

## **HENRY HOTEL**

**Issue:** Vertical accessibility to the second floor of a historic hotel.

**Analysis:** The applicant is requesting a waiver from providing vertical accessibility to the second floor of a hotel that is undergoing a \$300,000 alteration. The property has been closed for three years and the plumbing, electrical systems and the roof are being renovated in addition to upgrading accessibility features. The entrance is at grade level with the elevated lobby accessed by a lift. Two public toilet rooms are accessible and the applicant proposes making two of the 50 guest rooms accessible as well. The applicant is also requesting a waiver to allow reducing the size of guest room toilets from 60 inches deep to 56 inches deep because of structural impracticability. It would also damage the historic significant of the structure to install an elevator to the second floor.

### **Project Progress:**

The project is in plan review.

### **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.

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: Henry Hotel**

**Address: 536 Washington Avenue, Miami Beach, FL 33139**

**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: Marcos Traficante, Managing Member of USA LLC and Washington Blu LLC, fee simple owners of the property.**

**Applicant's Address: 536 Washington Avenue, Miami Beach, FL 33139**

**Applicant's Telephone: (561) 827-5666 FAX: (561) 290-0434**

**Applicant's E-mail Address: <MTraficante@micron.com.ar>**

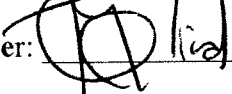
**Relationship to Owner: Managing Partner**

**Owner's Name: Washington Blu, LLC; 536 Washington, LLC; and USA, LLC  
(see attached copy of Warranty Deed)**

**Owner's Address: 536 Washington Avenue, Miami Beach, FL 33139**

**Owner's Telephone: (561) 827-5666 FAX: (561) 290-0434**

**Owner's E-mail Address: <MTraficante@micron.com.ar>**

**Signature of Owner:**  \_\_\_\_\_

**Contact Person: David Kelsey (project consultant)**

**Contact Person's Telephone: (305) 673-0440 E-mail Address: <sbhotels@bellsouth.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.)

**The subject property is a closed and non-operating two-story fifty (50) room historic Art Deco hotel built in 1939 with approx. 14,600 square feet of floor space. The hotel was designed by noted Miami Beach architect Henry Hohausser. The hotel lobby is at-grade with the first floor elevated approx. two foot above grade. There is an at-grade one story restaurant of approx. 1,200 square feet located at the front of the hotel with an entrance on Washington Avenue. The restaurant has two (2) accessible restrooms.**

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

**Repairs and refurbishing, including rehabilitating the plumbing and electrical and recovering the roof, is expected to be approx. \$300,000 (not including FF&E costs). (Note: the proposed budget includes the cost of providing two (2) accessible hotel rooms, each with an accessible bathroom, and an inclined wheelchair lift from the lobby level to the first floor level.)**

**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\*  
(**roof repairs and new electrical service underway**)

In Plan Review  Completed\*

\* Briefly explain why the request has now been referred to the Commission.

**During a preliminary Building Department review of the proposed architectural plans for renovating the hotel it was pointed out to us that because the hotel has been closed for three years, and despite it being a historic property, some improvements would need to be made**

in order to meet current building codes, including addressing accessibility issues, some of which we were told may be mitigated by obtaining an accessibility waiver.

As the hotel has only two floors, each with 25 rooms, and no elevator, it was obvious that to provide vertical access to both floors from the lobby would require the installation of an elevator, the cost of which would make the project economically unfeasible. However, to provide accessibility to the first floor from the lobby by means on an inclined wheelchair lift, would be both possible and economically feasible, and that is what is being proposed.

Typical of small hotels from this period, the hotel rooms are small, as are their bathrooms. In this particular case the bathrooms are slightly less than five foot by five foot, and unable to meet accessibility requirements as to floor space and door width. However, as the bathrooms for each two-room pair are situated side by side between the rooms, with two back to back closets at one end, it is possible to remove the back to back closets and add their space to one of the bathrooms, thus providing a new 5 foot by 9 foot bathroom to meet accessibility requirements. The increased width also allows for a wider bathroom door. (Please see attached drawing.)

As 44 of the 50 hotel rooms will be furnished with two double beds, we are proposing to equip the two accessible rooms with two beds each.

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

#### **Issue**

1: Waive the requirement for vertical access to all floors, which would require an elevator, and allow an inclined wheelchair lift to be used to provide access from the hotel lobby to the first floor only.

#### **Issue**

2: Allow only two accessible hotel rooms on the first floor, each with an accessible bathroom, and each with two beds. (Note: two additional rooms equipped for the hearing impaired will also be provided.)

#### **Issue**

3: Waive the requirement for a 60 inch minimum depth for the two accessible bathrooms and instead allow a 56 inch depth.

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.

**This is an existing two-story historical property that does not lend itself physically to the addition of an elevator and therefore providing accessibility to only the first floor hotel rooms is necessary. Further, the need to accommodate larger than proposed accessible bathrooms would require moving existing bathroom walls out into the already undersized existing hotel rooms, which may also require new foundations to support them.**

[x ] Substantial financial costs will be incurred by the owner if the waiver is denied.

