

MIAMI DADE FIRE RESCUE STATION #67

Issue: Vertical accessibility to the second floor and toilet room areas used exclusively by firefighters.

Analysis: The applicant is requesting a waiver from providing vertical accessibility to the second floor and toilet rooms used exclusively by firefighters. The project is a new, 13,400 square foot facility costing \$2,700,000. According to the applicant, the fire station was designed in accordance with UFAS, which permits certain areas to be inaccessible, provided they are not available to the general public. The Council and Commission have reviewed similar projects in the past and have concluded that areas used by only by firefighters, who have bona fide requirements that they be physically fit, may not be required to comply.

Project Progress:

The project is under design.

Items to be Waived:

Vertical accessibility to the second floor, as required by Section 553.509, Florida Statutes and Section 11-4.1.3(11).

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.

11-4.1.3(11) Toilet facilities. If toilet rooms are provided, then each public and common use toilet room shall comply with Section 11-4.22.

This application is available in alternate formats upon request.

**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: Miami-Dade County Fire Rescue Station #67.

Address: 1275 NW 79th Street, Miami, Florida 33147

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: Angel H. Lamela

Applicant's Address: 9300 NW 41st Street, Doral, Florida 33178

Applicant's Telephone: 786-331-4502 FAX:786-331-4501

Applicant's E-mail Address: angel.lamela@miamidade.gov

Relationship to Owner: Division Manager, Facilities and Construction Division

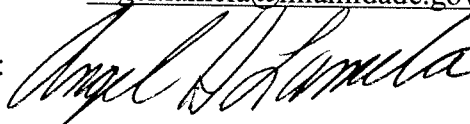
Owner's Name: Miami-Dade County Fire Rescue

Owner's Address: 9300 NW 41st Street, Doral, Florida 33178

Owner's Telephone: 786-331-4502 FAX: 786-331-4501

Owner's E-mail Address: angel.lamela@miamidade.gov

Signature of Owner:



Contact Person: Angel H. Lamela

Contact Person's Telephone: 786-331-4502 E-mail Address: angel.lamela@miamidade.gov

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.)
The building will be a new two (2) story of 13,400 sq ft. fire station. A fire station is operational 24 hour a day, 7 days a week and its occupants are firefighters as defined by and meeting the requirements of Florida Statutes 633.30-633.35. This facility will serve as a central location in which to provide the community with a full array of emergency response services. The facility will be a new station in a neighborhood that presently has not fire station and has limited size lot to work with.

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

Approximately \$ 2,700,000

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: Florida Statutes Title XXXIII Regulation of Trade, Commerce, Investments and Solicitations Chapter 553 Part II Accessibility by Handicapped Persons Section 553.503, FL Statutes that state "This code shall apply to State & Local Governmental Facilities."

Issue

2: Florida Statutes Title XXXIII Regulation of Trade, Commerce, Investments, and Solicitations Chapter 553 part II Accessibility by Handicapped Persons Section 553.504 Exceptions to applicability of the guidelines (12) a-c.

Issue

3: Chapter 11 Florida Accessibility Code for Building Construction Part A 11-4 Accessible Elements and Spaces: Scope Technical requirements 11-4.1.2(6), 11-4.10 Elevators, 11-4.22 Toilet rooms, 11-4.23 bathrooms, Bathing Facilities and Showers Rooms.

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 hardship is a result of a condition that is not accounted for the under the code. A fire station is a facility used mainly to house firefighting equipment and firefighters. The minimum requirements to qualify as Florida Statutes 633.30-633.35, govern a firefighter. Under these sections there is a requirement that a firefighter be in good physical condition as outlined by the National Fire Protection Association (NFPA) Standard 1582. Not under any circumstance would an individual with a disability be qualified to be a firefighter. Therefore, making the requirement of the accessibility code impractical for those areas of the fire station that would not be open to the Public. See attached Memo from the Fire Chief.

