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To: Department of Business and Professional Regulation
Division of Hotels and Restaurants
Elevator Waiver Review Board
From: Matthew Hyatt, AIA, IIDA, LEED AP BD+C
President, BAI Architecture, Inc.
License Number: AR102668
Date: May 9th, 2025
Subject: Request for Elevator Waiver – Cactus Restaurant, 850 Commerce Street, Miami Beach, FL. Submission
Activity Number: 716-R1

Dear Members of the Elevator Waiver Review Board,

On behalf of Cactus Restaurant, located at 850 Commerce Street, Miami Beach, Florida, we respectfully submit this formal request for a waiver from the elevator installation requirement, in accordance with Florida Statutes § 399.02(9) and F.A.C. Rule 61C-5.008, under Submission Activity Number 716-R1.

This waiver request is based on the statutory allowance for exceptions where strict compliance would result in unusual hardship, is economically burdensome, and where reasonable alternatives have been explored in good faith.

a) Unique Hardship Condition – Florida Statutes § 399.02(9)(a)

Cactus Restaurant operates within a vertically limited structure with a narrow footprint and historically influenced design, which severely limits the ability to accommodate elevator equipment. These characteristics pose architectural and structural constraints that are unique to this location and not shared by the majority of commercial properties in the area. Retrofitting an elevator would require demolition of significant structural elements, resulting in an unfeasible alteration of the building's core.

b) Substantial Financial Burden – Florida Statutes § 399.02(9)(b)

As supported by an itemized estimate provided by a licensed contractor, the cost to comply with the elevator requirement would exceed \$1,159,747.04, consisting of:

- Division 1: \$198,502.23
- Division 2: \$90,000.00
- Division 3: \$147,500.00
- Division 4: \$40,000.00
- Division 5: \$85,000.00
- Division 6: \$10,000.00
- Division 7: \$80,000.00
- Division 9: \$60,000.00
- Division 13: \$5,000.00
- Division 14: \$250,000.00
- Division 15: \$15,000.00
- Division 16: \$15,000.00
- Contingency/Overhead/Insurance: \$153,744.81

This scale of expense is disproportionate to the restaurant's financial capacity and would place undue economic hardship on the business, threatening its continued operation in the community.

c) Good Faith Compliance Efforts – Florida Statutes § 399.02(9)(c)

The owner has exercised due diligence by consulting with licensed architects, elevator contractors, and accessibility compliance specialists. These professionals have confirmed that there are no feasible or cost-effective methods to install an elevator without compromising structural integrity and business viability.

This submission includes written evaluations from consultants and contractors documenting the limitations and lack of viable alternatives, in alignment with F.A.C. Rule 61C-5.008(2)(a)-(c), which sets forth waiver criteria and documentation requirements.

Commitment to Accessibility

While physical elevator installation is not achievable under current conditions, Cactus Restaurant remains committed to accessibility through the following features:

- ADA-compliant ground-level entry
- Accessible restrooms
- Clearly marked signage and accommodations for patrons with mobility challenges

The restaurant will continue to explore and implement accessibility enhancements wherever feasible and requests any reasonable guidance the Department may offer.

Conclusion

Based on the unique structural limitations, financial hardship, and due diligence in investigating compliance options, we respectfully request a waiver under the authority of Florida Statutes § 399.02(9) and F.A.C. Rule 61C-5.008, pursuant to Submission Activity Number 716-R1.

Enclosed are supporting materials to substantiate this request:

- Contractor's cost estimate
- Architectural feasibility report
- Professional letters of evaluation
- Site layout and structural photos

Thank you for your time and consideration.

Submitted:  _____

Date: May 9, 2025

Matthew Hyatt, AIA, IIDA, LEED AP
President, BAI Architecture, Inc.
License Number: AR102668

cc: Joe Vecchione AIA, Associate, Senior Architect, BAI Architecture, Inc.
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