



**STATE OF FLORIDA
BUILDING COMMISSION**

In the Matter of
OCEAN COAST HOTEL
2707 Sadler Road
Fernandina Beach, FL 32034:

VW 2023-020

Ocean Coast Fernandina, LLC,
Petitioner.

FINAL ORDER

The Application for Waiver by Petitioner, Ocean Coast Fernandina, LLC, came for consideration before the Florida Building Commission (Commission) in accordance with section 553.512(1), Florida Statutes, and chapter 61G20-4, Florida Administrative Code,¹ at the meeting of the Commission on February 7, 2023, upon the recommendations of the Accessibility Advisory Council (Council). At that meeting, the Commission made the following findings of fact:

1. The Owner is Ocean Coast Fernandina, LLC, 113 Bay Bridge Drive, Gulf Breeze, FL 32561 (Petitioner).
2. The Applicant is Linda Sawyer, licensed design professional for the project, 909 E. Cervantes Street, Pensacola, FL 32501 (Applicant).
3. Applicant appeared telephonically before the Council on January 31, 2023.
4. The project for which the Applicant is seeking a waiver consists of the alteration of an existing two-story, 25,278 square foot hotel. The project is currently under design.
5. Applicant states that it would be technically infeasible to install an elevator in the building since doing so would impede required paths of egress. Applicant asserts that the owner will incur substantial financial costs if the installation of an elevator were to be required.

¹ Unless otherwise indicated, all citations to Florida statutes refer to the 2022 codification of *Florida Statutes*, and all citations to Florida administrative rules refer to the latest version of the final adopted rule presented in *Florida Administrative Code*.

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6. The requirements from which the Applicant seeks a waiver are those in the Florida Americans with Disabilities Accessibility Implementation Act (the Act), Section 553.509, Florida Statutes, which require the Petitioner to provide vertical accessibility to all levels above and below the occupiable grade level of a building, structure, or facility. Specifically, Applicant requests a waiver from providing vertical accessibility to the second floor of an existing hotel.

7. Section 553.512(1), Florida Statutes provides for a waiver of the accessibility requirements set forth in Section 553.509, Florida Statutes, upon a determination of "unnecessary, unreasonable, or extreme hardship."

8. Based on consideration of the foregoing information, the description of the construction, the representations by the Applicant, and the applicable legal requirements, the Council recommended that the Request for Waiver be granted under the provisions of Section 553.512, Florida Statutes, on the grounds that adherence to the literal requirements of the Act would cause unreasonable and economic hardship due to the technical infeasibility of installing a hotel in the building.

Having considered the foregoing information, together with the recommendation of the Council, the Commission hereby agrees with the Council's recommendation and concludes that the Applicant's Request for Waiver should be, and hereby is, GRANTED.

This Final Order is intended for the enforcement of the Florida Americans With Disabilities Accessibility Implementation Act, as amended, Section 553.501 et seq., Florida Statutes, 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

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Americans with Disabilities Accessibility Implementation Act shall rest with the Building Official of the local government with permitted authority for the project. §553.513, Florida Statutes. 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., or other applicable regulations. Any waiver granted in this Final Order shall expire one year from the date of the Order unless the construction has commenced within that time.

DONE AND ORDERED this 7th day of FEBRUARY, 2023 in St. Augustine, St. Johns County, State of Florida.


JAMES R. SCHOCK
Chairman, Florida Building Commission

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NOTICE OF RIGHT TO APPEAL

Petitioner and any substantially affected parties are hereby advised of their right to seek judicial review of this Order in accordance with section 120.68(2)(a), Florida Statutes, and Florida Rules of Appellate Procedure 9.110(a) and 9.030(b)(1)(C). To initiate an appeal, a Notice of Appeal must be filed with Agency Clerk, Department of Business and Professional Regulation, 2601 Blair Stone Road, Tallahassee, Florida 32399-2202 and with the appropriate District Court of Appeal not later than thirty (30) days after this Order is filed with the Clerk of the Department of Business and Professional Regulation. A Notice of Appeal filed with the District Court of Appeal shall be accompanied by the filing fee specified by section 35.22(3), Florida Statutes.

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CERTIFICATE OF FILING AND SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing order has been filed with the undersigned and furnished to the persons listed below this 15th day of February, 2023.

Brandon M. Nichols

Agency Clerk's Office
Department of Business and Professional
Regulation & Florida Building Commission
2601 Blair Stone Road
Tallahassee, Florida 32399-2202

By U.S. Mail:

Ocean Coast Fernandina, LLC
113 Bay Bridge Drive
Gulf Breeze, FL 32561

Linda Sawyer
909 E. Cervantes Street
Pensacola, FL 32501

Jimmy Parr
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Fernandina Beach, FL 32034

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