

## **Executive Offices – Miami Lakes, Florida**

553.512 Modifications and waivers; advisory council. The Florida Building Commission shall provide by regulation criteria for granting individual modifications of, or exceptions from, the literal requirements of this part (sections 553.501-553.513, Florida Statutes) upon a determination of unnecessary, unreasonable, or extreme hardship, provided such waivers shall not violate federal accessibility laws and regulations and shall be reviewed by the Accessibility Advisory Council. Notwithstanding any other provision of this subsection, if an applicant for a waiver demonstrates economic hardship in accordance with 28 C.F.R. 36.403(f)(1), a waiver shall be granted.

553.509 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.

The project is the interior construction/remodeling for an existing two story building based upon the requirements of Miami Lakes and the 40 year certification program as required by Miami-Dade County for older buildings

The building is approximately 28000 square feet.

The waiver is being submitted under the 20% rule for alteration work being done to an existing building.

28 CFR 36.403(f)(1) states that alterations made to provide an accessible path of travel to the altered area will be deemed disproportionate to the overall alteration when the cost exceeds 20% of the cost of the alteration to the primary function area.

Costs that may be counted as expenditures required to provide an accessible path of travel may include:

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(i) Costs associated with providing an accessible entrance and an accessible route to the altered area, for example, the cost of widening doorways or installing ramps:

(ii) Costs associated with making restrooms accessible, such as installing grab bars, enlarging toilet stalls, insulating pipes, or installing accessible faucet controls;

(iii) Costs associated with providing accessible telephones, such as relocating the telephone to an accessible height, installing amplification devices, or installing a telecommunications device for deaf persons (TDD);

(iv) Costs associated with relocating an inaccessible drinking fountain.

Duty to provide accessible features in the event of disproportionality.

(1) When the cost of alterations necessary to make the path of travel to the altered area fully accessible is disproportionate to the cost of the overall alteration, the path of travel shall be made accessible to the extent that it can be made accessible without incurring disproportionate costs.

(2) In choosing which accessible elements to provide, priority should be given to those elements that will provide the greatest access, in the following order:

(i) An accessible entrance;

(ii) An accessible route to the altered area;

(iii) At least one accessible restroom for each sex or a single unisex restroom;

(iv) Accessible telephones;

(v) Accessible drinking fountains; and

(vi) When possible, additional accessible elements such as parking, storage, and alarms.

28 CFR §36.403(f)(1) states that - alterations made to provide an accessible path of travel to the altered area will be deemed disproportionate to the overall alteration when the cost exceeds 20% of the cost of the alteration to the primary function area.

The cost of this project is \$148,225 as indicated in the building cost breakout as provided by the contractor and subcontractors doing the work.

Within those project costs the following numbers would not apply to the alteration costs to a primary function: hvac, electrical and fixtures, lay-in ceiling tile, painting and insulation.

These items add up to an amount of \$123,650.

Thereby making the costs that would be considered for alterations to the primary function an amount of \$24,875.

20 percent of this amount would be \$4,975 and based upon the cost estimate provided by the contractors an amount of \$24,875 will be spent on accessibility compliance issues within the work for this project; which far exceeds the required 20 percent expenditure for accessibility compliance issues.

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In addition, the estimates provided indicate that the cost to provide vertical accessibility would be approximately \$63,200 just for the elevator without the shaft and associated construct for housing the unit. This amount would further exceed the 20 percent requirement of the project costs for accessibility compliance issues. Therefore, based upon the language of Florida State Statute 553.512(1) an economic hardship in accordance with 28 CFR §36.403(f)(1) has been demonstrated and a waiver shall be granted.