

MASTER EXCAVATORS, INC.

Issue: Vertical accessibility to the second floor.

Analysis: The applicant is requesting a waiver from providing vertical accessibility to the second floor of the offices of a site utilities engineering contractor company. During a yearly review of the property, it was determined that an alteration to 417 square feet on the second floor housing the plan/reference room were done without obtaining a permit. The applicant has applied for a permit through the Miami-Dade Amnesty Program for work that will cost \$28,930, of which 59 percent will be applied to accessibility. In addition to vertical accessibility being disproportionate, according to the applicant the area in questions houses fewer than five people and is not open to the public.

Project Progress:

The project has been completed.

Items to be Waived:

Vertical accessibility to the second floor, as required by Section 553.509, Florida Statutes.

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.

Waiver Criteria: There is no specific guidance for a waiver of this requirement in the code. The Commission's current rule, authorized in Section 553.512, Florida Statutes, provides criteria for granting waivers and allows consideration of unnecessary or extreme hardship to the applicant if the specific requirements were imposed.

**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: Master Excavators, Inc.

Address: 9950 Southwest 168 Terrace, Miami, Florida 33157

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: Larry M. Schneider, AIA

Applicant's Address: 9319 NW 48 Doral Terrace, Miami, Florida 33178

Applicant's Telephone: 786-336-1984 **FAX:** 786-336-1985

Applicant's E-mail Address: Larry@lmsarch.net

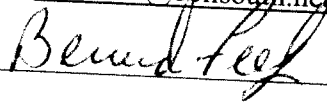
Relationship to Owner: Accessibility Consultant

Owner's Name: Mr/Mrs Bernie and Linda Feely

Owner's Address: 9319 NW 48 Doral Terrace, Miami, Florida 33178

Owner's Telephone: 305-2380119 **FAX** 305-2518301

Owner's E-mail Address: masterex@bellsouth.net

Signature of Owner: 

Contact Person: Larry M. Schneider AIA

Contact Person's Telephone: 786-3361984

E-mail Address: Larry @LMSarch.net

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 is an existing two story office building that is going through the Miami-Dade Amnesty Program for work that apparently was done without obtaining a permit.

5. **Project Construction Cost (Provide cost for new construction, the addition or the alteration):** \$28,930.00

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.

This is an existing two story office building that is going through the Miami-Dade Amnesty Program for work that apparently was not done with obtaining a permit.

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

Issue: Compliance with Section 553.509 Florida State Statutes

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. This is an existing two story office space that has less than five persons and not open to the public for the second floor area which qualifies for exception number 3 of the allowable exceptions.

Issue: Compliance with Section 553.509 and 512 Florida State Statutes.

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. **553.512 Modifications and waivers; advisory council** - (1) 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 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.**

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.

This facility is an existing building with an existing two story area that is not open to the public and has less than five (5) occupying that space. The current owners of this building are Master Excavators which is a site utilities engineering contractor company. When they purchased the building the second floor was existing and during a current yearly review of the property it was determined that improvements we made to the existing 400 square foot Plan/Reference Room. Since this was determined by the AHJ they requested of the owners for drawings to be submitted for this work. In the review process of the documentation submittal it was determined by the Building Department that vertical accessibility would be required to be provided for the existing second floor space. The building department would not accept the exception number 3 of Florida State Statute 553.509 of a space not open to the public and less than an occupancy of five (5) persons. The issue of the requirement for vertical accessibility to all levels is required by Florida State Statutes, section 553.509 VERTICAL ACCESSIBILITY. This section states that - 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 habitable 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. However, buildings, structures, and facilities must, as a minimum, comply with the requirements in the Americans with Disabilities Act Accessibility Guidelines. We believe this project meets this exception and should be exempted under exception number 3. Furthermore section 553.512 Modifications and Waivers requires that (1) 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 extreme hardship**, provided such waivers shall not violate federal accessibility laws and regulations and shall be reviewed by the Accessibility Advisory Council. It further states that **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.** 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. (2) Costs that may be counted as expenditures required to provide an accessible path of travel may include: (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. (g) 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. In the design review of this space the following accessibility improvements were made:

- Complete reconstruction of the interior stairs to meet applicable accessibility requirements (handrail extensions, closed risers, etc.)
- New accessible compliant piped drinking fountain on first floor - high/low drinking fountain.
- Replacement of hardware on all doors to accessible lever-type handles.
- Renovation/expansion of existing first floor toilet room to meet accessibility requirements for fixtures, clearances, grab bars, etc.
- Renovation of second floor toilet rooms to provide a unisex accessible toilet room.
- A new exterior egress stairs from the second floor including provisions for "Area of Refuge" with a two-way communication system.
- The replacement of existing double doors to the main office area to meet accessibility door width requirements.
- Addition of new accessible parking space.

The estimated cost of these accessibility improvements is \$16,930.00.

