

FILED	
Department of Business and Professional Regulation	
Senior Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	8/27/2021
File #	2021-06131

**STATE OF FLORIDA
BUILDING COMMISSION**

In the Matter of
SOBE HOSTEL
235 Washington Avenue
Miami Beach, FL 33139:

Rory Greenberg,
Petitioner.

VW 2021-133

FINAL ORDER

The Application for Waiver by Petitioner, Rory Greenberg, 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 August 10, 2021, upon the recommendations of the Accessibility Advisory Council (Council). At that meeting, the Commission made the following findings of fact:

1. The Owner is Rory Greenberg, 5 Island Avenue, Apt. 10 C, Miami Beach, FL 33139 (Petitioner).
2. Petitioner did not appear telephonically before the Council on July 29, 2021.
3. The project for which the Petitioner is seeking a waiver consists of the alteration of an existing two-story, 8,933 square foot hostel. The project is currently in plan review.
4. Petitioner provided a letter from the Department of State confirming that the structure is historic in nature, and that providing vertical accessibility would negatively impact historically-significant features. Petitioner asserts that they 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 2021 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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5. The requirements from which the Petitioner 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, Petitioner requests a waiver from providing vertical accessibility to the upper lobby reception area and restrooms of an existing historic hostel.

6. 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."

7. Based on consideration of the foregoing information, the description of the construction, the representations by the Petitioner, 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 historic nature of 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 Petitioner'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 19 day of AUGUST, 2021 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 27th day of August, 2021.

Brandon M. Nichols

Agency Clerk's Office
Department of Business and Professional
Regulation & Florida Building Commission
2601 Blair Stone Road
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