

EDEN ROC HOTEL

Issue: Vertical accessibility and accessible route to the spa area of a resort.

Analysis: The applicant is requesting a waiver from providing vertical accessibility to the elevated spa plunge pools in an 18,000 square foot space facility undergoing a \$1.5 million alteration. Because of Health Department regulations and the existing structural constraints, the whirlpool must be elevated four feet above the adjacent floor area. The applicant proposes to install a lift to achieve access to the facility.

Project Progress:

The project is under construction.

Items to be Waived:

Vertical accessibility to the whirlpool, 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: The Eden Roc Hotel

Address: 4525 Collins Avenue
Miami Beach, FL 33140

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: Eden Roc LLLP

Applicant's Address: 848 Brickell Avenue, Suite 700, Miami, FL 33131

Applicant's Telephone: (305) 377-1001 **FAX:** (305) 377-4113

Applicant's E-mail Address: diego@keyinternational.info

Relationship to Owner: Owner

Owner's Name: Eden Roc LLLP

Owner's Address: 848 Brickell Avenue, Suite 700, Miami, FL 33131

Owner's Telephone: (305) 377-1001 **FAX:** (305) 377-4113

Owner's E-mail Address: diego@keyinternational.info

Signature of Owner: _____

Contact Person: Diego Ardid

Contact Person's Telephone: (305) 377-1001 **E-mail Address:** diego@keinternational.info

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.)

Spa within an existing hotel building. The hotel comprises of 632 rooms. The Spa facility is approximately 18,000 Square Feet.

5. Project Construction Cost (Provide cost for new construction, the addition or the alteration): \$1.5 million

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.

The comment from the ADA reviewer occurred after a permit was issued and the Spa renovation was well under construction. The comment was made to the whirlpool builders application for a contractor's permit. The reason that the request was referred to the commission is because we believe the change in elevation referred to in this waiver should not be considered an occupiable area since it's purpose is solely a required means of egress required by the Health Department from the hot and cold whirlpool. In addition, current Florida Building Code does not require accessibility to the functions be provided. We too, believe that removal of this vertical barrier will result in creating access to an area that will pose a significant risk to the safety of an individual with a disability, and should not be required in keeping with Section 11-4.1.1 (b) of the Florida Building Code.

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

Issue

1: *Required provision of vertical accessibility to all levels above and below the occupiable area because removal of this barrier may create a significant risk to the safety of an individual with a disability (FBC Section 11-4.1b)*

Issue

2: _____

Issue

3: _____

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.

We believe the removal of this vertical barrier will result in creating access to an area that will pose a significant risk to the safety of an individual with a disability. Further the change in elevation is not to an occupiable area but only to an area required by the Health Department for emergency egress.

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

Not Applicable.

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.

Not Applicable.

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. Not Applicable.

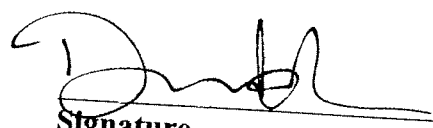
b. _____

c. _____

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.

As architects of record for the Eden Roc renovations and additions, we were required by the Health Dept. to provide a minimum 5' area around the spa plunge pools for emergency pool egress. We could not recess the plunge pools below the slab because of the existing restaurant's headroom requirements. (The existing restaurant is located below the spa pools.) Therefore, the spa pools entries as well as a 5' width of emergency pool egress, had to be elevated almost 4' above the main spa floor. With public safety in mind, we offered the provision of ADA access from the main spa floor directly into the pools by way of a chair lift device as indicated on the permit plans. We believed this to be a safer alternative than allowing a wheelchair to maneuver at the same level within the 5' spa pool emergency egress zone. I hope this clarifies our design intentions for this matter.

Donald F. Wolfe, Jr., R.A.
Vice President.
Nichols Brosch Wurst Wolfe & Associates.



Signature

Printed Name

305 443 5206.

Phone number

(SEAL)

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 22nd day of February, 2011

Signature

Diego Ardid
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. Florida statutes 553.509 Vertical Accessibility to all levels requirement. / 2007 FBC 11-4.1.6(1)(f)

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

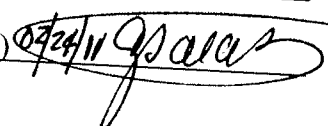
Cost of Construction \$ 26'107.163.00

Comments/Recommendation: Providing vertical accessibility to the hot and cold spas will result in a significant risk to the health and safety to the individual with disabilities or others. In lieu of providing vertical accessibility to the deck the applicant is proposing to provide assisted access to the spas with a chair lift.

Jurisdiction City Of Miami Beach

Building Official or Designee

Gladys N. Salas, PE (B.O. Designee)
Signature



Gladys N. Salas, PE
Printed Name

PX0001401
Certification Number

305-673-7610 ext. 6888/ 786-394-4087
Telephone/FAX

Address: 1700 Convention Center Dr. Miami Beach, FL 33139, 2ND Floor.



J. Riley Davis

Akerman Senterfitt
106 East College Avenue
12th Floor
Tallahassee, FL 32301
Tel: 850.224.9634
Fax: 850.222.0103

March 4, 2011

VIA HAND DELIVERY

Department of Community Affairs
Florida Building Commission
2555 Shumard Oak Boulevard
Tallahassee, FL 32399-2100

**Re: Request from Waiver from Accessibility Requirements of Chapter 553, Part V,
Florida Statutes**

Dear Sir/Madam:

This firm represents the Eden Roc Hotel located in Miami Beach Florida. The Hotel is presently constructing a spa identified by permit numbers B0802396 and BMS1003516. The owner of the Hotel and spa is Eden Roc, L.L.L.P., 4525, Collins Avenue, Miami Beach, Florida 33140.

The Hotel is seeking a waiver of the accessibility requirements under Chapter 553 F.S. regarding the construction of a spa at the hotel. In support of the waiver, please find an original Request for Waiver form filled out and signed by the architect of record, the City of Miami Beach code reviewer and the owner. I have also attached the required representational drawings of the project in the following sizes: 30 inches x 42 inches; 11 inches x 17 inches; and 8 1/2 inches x 11 inches transparencies. Please note that the 30 inches x 42 inch size drawings have the signature of the City of Miami Beach reviewer, certifying that the plans are the same as those submitted for building department review.

It would be my intent to attend the meeting of the accessibility advisory council, together with a representative of Eden Roc, to respond to any questions or concerns of the council and ultimately appear before the Florida Building Commission regarding this application. As such, please notice me with any and all meetings.

Likewise, if any additional information is needed please do not hesitate to contact me directly and I will make every effort to provide you with the requested information in an expeditious fashion.

akerman.com

BOCA RATON DALLAS DENVER FORT LAUDERDALE JACKSONVILLE LAS VEGAS LOS ANGELES MADISON MIAMI NAPLES
NEW YORK ORLANDO PALM BEACH TALLAHASSEE TAMPA TYSONS CORNER WASHINGTON, D.C. WEST PALM BEACH

{TL273751.1}

Since this spa is under construction, we would appreciate, to the extent possible, that this application be reviewed and processed in the most expeditious fashion possible.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Riley Davis". The signature is fluid and cursive, with a large loop at the beginning and a long tail extending to the right.

J. Riley Davis
For the Firm

JRD/awg
Enclosures