[] 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.	Each bathroom would require the following:	Labor	Materials
	1. Wood backing for grab bars lavatories and accessories	60.00	25.00
	2. Grab bars at toilet (1-36" and 1-42")	30.00	53.00
	3. Grab bars at showers (1-18" and 1-30" or 1-L shape	30.00	46.00
	4. Shower control and hc kit	100.00	170.00
	5. Shower seat	60.00	250.00
	6. Handicap Toilet instead of standard	<u>75.00</u>	<u>120.00</u>
		355.00	664.00

Total: \$1019.00

6 Bathrooms 6 @ \$1019.00 = \$6,114.00

b.	Elevator	<u>\$56,000.00</u>
	Total cost	\$62,114.00

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 following comments pertain to: 1) New Fire Station #67 at 1275 NW 79th Street Miami, Florida, 33147. As per Federal Register 28 CFR Part 3.5 Section 35.151 and 36 CFR Part 1191. The Department of Justice's Title II Regulations give state and local governments the option of choosing between designing constructing or/and altering their facilities in conformance with UFAS or with ADAAG. We choose to use UFAS which includes an Occupancy Classification Section that is not included in the ADA. This Section 4.1.4(5) deals with fire stations and states that the application of the code should apply to: "All areas for Which the Intended Use will Require Public Access or Which May Result in Employment of Physically Handicapped Persons." Based on this we contend that the bathrooms for the firefighters do not need to comply with accessibility requirements and do not need to provide elevators.

Please Note, that we are providing an accessible toilet room in the front part of the station where the public will have access.



Signature

10-30-08

Printed Name

Angel H. Lamela, Architect
Division Manager
Facilities and Construction
Miami-Dade Fire Rescue
9300 NW 41st Street
Doral, Florida 33178
786-331-4502

Phone number (786) 331-4502

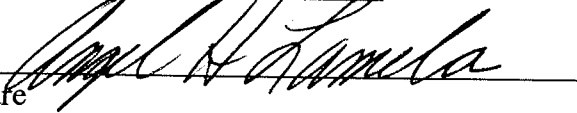
(SEAL)

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 30th day of October, 2008

Signature

A handwritten signature in black ink, appearing to read "Angel H. Lamela", is written over a horizontal line.

Angel H. Lamela

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.

Date: September 25, 2008

To: Antonio Taveras, Construction Manager 1
Office of Americans with Disabilities Act Coordination

From: Herminio Lorenzo, Fire Chief
Miami-Dade Fire Rescue

Subject: ADA Requirements within Fire Station Facilities.

Miami-Dade Fire Rescue requires persons seeking employment as a Firefighter to submit to, and then successfully pass a vigorous physical and medical evaluation that is in accordance with Florida Statute 633.34, *Firefighters Qualification for Employment* and Florida Administrative Code 69A-37.037, *Firefighter Training Course Medical Examination*. These laws require a firefighter candidate to be in "good physical condition" in order to obtain certification in the State of Florida. As outlined on the State of Florida's Bureau of Fire Standards and Training's Medical Evaluation form (DI4-1022) firefighter candidates must not only submit to the standard hearing, vision, and cardiac assessments but the examining physician must attest to the candidates ability to;

- Wear personal protective equipment that weighs approximately 50 pounds while performing firefighting tasks which would include the lifting, carrying, and raising of heavy ground ladders, using heavy equipment and tools to perform forcible entry or vehicle extrication, working with heavy hose lines that have considerable reaction.
- Wear positive pressure breathing equipment
- Work for long periods of time, requiring sustained physical activity and intense concentration.
- Perform a variety of tasks on slippery, hazardous surfaces, such as rooftops or from ladders.
- Rely on senses of sight, hearing, smell and touch to help determine the nature of the emergency

After obtaining certification as a Firefighter, Miami-Dade Fire rescue requires their uniformed personnel (Firefighters) assigned to firefighting units and stations to maintain this physical condition without limitations. Any injury or illness that is addressed by a physician is evaluated. Prior to allowing an individual to return to full duty the examining physician must attest to the physical condition of the firefighter based on the following criteria from the National Fire Protection Associations 1582, *Standard on Comprehensive Occupational Medical Program for Fire Departments* and the Department of Labor 29 CFR 1630.2(n)(3) which are adopted as rule by Miami-Dade Fire Rescue:

- Perform fire-fighting tasks (e.g., houseline operations, extensive crawling, lifting and carrying heavy objects, ventilating roofs or walls using power or hand tools, forcible entry), rescue operations, and other emergency response actions under stressful conditions while wearing personal protective ensembles (PPE) and self-contained breathing apparatus (SCBA).

