



# TEXAS DEPARTMENT OF LICENSING AND REGULATION

Compliance Division/Architectural Barriers Program

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## VARIANCE RESULTS

This form is issued by the Texas Department of Licensing and Regulation (TDLR) to document the results of the formal application submitted to the Department for a waiver or modification to Texas Government Code, Chapter 469, the Texas Architectural Barriers Act; the Architectural Barriers Administrative Rules; or the Texas Accessibility Standards (TAS). The owner of the referenced building or facility and the person making the submission has been advised of this determination.

GREGG WESTON  
LAKABO 4 LP  
112 E PECAN ST 1212  
SAN ANTONIO TX 78205

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ATTN GREGG WESTON  
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SAN ANTONIO TX 78205

(1 of 1)

☐ New ☐ Addition  
☒ Alteration ☐ Historic  
☐ State Lease

(Person Making the Submission)

(Building / Facility Owner)

EABPRJ: B7000101

| Project Information:                                                                                                                               |                              |
|----------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|
| Project Name:                                                                                                                                      | 444 BUILDING PROJECT 0012017 |
| Facility:                                                                                                                                          | 444 BUILDING                 |
| Location:                                                                                                                                          | 444 E SAN ANTONIO ST         |
| City:                                                                                                                                              | NEW BRAUNFELS TX 78130       |
| Item(s) Requested to Waive or Modify:                                                                                                              | TAS Section #:               |
| To waive the TAS requirement for an accessible route from the rental building to the water line of the river below based on disproportionate cost. | 106.5.25<br>402              |

The following decision is based on the information and supporting documentation submitted to the department and has been issued in accordance with Chapter 469.151 and 469.152. It does not address compliance with the Americans with Disabilities Act (ADA) or any other local, state, or federal requirements. For information on the ADA, please contact the regional ADA Hotline at (800) 949-4232, or the United States Department of Justice at (202) 514-0301.

☐ Approved ☐ Disapproved ☒ Postponed ☐ Not Required ☐ Mixed

| Comments:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>This variance application seeks relief from the TAS requirement to provide a compliant accessible route from the rental office to the edge of the river below. The nature of the terrain from the office to the river's edge is excessively steep and would not lend itself to a conventional accessible route such as a walking path or hiking trail.</p> <p>Based on Sec.469.152 (2), TAS 202.3, TAS 202.3.1 and TAS 402, it was not demonstrated that compliance with the applicable provisions of TAS could not have been achieved at the initial time of design and construction. Therefore, the request for a variance to waive compliance with TAS 402 is <u>disapproved</u>.</p> <p>However, based on Sec.469.151 (2), TAS 106.5.25, and information and documentation from the owner that compliance with TAS would be disproportionate to the cost of the overall alteration; this Department will allow compliance with TAS 404 to be <u>postponed</u>.</p> <p>The owner provided sufficient documentation detailing the cost to provide a Marine Incline Elevator as an accessible route to be \$130,544 based on a bid from Austin Dock &amp; Tram Company. The project cost was approximately \$10,000.</p> <p>This postponement is valid only until such time that future alterations or renovations are initiated or until a complaint is filed, whichever comes first.</p> |

This variance is applicable only to the referenced project number unless noted otherwise and is not intended to imply that similar or future projects will be issued the same results nor does it alleviate compliance with any other codes or standards.

A denial of a Variance Application may be appealed in writing within thirty (30) calendar days from issuance of the decision, upon payment of the \$200 appeal fee. Supporting documentation such as plans of all affected areas, photos, cost analyses, and code references not previously reviewed may be submitted for consideration. An appeal form is not required.

A decision made by the Department will not be changed based on a telephone call, email, meeting, or any other means of communication that is not submitted in writing as an appeal.

|                                    |                            |
|------------------------------------|----------------------------|
| Signature: <i>Michael Fleharty</i> | Date: <i>June 23, 2017</i> |
| Printed Name: Michael Fleharty     | Title: Program Specialist  |

ATTACHMENT 7