The proposed total cost of improvements related to this Amnesty permit is \$28,930.00, of which 59% of this amount is accessibility related. The "Area of Issue" is being permitted under the Amnesty Ordinance is 417 square feet on the second floor. The total approximate cost of this interior build-out is \$14,600.00. Therefore the architect has worked in providing accessibility compliance by doing barrier removal work under the requirements of the ADA Standards and the issue before you is the Florida specific requirement dealing with vertical accessibility to all levels and the 20% rule. The accessibility compliance work exceeds the 20% requirements for expenditures and based upon the requirements of Florida State Statute 553.512 a waiver shall be granted.

[X] Substantial financial costs will be incurred by the owner if the waiver is denied. **553.512 Modifications and Waivers; Advisory Council** requires that (1) 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 extreme hardship**, provided such waivers shall not violate federal accessibility laws and regulations and shall be reviewed by the Accessibility Advisory Council. It further states that **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.**

[X] 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.

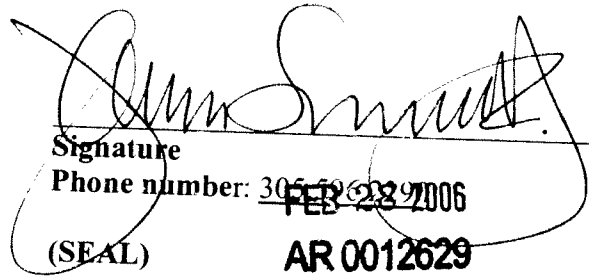
See attached letter from the architect as to the costs for the work.

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.

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.

Under Florida State Statutes, section 553.509 VERTICAL ACCESSIBILITY. This section states that - **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 habitable 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. We believe we would qualify under exception 3 of FL SS 553.509. Furthermore under Florida State Statutes a waiver can be granted for one of the following reasons - a determination of unnecessary, unreasonable, or extreme hardship. Furthermore Florida State Statute 553.512 states that 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. We believe that the project would also qualify under an extreme hardship and under the 20% requirement. We further concur with the reasoning as so stated under item 8.


Signature
Phone number: 305-529-2006
(SEAL)

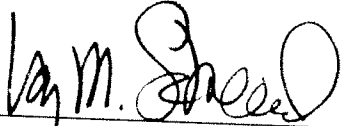
James Smith AIA
Printed Name

FEB 28 2006
AR 0012629

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 24th day of February, 2006



Signature

Larry M. Schneider AIA
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.



GROUP
ARCHITECTS
PLANNERS

February 23, 2006

Mr. Larry M. Schneider, AIA
9319 NW 48 Doral Terrace
Miami, Florida 33178

**Re: MASTER EXCAVATORS
9950 Southwest 168 Terrace
Miami, Florida 33157
JAS Project No. 2517**

Dear Mr. Schneider:

Per your request, we are providing a list of proposed improvements for the above referenced project as related to ADA and Life Safety/Zoning requirements.

Accessibility Improvements:

- Complete reconstruction of interior stairs to meet required accessibility (handrail extensions, closed risers, etc.)
- New accessible hi-lo piped drinking fountain on first floor.
- Replacement of hardware on all doors to accessible lever-type handles.
- Renovation/expansion of existing first floor toilet room to meet accessibility requirements for fixtures, clearances, grab bars, etc.
- Renovation of second floor toilet rooms to provide a unisex accessible toilet room.
- New exterior egress stairs from second floor including provisions for "Area of Refuge" with two-way communication system.
- Replacement of existing double doors to main office area to meet accessibility door width requirements.
- Addition of new accessible parking space.

The estimated cost of proposed accessibility improvements is \$16,930.00.

7855 SW 104 STREET
SUITE 200
MIAMI, FL 33156

305 - 596 - 2290
305 - 595 - 6422 FAX

info@jas-architects.com

11 # 00000001

Life Safety and Zoning Requirements:

- New exterior stairs at rear of building for egress from second floor.
- New emergency and exit lights on first and second floors.
- Parking re-stripping to accommodate additional parking spaces.

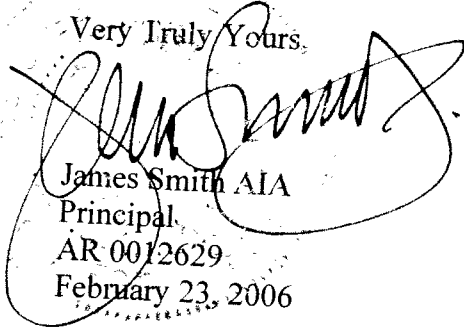
Estimated cost of Life Safety and Zoning improvements is \$12,000.00.

The proposed total cost of improvements related to this Amnesty permit is \$28,930.00, of which 59% of this amount is accessibility related.

The "Area of Issue" we are trying to permit under the Amnesty Ordinance is 417 square feet on the second floor. The approximate cost of this interior build-out was \$14,600.00.