- Exposed to toxic fumes, irritants, particulates, biological (infectious) and non-biological hazards, and/or heated gases, despite the use of personal protective ensembles including SCBA.
- Climb 6 or more flights of stairs while wearing fire protective ensemble weighing at least 50 lbs or more and carrying equipment/tools weighing an additional 20 to 40 lbs.
- Search, locate, and rescue by dragging or carrying victims ranging from newborns up to adults weighing over 200 lbs to safety despite hazardous conditions and low visibility.
- Advance water-filled hoselines up to 2 ½ inch in diameter from fire apparatus to occupancy (approximately 150 ft); which can involve negotiating multiple flights of stairs, ladders, and other obstacles.
- Climbing ladders, operating from heights, walking or crawling in the dark along narrow and uneven surfaces, and operating in proximity to electrical power lines and/or other hazards.

Uniformed personnel who have become injured and can no longer adhere to the above standards are placed on Restricted Duty status. These individuals are not assigned to the fire station or permitted to work on the emergency apparatus. Reasonable accommodations are made at our Fire Department Headquarters to allow these individuals to function in a staff support role.

HL/dd

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LAW DEPARTMENT
City of Hialeah

STATE OF FLORIDA
BUILDING COMMISSION

In the Matter of)
CITY OF HIALEAH FIRE)
STATION 2,)
Petitioner)
_____)

No. DCA04-HC-012

FINAL ORDER

The Application for Waiver by Petitioner CITY OF HIALEAH FIRE STATION 2 came for consideration before the State of Florida Building Commission (the "Commission") in accordance with § 553.512(1), Fla. Stat. (2002), and Fla. Admin. Code R. Ch. 9B-7 (2002), at the meeting of the Commission on January 13, 2004 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 the CITY OF HIALEAH, 501 Palm Avenue, Hialeah, Florida 33010.
2. The Owner was represented by MELISSA NEGRON, Assistant City Attorney, 501 Palm Avenue, Hialeah, Florida 33010, and OTTO DROZD III, Fire Chief, 83 East 5th Street, Hialeah, Florida 33010, at the meeting of the Council on January 12, 2004.
3. The project for which the Owner is seeking a waiver is a one story 8,500 square foot Fire Station which will serve as a central location in which to provide the community with a full

array of emergency response services. The facility will replace an existing fire station that is reaching the end of its utility.

4. The requirements for which the Owner is seeking a waiver from providing accessible toilet facilities in those portions of the fire station facility which are not open to the public and are intended for the exclusive use of firefighters. Section 11-4-1.2(6), Florida Building Code, requires that if toilet facilities are provided on site, then each such public or common use toilet facility shall comply with the accessibility requirements found in section 11-4.22 Florida Building Code.

5. According to the Owner, the hardship is a result of a condition that is not accounted for under the code. A fire station is a facility used mainly to house firefighting equipment and firefighters. The minimum requirements to qualify for employment as a firefighter under §§ 633.30 - 633.35, Fla. Stat., (2002) include a requirement that a firefighter be in good physical condition, and not under any circumstance would an individual with a disability be qualified to be a firefighter.

6. The Owner believes that under 28 C.F.R. § 35.151 (2003), and 36 C.F.R. Part 1191 (2003), the Department of Justice's Title II Regulations allow state and local governments the option of choosing between designing constructing or altering their facilities in conformance with the Uniform Federal Accessibility Standards (UFAS) or with the Americans With Disability Act

Accessibility Guidelines (ADAAG). UFAS classifies fire stations differently than ADAAG and specifies that it is to be applied to "all areas for which the intended use will require public access or which may result in employment of physically handicapped persons." Based on the UFAS requirements, the Owner contends that the non-public bathrooms for the firefighters do not need to comply with accessibility requirements.

7. The Owner contends that the literal application of these requirements to the non-public portions of the fire station would constitute an unnecessary and extreme financial hardship. The additional cost for all five of the accessible toilet and shower rooms located in the non-public portion of the fire station is estimated at \$8,095.

8. Based on its consideration of the foregoing information, the description of the construction, the representations by the Owner, and the applicable legal requirements, the Council unanimously recommended that the Application for Waiver be granted based on unnecessary hardship pursuant to § 553.512 Fla. Stat., (2003), and in favor of the UFAS design criteria.

