

**STATE OF FLORIDA  
BUILDING COMMISSION**

In the Matter of:  
Greenview Hotel  
1671 Washington Ave.  
Miami Beach, FL 33139

No. DCA10-HC-137

Greenview Hotel, LLC  
Petitioner.

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**FINAL ORDER**

The Application for Waiver by Petitioner, Greenview Hotel, came for consideration before the State of Florida Building Commission (Commission) in accordance with Section 553.512(1), Florida Statutes, and Chapter 9B-7, Florida Administrative Code, at the meeting of the Commission on June 8, 2010, upon a recommendation by the Accessibility Advisory Council (Council). At that meeting, the Commission made the following findings of fact:

1. The Owner is Greenview Hotel, LLC, 1671 Washington Ave., Miami Beach, FL 33139 (Petitioner).
2. The Applicant is Robert S. Fine, Esq., Greenberg Traurig, P.A., 1221 Brickell Ave., Miami, FL 33139 (Applicant).
3. The Applicant appeared before the Council on June 7, 2010.
4. The Applicant seeks a waiver in order to alter a three-story hotel in the historic Art Deco District of Miami Beach. The hotel currently has 45 guest rooms. The alterations include the proposed addition of 10 guest rooms on the rooftop and a "paint and paper" renovation of the existing guest rooms. Some of the rooftop rooms will have spiral staircases leading to sunning areas atop those rooms. The hotel lobby has two levels, with the upper level

being one riser higher than the main level. The floor of the lobby is considered to be a historic element of the building. The first floor of guest rooms is elevated and not serviced by the existing elevator but the elevator does provide access to the upper floors. The dimensions of the elevator do not meet the current accessibility standards for length and width.

5. 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, the Applicant requests that the requirements be waived for: a) vertical accessibility in an elevator that does not provide a minimum clear floor space of 48" x 48" or a door with a 36" clear opening; b) vertical accessibility to the first floor of guest rooms; c) vertical accessibility to the part of the lobby that is one riser higher than the main entrance level; and, d) vertical accessibility to the level of the rooftop sunning areas provided for some of the rooftop rooms.

6. Installing a larger elevator would block exits from the building. The only means of accessing the elevated first floor would be by a lift but the lift would encroach on the means of egress. A ramp cannot be installed to get from one level of the lobby to the other level of the lobby because the floor is deemed historic. However, all of the functions and amenities located on the elevated level of the lobby will also be available on the main level, which is the larger of the levels. Because of zoning restrictions, an elevator cannot be used to access the sunning areas that will be available for some of the rooftop rooms.

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 upon the Council’s consideration of the foregoing information, the Applicant’s representations regarding project design and construction, and all applicable legal requirements, the Council members present recommended approval of waiver for vertical accessibility based on extreme hardship in each of the four situations described in paragraph 5.

Having considered the foregoing information, together with the recommendation of the Council, the Commission hereby agrees with the Council’s recommendations, and concludes that action on the Application for Waiver be, and hereby is, GRANTED, upon the condition(s) stated above.


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 Americans with Disabilities Accessibility Implementation Act shall rest with the Building Official of the local government with permitted authority for the project. §553.513, Fla. Stat. 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 (1) year from the date of the Order unless the construction has commenced within that time.




Petitioner and all other interested 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 Paula P. Ford, Clerk of the Commission, Sadowski Building, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100 and with the appropriate District Court of Appeal not later than thirty (30) days after this Order is filed with the Clerk of the Commission. 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.

DONE AND ORDERED this 8th day of June, 2010, in Orlando, Florida.

  
RAUL L. RODRIGUEZ, AIA  
Chairman  
Florida Building Commission  
Department of Community Affairs  
Sadowski Building  
2555 Shumard Oak Boulevard  
Tallahassee, Florida 32399-2100

CERTIFICATE OF FILING AND SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing order has been filed with the undersigned Commission Clerk and furnished by U.S. Mail to the persons listed below this 26<sup>th</sup> day of July, 2010.

  
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Paula P. Ford  
Commission Clerk

Jack Humburg, M.A., C.R.C.  
Chairman, Accessibility Advisory Council  
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