**The additional cost of constructing an elevator, and the loss of revenue from the two hotel rooms that would need to be eliminated to accommodate it, would be a financial hardship that can not be justified. Likewise, relocating bathroom walls to provide an additional four inches of depth would add substantial cost and further reduce the size of the hotel rooms affected. (Note: owner is proposing to provide accessibility to the first floor hotel rooms by adding an inclined wheelchair lift, and is further proposing to provide at least two accessible hotel rooms on the first floor, each with an accessible bathroom, and two additional rooms equipped for the hearing impaired.)**

[ ] 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.

(To be provided.)

**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. (To be provided.)**

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b. 

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c. 

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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.

**(To be provided.)**

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Printed Name**

**Phone number** \_\_\_\_\_

**(SEAL)**

**CERTIFICATION OF APPLICANT:**

**(To be provided.)**

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 \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
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. (To be provided.)**

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 \_\_\_\_\_

**Comments/Recommendation** \_\_\_\_\_

\_\_\_\_\_

Jurisdiction \_\_\_\_\_

Building Official or Designee \_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Certification Number

\_\_\_\_\_  
Telephone/FAX

Address: \_\_\_\_\_

\_\_\_\_\_



Prepared by and return to:  
Alan S. Walters, Esq.  
Abraham A. Galbut, P.A.  
4770 Biscayne Blvd., Suite 640  
Miami, FL 33137  
305-672-3100

Parcel Identification No. 02-42030091920

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## Warranty Deed

(STATUTORY FORM - SECTION 689.02, F.S.)

This Indenture made on the 12<sup>th</sup> day of February, 2009, between THE PALMS, L.L.C., a Florida limited liability company, whose post office address is 4770 Biscayne Blvd., Suite 640, Miami, Florida 33137, grantor\*, and WASHINGTON BLUE, LLC, a Florida limited liability company (as to a 30% interest), 536 WASHINGTON, LLC, a Florida limited liability company (as to a 50% interest), and USA, L.L.C., a Florida limited liability company (as to a 20% interest), as tenants in common, whose post office address is 536 Washington Avenue, Miami Beach, Florida 33139, collectively the grantee\*,

Witnesseth that said grantor, for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable considerations to said grantor in hand paid by said grantee, the receipt whereof is hereby acknowledged, has granted, bargained, and sold to the said grantee, and grantee's heirs and assigns forever, the following described land, situate, lying and being in Miami-Dade County, Florida, to-wit:

Lot 4, Block 48 of OCEAN BEACH ADDITION NO. 3, according to the Plat thereof as recorded in Plat Book 2, Page 81, of the Public Records of Miami-Dade County, Florida.

Subject to taxes for the year 2009, and all subsequent years; covenants, conditions, restrictions, easements, reservations and limitations of record, if any.

and said grantor does hereby fully warrant the title to said land, and will defend the same against lawful claims of all persons whomsoever.

\* "Grantor" and "Grantee" are used for singular or plural, as context requires.

In Witness Whereof, grantor has hereunto set grantor's hand and seal the day and year first above written.

SIGNATURES APPEAR UPON THE FOLLOWING PAGES:

THE PALMS, L.L.C., a Florida  
limited liability company

By: Valeria Grandini  
VALERIA GRANDINI, Manager

Witnesses:

[Signature]  
(Print Name): GUIDO BIONDI

[Signature]  
(Print Name): ALBERTO BOSIO

COUNTRY OF ITALY      Republic of Italy      )  
                                 Province of Genoa      )  
COUNTRY OF              City of Genoa              ) SS  
                                 Consular Agency of the      )  
CITY OF                    United States of America      )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of February, 2009, by VALERIA GRANDINI, as a Manager for THE PALMS, L.L.C., a Florida limited liability company, who  is personally known to me or  who has produced Florida Driver's License, or  who has produced a Driver's License, or  who has produced Italian passport # 396341 as identification, and who certifies that she is authorized to bind this LLC.

[Signature]  
Consul of the United States, resident in Italy

Consul's printed name: Anna Maria Saiano  
Consular Agent of the  
My Commission expires: INDEFINITE  
United States of America  
My Commission No.: \_\_\_\_\_



**David Kelsey**  
407 Lincoln Road # 12H  
Miami Beach, Florida 33139  
Phone (305) 673-0440 – Fax (305) 673-9910  
Email: sbhotels@bellsouth.net

June 18<sup>th</sup>, 2009  
Overnight US Postal

Mary Kathryn Smith  
Florida Building Commission  
2555 Shumard Oak Boulevard  
Tallahassee, Florida 32399-2100

Re: Application for Accessibility Waiver  
Henry Hotel, 536 Washington Ave., Miami Beach, Florida

Dear Mary Kathryn;

Thank you for your assistance in answering questions about filing for an Accessibility Waiver for the above referenced property. As suggested, please find enclosed our initial application documents for the Waiver, which we are requesting be placed on the agenda for the August meeting of the Accessibility Advisory Council of the Florida Building Commission. The balance of the application documents will follow soon.

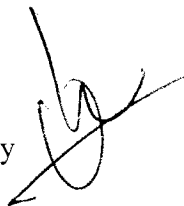
I would appreciate it if you would confirm in writing that we will be on the agenda and provide me with information as to where and when the meeting will be held.

If you have any questions please feel free to call or email me.

Again, thank you for your assistance.

Yours truly,

David Kelsey

A handwritten signature in black ink, appearing to be 'DK', written over a horizontal line.