Having considered the foregoing information, together with the recommendation of the Council, the Commission hereby agrees with that recommendation, and concludes that action on the Application for Waiver be, and hereby is, GRANTED.

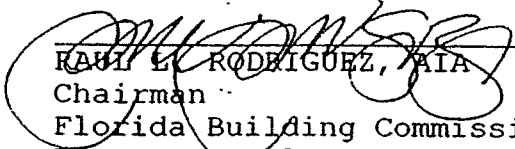
This Final Order is intended for the enforcement of the Florida Americans With Disabilities Accessibility Implementation Act, as amended, § 553.501 et seq., Fla. Stat. (2002), and other than as modified by this Final Order, any construction or post construction activities which deviate from the requirements 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. § 553.513, Fla. Stat. (2002). 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. § 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 § 120.68(2)(a), Fla. Stat. (2002), 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 Commission, 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 specified by § 35.22(3), Fla. Stat. (2002).

DONE AND ORDERED this January 29, 2004 in Coral Gables, Miami Dade County, State of Florida.


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

Copies To:

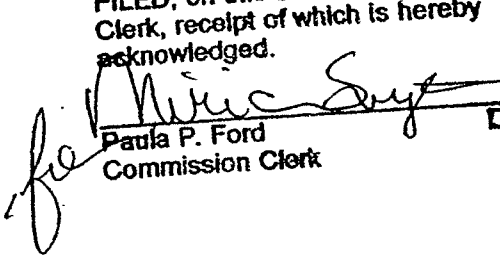
Neil Melick, Chairman,
Advisory Accessibility Council
City of West Palm Beach
P.O. Box 3366
West Palm Beach, Florida 33042-3366

Melissa Negron
Assistant County Attorney
501 Palm Avenue
Hialeah, Florida 33010

Angela H. Lamela
City Architect
Construction and Maintenance
900 East 56 Street
Hialeah, Florida 33010

Juan Guitierrez
Building Official
City of Hialeah
501 Palm Avenue
Hialeah, Florida 33010

FILING AND ACKNOWLEDGEMENT
FILED, on this date, with the designated
Clerk, receipt of which is hereby
acknowledged.


Paula P. Ford
Commission Clerk

2/2/04
Date

STATE OF FLORIDA
BUILDING COMMISSION

In the Matter of)
CITY OF HIALEAH FIRE)
STATION 3,)
Petitioner)
_____)

No. DCA04-HC-011

FINAL ORDER

The Application for Waiver by Petitioner CITY OF HIALEAH FIRE STATION 3 came for consideration before the State of Florida Building Commission (the "Commission") in accordance with § 553.512(1), Fla. Stat. (2002), and Fla. Admin. Code R. Ch. 9B-7 (2002), at the meeting of the Commission on January 13, 2004 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 the CITY OF HIALEAH, 501 Palm Avenue, Hialeah, Florida 33010.
2. The Owner was represented by MELISSA NEGRON, Assistant City Attorney, 501 Palm Avenue, Hialeah, Florida 33010, and OTTO DROZD III, Fire Chief, 83 East 5th Street, Hialeah, Florida 33010, at the meeting of the Council on January 12, 2004.
3. The project for which the Owner is seeking a waiver is a two story 8,970 square foot Fire Station which will serve as a central location in which to provide the community with a full

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LAW DEPARTMENT
City of Hialeah

array of emergency response services. The facility will replace an existing fire station that is reaching the end of its utility.

4. The requirements for which the Owner is seeking a waiver from providing accessible toilet facilities in those portions of the fire station facility which are not open to the public and are intended for the exclusive use of firefighters. Section 11-4-1.2(6), Florida Building Code, requires that if toilet facilities are provided on site, then each such public or common use toilet facility shall comply with the accessibility requirements found in section 11-4.22 Florida Building Code.

5. According to the Owner, the hardship is a result of a condition that is not accounted for under the code. A fire station is a facility used mainly to house firefighting equipment and firefighters. The minimum requirements to qualify for employment as a firefighter under §§ 633.30 - 633.35, Fla. Stat., (2002) include a requirement that a firefighter be in good physical condition, and not under any circumstance would an individual with a disability be qualified to be a firefighter.

