

# ACCESSIBILITY ADVISORY COUNCIL

## GROUNDS FOR APPROVAL

- **Economic Hardship**

- Does the cost of providing vertical accessibility meet or exceed 20% of the cost of the alteration to the primary function area?
- If the 20% threshold is met, the waiver SHALL be granted.
- Does not apply to new construction.
  - Fit-outs/Build-outs are considered new construction

- **Historic Nature**

- Has the applicant provided documentation of the historic significance of the building?
- Would the historic significance of the structure be negatively impacted by the alterations applicant would have to make to provide accessibility?
- Can be combined with Technical Infeasibility or Economic Hardship

- **Technical Infeasibility**

- Is the structure built in a way that would otherwise place unnecessary, unreasonable, or extreme hardship on the applicant, if they were required to provide accessibility?
  - Has the applicant provided comments from a licensed design professional?
  - Would have to rebuild, demolish, encroach on property lines, etc.

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### The Palms NL Condo Association - WAV # 674

**Issue:** Vertical accessibility to the second floor of three apartment buildings.

**Project Type:** New construction

**Project Progress:** Under Design

#### **Project Description:**

The applicant is requesting a waiver from providing vertical accessibility to the second floor of three two-story apartment buildings. This is an affordable housing and privately funded project. According to the applicant, the cost of both installing the elevators and maintaining them on an annual basis makes this affordable housing project infeasible. As part of the project review, the Building Official of City of North Lauderdale indicated that an elevator is required for the two-story apartment buildings. The applicant alleges substantial financial costs will be incurred by the owner if the waiver is denied.

#### **Uploaded Documents:**

1. Owner Authorization
2. Construction Cost
3. Cost Estimates for Compliance
4. Licensed Design Professional Comments
5. Plans/Pictures

**Note:** Pursuant to Section 233 of the 8<sup>th</sup> Edition (2023) Florida Building Code (FBC), Accessibility, an apartment building which is privately funded falls outside the scope of the FBC, Accessibility.

#### **STAFF RECOMMENDATION:**

Staff recommends granting the request for waiver for vertical accessibility to the extent it has been made necessary on the basis that the project in question falls outside the scope of chapter 553, part II, Florida Statutes, and the Florida Building Code, Accessibility, 8<sup>th</sup> Edition (2023), and vertical accessibility to the second floors of the structures is therefore not required.

#### **553.509 Vertical accessibility.—**

(1) This part and the Americans with Disabilities Act Standards for Accessible Design do not relieve the owner of any building, structure, or facility governed by this part from the duty to provide vertical accessibility to all levels above and below the occupiable grade level, regardless of whether the standards require an elevator to be installed in such building, structure, or facility...

**553.507 Applicability.—**This part applies to:

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(1) All areas of newly designed and newly constructed buildings and facilities as determined by the federal standards established and adopted pursuant to s. 553.503.

### 233 RESIDENTIAL FACILITIES

**233.1 General.** *Facilities with residential dwelling units* shall comply with 233.

**233.2 Residential Dwelling Units Provided by Entities Subject to HUD Section 504 Regulations.**

Where *facilities with residential dwelling units* are provided by entities subject to regulations issued by the Department of Housing and Urban Development (HUD) under Section 504 of the Rehabilitation Act of 1973, as amended, such entities shall provide *residential dwelling units* with mobility features complying with 809.2 through 809.4 in a number required by the applicable HUD regulations. *Residential dwelling units* required to provide mobility features complying with 809.2 through 809.4 shall be on an *accessible* route as required by 206. In addition, such entities shall provide *residential dwelling units* with communication features complying with 809.5 in a number required by the applicable HUD regulations. Entities subject to 233.2 shall not be required to comply with 233.3.

**233.3 Residential Dwelling Units Provided by Entities Not Subject to HUD Section 504 Regulations.**

*Facilities with residential dwelling units* provided by entities not subject to regulations issued by the Department of Housing and Urban Development (HUD) under Section 504 of the Rehabilitation Act of 1973, as amended, shall comply with 233.3.

#### Items to be waived:

Vertical accessibility to the structure, as required by section 553.509, Florida Statutes.

553.509 Vertical accessibility. This part and the Americans with Disabilities Act Standards for Accessible Design do not relieve the owner of any building, structure, or facility governed by this part from the duty to provide vertical accessibility to all levels above and below the occupiable grade level, regardless of whether the standards require an elevator to be installed in such building, structure, or facility, except for:

- (a) Elevator pits, elevator penthouses, mechanical rooms, piping or equipment catwalks and automobile lubrication and maintenance pits and platforms;
  - (b) 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
  - (c) 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.
  - (d) Theaters, concert halls, and stadiums, or other large assembly areas that have stadium-style seating or tiered seating if ss. 221 and 802 of the standards are met.
  - (e) All play and recreation areas if the requirements of chapter 10 of the standards are met.
  - (f) All employee areas as exempted in s. 203.9 of the standards.
  - (g) Facilities, sites, and spaces exempted by s. 203 of the standards.
- (2) However, buildings, structures, and facilities must, as a minimum, comply with the Americans with Disabilities Act Standards for Accessible Design.

206.2.4 Spaces and Elements. At least one accessible route shall connect accessible building or facility entrances with all accessible spaces and elements within the building or facility

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which are otherwise connected by a circulation path unless exempted by 206.2.3 Exceptions 1 through 7.

- 402.2 Components Accessible routes shall consist of one or more of the following components: Walking surfaces with a running slope not steeper than 1:20, doorways, ramps, curb ramps excluding the flared sides, elevators, and platform lifts. All components of an accessible route shall comply with the applicable requirements of Chapter 4 and 208.3.1.

**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.

### MOTIONS

- I move to recommend that the Florida Building Commission approve this request for waiver on the grounds of \_\_\_\_\_.
  - Economic Hardship
  - Historic Nature
  - Technical Infeasibility
  
- I move to recommend that the Florida Building Commission deny this application.
  - No rationale necessary.
  
- I move to recommend that the Florida Building Commission defer this request for waiver to the next meetings of the Council and the Commission for the purpose of allowing the applicant to \_\_\_\_\_:
  - Submit requested information
  - Contact building official or building department
  - Etc.