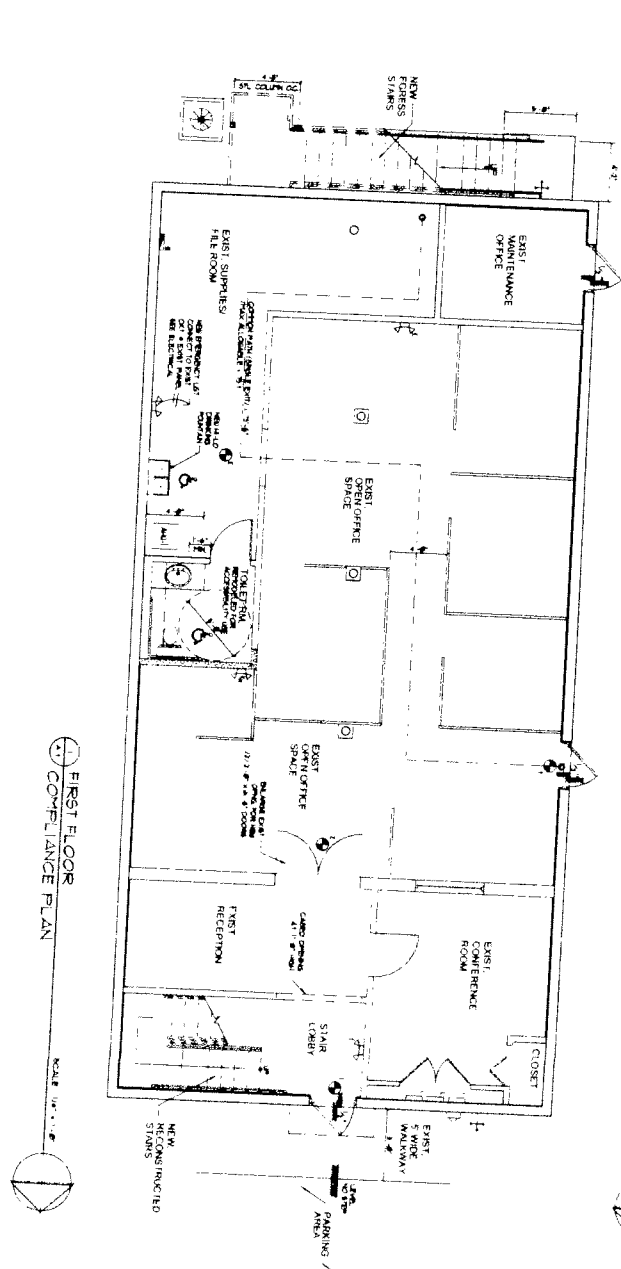
Please contact our office if you have any questions.

Very Truly Yours,

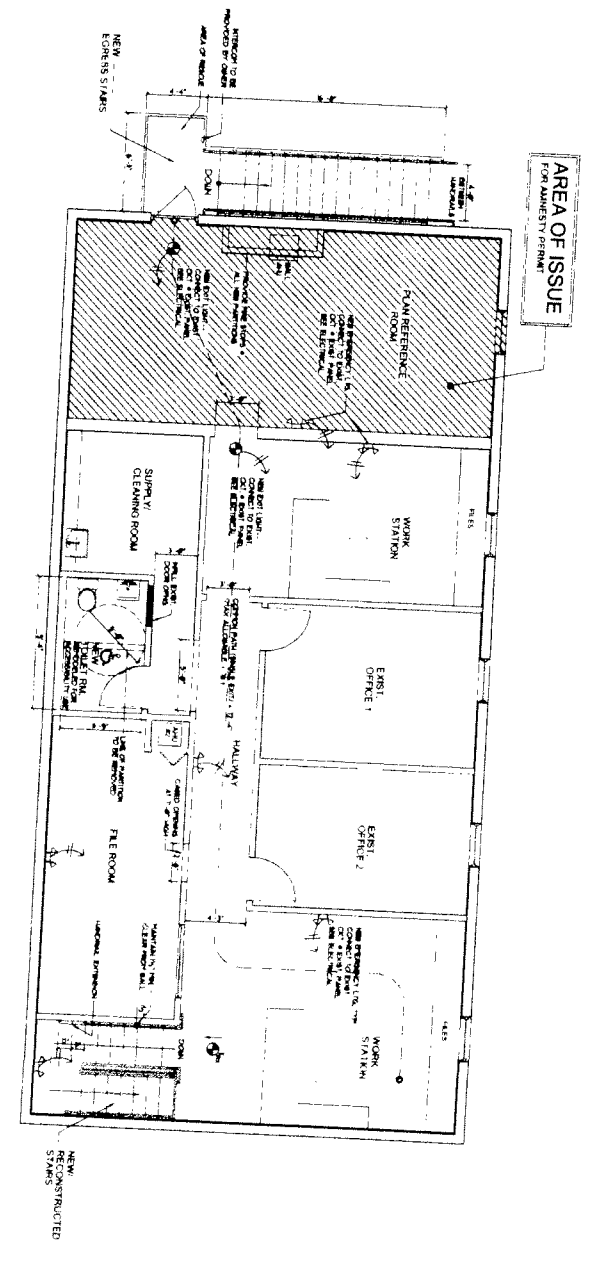


James Smith AIA
Principal
AR 0012629
February 23, 2006

cc: Bernard and Linda Feely, Master Excavators, Inc.



FIRST FLOOR COMPLIANCE PLAN



SECOND FLOOR COMPLIANCE PLAN

AREA OF ISSUE FOR ACCESSIBILITY PERMIT