6. The Owner believes that under 28 C.F.R. § 35.151 (2003), and 36 C.F.R. Part 1191 (2003), the Department of Justice's Title II Regulations allow state and local governments the option of choosing between designing constructing or altering their facilities in conformance with the Uniform Federal Accessibility Standards (UFAS) or with the Americans With Disability Act

Accessibility Guidelines (ADAAG). UFAS classifies fire stations differently than ADAAG and specifies that it is to be applied to "all areas for which the intended use will require public access or which may result in employment of physically handicapped persons." Based on the UFAS requirements, the Owner contends that the non-public bathrooms for the firefighters do not need to comply with accessibility requirements.

7. The Owner contends that the literal application of these requirements to the non-public portions of the fire station would constitute an unnecessary and extreme financial hardship. The additional cost for all six of the accessible toilet and shower room located in the non-public portion of the fire station is estimated at \$12,614.

8. Based on its consideration of the foregoing information, the description of the construction, the representations by the Owner, and the applicable legal requirements, the Council unanimously recommended that the Application for Waiver be granted based on unnecessary, and extreme financial hardship pursuant to § 553.512 Fla. Stat., (2003).

Having considered the foregoing information, together with the recommendation of the Council, the Commission hereby agrees with that recommendation, and concludes that action on the Application for Waiver be, and hereby is, GRANTED.

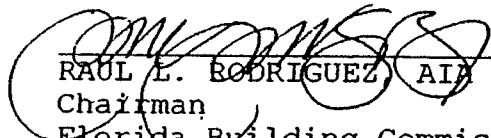
This Final Order is intended for the enforcement of the Florida Americans With Disabilities Accessibility Implementation Act, as amended, § 553.501 et seq., Fla. Stat. (2002), and other than as modified by this Final Order, any construction or post construction activities which deviate from the requirements 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. § 553.513, Fla. Stat. (2002). 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. § 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 § 120.68(2)(a), Fla. Stat. (2002), 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 Commission, 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 specified by § 35.22(3), Fla. Stat. (2002).

DONE AND ORDERED this January 29, 2004 in Coral Gables, Miami Dade County, State of Florida.


RAUL L. RODRIGUEZ, AIA
Chairman
Florida Building Commission
Department of Community Affairs
Sadowski Building
2555 Shumard Oak Boulevard
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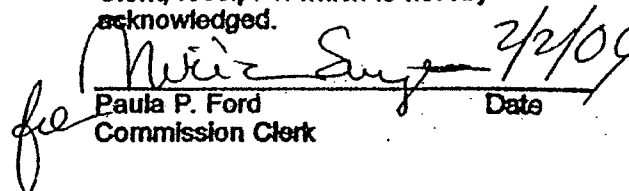
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900 East 56 Street
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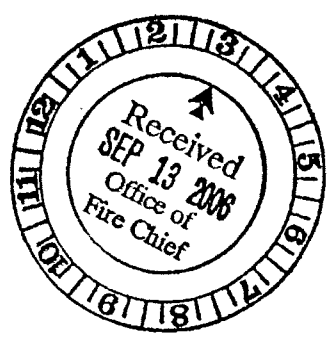
Juan Guitierrez
Building Official
City of Hialeah
501 Palm Avenue
Hialeah, Florida 33010

FILING AND ACKNOWLEDGEMENT
FILED, on this date, with the designated
Clerk, receipt of which is hereby
acknowledged.


for Paula P. Ford
Commission Clerk
Date 2/2/04

MD

STATE OF FLORIDA
BUILDING COMMISSION



In the Matter of)
CITY OF HIALEAH)
FIRE STATION #8,)
Petitioner)
_____)

No. DCA06-HC-203

FINAL ORDER

The Application for Waiver by Petitioner CITY OF HIALEAH FIRE STATION #8 came for consideration 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 August 22, 2006, upon a consensus opinion of the Accessibility Advisory Council (the Council) members in attendance. At that meeting, the Commission made the following findings of fact:

1. The Owner is City of Hialeah, 501 Palm Avenue, Hialeah, Florida 33010 ("the Owner").
2. The Applicant is Otto Drozd III, City of Hialeah Fire Chief, 83 East 5th Street, Hialeah, Florida 33010 ("the Applicant"). The Applicant did not appear before the August 21, 2006 meeting of the Council, but the City was represented at this meeting by Melissa Negrón.
3. The project for which the Applicant is seeking a waiver is the \$873,000 new construction of a fire station. The facility will serve as a central location in which to provide the community with a full array of emergency response services. The facility will replace an existing fire station that is reaching the end of its utility. The project is located at 5405 West 18th Avenue, Hialeah, Florida 33013.

