Approximately another 8,000 s.f. of roof and elevated accessible decks and terraces surround the property.

The up front costs of providing the lift are not the only concern, due to wind load requirements for this location this lift/ elevator will also require an enclosed structural shell and foundation. This structural shell, based on my experience with the city, will become a design issue with the Miami Beach historical review board whom had spent 1 year on the approval process of what these two buildings look like today. This process will add more time and money to the project if not a complete project delay. On top of these up front cost will be long term maintenance costs for the up keep of this item in a corrosive environment as this property is on the beach. *Overall, these costs do not justify an amenity that is already abundant at this site and thus constitutes a hardship that is unnecessary and unreasonable.*

The ADAAG which has been adopted by Florida recognizes the concept of equivalent facilitation.

2. The applicant is also requesting waiver based on the compliance of the “FBC”, the “ADAAG” as well as the “Florida ADA-Architecture Barrier Removal and Compliance Manual” which all use the same wording that indicate that the proposed project is too small to require vertical access to the roof deck level.

In all these publications the wording is basically the same:

Accessible buildings: New Construction reads:

Vertical accessibility shall be provided to all levels above and below the occupiable grade level, regardless of whether the code requires 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. However, as provided in Section 553.509, Florida Statutes, buildings, structures, and facilities must,

at a minimum, comply with the requirements of ADAAG. Therefore, facilities subject to the ADA may be required to provide vertical access to areas otherwise exempt under Section 11-4.1.3 (5) (3) of the code.

Exception 1: *Elevators are not required in facilities that are less than three stories or that have less than 3,000 square feet (279 m²) per story unless the building is a shopping center, a shopping mall, or the professional office of a health care provider, or another type of facility as determined by the U.S. Attorney General.* The elevator exemption set forth in this paragraph does not obviate or limit in any way the obligation to comply with the other accessibility requirements established in Section 11-4.1.3. For example, floors above or below the accessible ground floor must meet the requirements of this section except for elevator service. If toilet or bathing facilities are provided on a level not served by an elevator, then a toilet or bathing facility must be provided on the accessible ground floor. In new construction if a building or facility is eligible for this exemption but a full passenger elevator is nonetheless planned, that elevator shall meet the requirements of Section 11-4.10 and shall serve each level in the building. A full passenger elevator that provides service from a garage...

The wording in this code indicates that there is an exception that vertical accessibility shall be provided to all levels. This exception makes sense when it is for very small buildings like ours. Our two buildings are actually half the size that a single building can be and still receive the same exception. Also note this is for new construction.

Intent of the Florida Statutes, Section 553.501- 553.513

What is the purpose of the Florida Statutes Section 553.501 – 553.513. The purpose of this Statute is indicated under ‘*Intent*’ within the Statutes’ *of which states, ‘is to incorporate into law of this state, the accessibility requirements of the Americans with Disabilities Act of 1990, Pub. L. No. 101-336, 42 U.S.C SS12101 et seq.,’*

The following section is from the ‘Americans with Disabilities Act of 1990’ of which pertains to our project.

Sec. 12183. New construction and alterations in public accommodations and commercial facilities

(a) Application of term

Except as provided in subsection (b) of this section, as applied to public accommodations and commercial facilities, discrimination for purposes of section 12182(a) of this title includes

(1) a failure to design and construct facilities for first occupancy later than 30 months after July 26, 1990, that are readily accessible to and usable by individuals with disabilities, except where an entity can demonstrate that it is structurally impracticable to meet the requirements of such subsection in accordance with standards set forth or incorporated by reference in regulations issued under this subchapter; and

(2) with respect to a facility or part thereof that is altered by, on behalf of, or for the use of an establishment in a manner that affects or could affect the usability of the facility or part thereof, a failure to make alterations in such a manner that, to the maximum extent feasible, the altered portions of the facility are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs. Where the entity is undertaking an alteration that affects or could affect usability of or access to an area of the facility containing a primary function, the entity shall also make the alterations in such a manner that, to the maximum extent feasible, the path of travel to the altered area and the bathrooms, telephones, and drinking fountains serving the altered area, are readily accessible to and usable by individuals with disabilities where such alterations to the path of travel or the bathrooms,

telephones, and drinking fountains serving the altered area are not disproportionate to the overall alterations in terms of cost and scope (as determined under criteria established by the Attorney General).

(b) Elevator

Subsection (a) of this section shall not be construed to require the installation of an elevator for facilities that are less than three stories or have less than 3,000 square feet per story unless the building is a shopping center, a shopping mall, or the professional office of a health care provider or unless the Attorney General determines that a particular category of such facilities requires the installation of elevators based on the usage of such facilities.

Here in sub section (b) it is evident that the intent of the ADAAG publication of which the Florida Statutes have enacted as code for 'accessibility to New Construction', has made it clear that a building under 3,000 s.f shall not be required to have an elevator. Thus we conclude that if the ADAAG has made it clear that our proposed project does not require an elevator, then the Florida Statutes of which reverts to the ADAAG must draw the same conclusion. This then makes the proposed project in compliance with Florida Building Code as the project is in line with the Florida Statutes.

Sincerely,



Steven Bugay
Principal, DEMA Architecture and Design