

Reply to  
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**Via Electronic Mail**

Department of Business and Professional Regulation  
FLORIDA BUILDING COMMISSION  
2601 Blair Stone Road  
Tallahassee, Florida 32399-0772

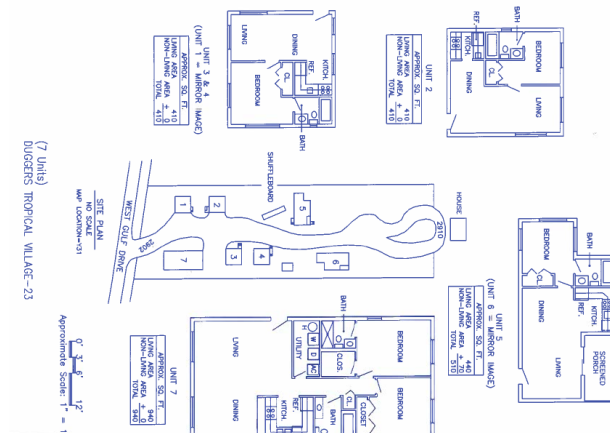
**Re: Project Narrative and Justification for Accessibility Waiver  
Dugger's Tropical Cottages – 2902 West Gulf Drive, Sanibel, Florida 33957**

To Whom It May Concern:

This Firm represents Dugger's Tropical Cottages Condominium, Inc. (the "Association" or "Dugger's") as legal counsel. Please allow this letter to serve as an additional supporting document in connection with Dugger's vertical accessibility waiver request for 2902 West Gulf Drive, Sanibel, Florida 33957 (the "Dugger's Property"). Dugger's appreciates your assistance with this matter.

**PROPERTY BACKGROUND**

Dugger's is a long-standing condominium association located on Sanibel Island. It consists of seven (7) independently owned single-family cottages, designed as separate dwelling units with all essential living facilities located on a single accessible floor. The current project plans and historical floor plans enclosed with Dugger's accessibility waiver application illustrate this unique design, but a snapshot of the original site plan map is included below for reference:



Henderson, Franklin, Starnes & Holt, P.A.

Importantly, the Dugger's Property permits short-term rental tenancies as a grandfathered nonconforming resort use located outside the Resort Housing District, expressly recognized and protected under the City of Sanibel Land Development Code ("LDC") §§ 126-151, 126-152, and 126-636. Note: This designation *allows* the condominium owners to rent their cottages to tenants on a short-term basis, but does not represent the exclusive means by which owners occupy their cottages.

### **REBUILD CONTEXT**

Like many communities on Sanibel, the Dugger's Property sustained catastrophic damage during Hurricane Ian. In this case, a complete reconstruction of all seven cottages became necessary. Accordingly, and in compliance with the LDC, each cottage is to be reconstructed within the same footprint as its pre-storm predecessor; but elevated to comply with the minimum flood elevation requirements.

After a lengthy modification process, the site work permit for this project was issued on December 13, 2024. Issuance of this permit relied, in part, on certain preliminary building plan approvals from the City of Sanibel. However, in February 2025, staff advised that each structure is classified Group R-1 under the 2023 Florida Building Code, 8th Edition, and therefore "shall be designed in compliance with the accessibility code and will require an elevator for each cottage unless a waiver is obtained by DBPR." This interpretation—while plausible for resort housing under a literal reading of § 553.509, Fla. Stat.—leads to an impracticable outcome when applied to rebuilding small, detached, one-story residential cottages, notwithstanding Dugger's nonconforming resort/transient housing permissions.

### **GROUND'S FOR WAIVER**

#### **a. Technical Infeasibility**

The plans for Dugger's rebuild consist of approximately 668, 705, 714, 702, 832, 816, and 1279 sq. ft. cottages, with compact layouts that provide all essential living functions on a single accessible floor. Installing an elevator or platform lift would require structural penetration through the elevated deck or interior foundation system and encroachment into the existing plans' setback and landscaping areas. As the Accessibility Advisory Council has recognized in prior determinations, such conditions meet the standard for technical infeasibility, where compliance would require major structural redesign, demolition, or expansion beyond reasonable limits.

#### **b. Economic Hardship**

Preliminary cost estimates indicate that the most favorable, site-appropriate (e.g., residential) elevator installation in each cottage would exceed **\$29,000.00** per unit, exclusive of any corresponding rebuild costs or other resulting expenses. The aggregate cost across all seven units, totaling over **\$206,00.00**, would represent a significant portion of the individual cottage rebuild costs, and approximately 10% of the *total* project budget for the entire parcel (pending final estimates in connection with the corresponding revisions to the existing site work, landscaping, etc.).

Based on proportional allocation of the total project construction cost (\$2.2 million over 14,047 sq. ft.), the estimated development cost per cottage ranges from \$104,600 to \$200,000, depending on unit size (668 - 1,279 sq. ft.). The proposed elevator installation would therefore comprise approximately **28%** of the total cost for the smallest units and **15%** for the largest—averaging roughly **23% of each individual cottage's rebuild cost/sq. ft.** These additional costs would directly undermine the owners' ability to complete reconstruction within existing insurance proceeds, creating a condition of unnecessary and unreasonable hardship under § 553.512, Fla. Stat.

Note: At this time, Dugger's has obtained estimates for residential elevators, based on both contractor and vendor evaluations of the property. However, based on the City's most recent correspondence, the Building Official may require *commercial* elevator installations to satisfy the Code. This type of elevator would require a complete cottage redesign, including a teardown of the recently completed site work that was approved in connection with the preliminarily approved building plans last year. Multiple local vendors have already expressed that commercial elevators are not appropriate for the small residential cottages contemplated in this project, evidencing heightened economic hardship and technical infeasibility as applied to this project.

### **REQUESTED ACTION**

In consideration of the above, Dugger's respectfully requests that the Accessibility Advisory Council recommend approval of a waiver from the vertical accessibility requirement of § 553.509, Fla. Stat., on the combined grounds of:

1. **Technical infeasibility**, given the residential nature of the units and physical constraints of reconstructing small elevated cottages; and
2. **Economic hardship**, as compliance costs are dramatically disproportionate to the total reconstruction costs.

Approval will enable the Association to complete its permitted rebuild consistent with FEMA, the City of Sanibel's LDC, and the public policy objectives favoring the preservation of legacy resort cottages in the City of Sanibel.

### **SUMMARY**

As a result of the devastation inflicted by Hurricane Ian, the members of Dugger's Tropical Cottages Condominium, Inc. have been unable to return to their island properties. With that in mind, it is our goal to facilitate a timely build-back—for the members, their families, and for those who wish to visit the island as Dugger's temporary guests. This waiver determination will assist us tremendously with that process. We appreciate your time and attention to this request.

Thank you,

*Colten M. Thomas*

Colten M. Thomas, Esq.  
Counsel for Dugger's