4. The owner is seeking a waiver from providing accessible toilet facilities in those portions of the fire station facility which are not open to the public and are intended for the exclusive use of firefighters. Section 11-4.1.2(6) (Accessible Elements and Spaces: Scope Technical Requirements), Florida Building Code, requires that if toilet facilities are provided on site, then each such public or common use toilet facility shall comply with the accessibility requirements found in section 11-4.22 Florida Building Code.

5. According to the Owner, the hardship that would result from the literal application of these requirements to its project is a result of a condition that is not accounted for under the code. A fire station is a facility used mainly to house firefighting equipment and firefighters. The minimum requirements to qualify for employment as a firefighter under § 633.30 – 633.35, Fla. Stat., (2005) include a requirement that a firefighter be in good physical condition, and not under any circumstance would an individual with a disability be qualified to be a firefighter. The Applicant contends that the firefighters bunk room area is not a public area and that the firefighters must be able bodied in accordance with state law. The new fire station will have a fully accessible toilet room in the front area of the station, to which the public will have access. Firefighters who are injured and rendered temporarily unable to perform firefighting duties are normally assigned to desk work during their recover. They would not be working in the firefighters' bunkroom area of the station, and they would be able to use the fully accessible bathroom in the front part of the station.

6. The owner believes that under 28 C.F.R. § 35.151 (2006) and 36 C.F.R. Part 1191 (2006), the Department of Justice's Title II Regulations allow state and local governments the option of choosing between designing constructing or altering their facilities in conformance with the Uniform Federal Accessibility Standards (UFAS) or with the Americans With

Disabilities Act Accessibility Guidelines (ADAAG). UFAS classifies fire stations differently from ADAAG and specifies that it is to be applied to "all areas for which the intended use will require public access or which may result in employment of physically handicapped persons." Based on the UFAS requirements, the Owner contends that the non-public bathrooms for use only by the firefighters do not need to comply with accessibility requirements.

7. The owner contends that the literal application of these requirements to the non-public portions of the fire station would constitute an unnecessary and extreme financial hardship. The additional cost for all three of the accessible toilet and shower rooms located in the non-public portion of the fire station is estimated at \$6,057;00

8. The consensus opinion of Council members present was to recommended approval of a waiver from the requirements found in Section 11-4.1.3(11), Florida Building Code, Building Volume, based on unnecessary hardship pursuant to § 553.512, Fla. Stat., 2005, and in favor of the UFAS design criteria. The recommendation is contingent on the use of the building remaining a fire station, and should the occupant use change a new waiver application must be filed.

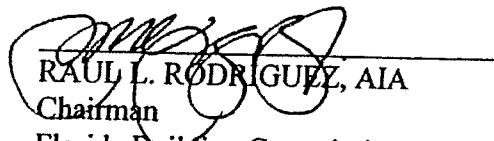
Having considered the foregoing information, together with the consensus opinion of the Council members present, the Commission hereby agrees with that recommendation, and concludes that action on the Application for Waiver be, and hereby is, GRANTED subject to the conditions noted.

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. (2005), 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. (2005). 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. 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.

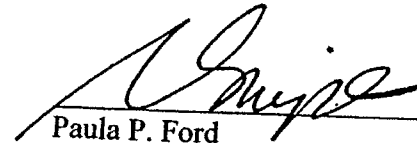
Petitioner and all other interested parties are hereby advised of their right to seek judicial review of this Order in accordance with section 120.68(2)(a), Fla. Stat. (2005), and Fla. R. App. P. 9.110(a) and 9.030(b)(1)(C). To initiate an appeal, a Notice of Appeal must be filed with Paula P. Ford, Clerk of the Commission, 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 specified by section 35.22(3), Fla. Stat. (2005).

DONE AND ORDERED this 6th of September 2006 in Coral Gables, 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 8th day of Sept, 2006

for 

Paula P. Ford
Agency Clerk

By U.S. Mail to:

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

Otto Drozd III
Fire Chief
City of Hialeah
501 Palm Avenue
Hialeah, Florida 33010

Juan Gutierrez
Building Official City of Hialeah
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