

SETTLEMENT AGREEMENT BETWEEN

THE UNITED STATES OF AMERICA

AND

THE CITY OF CLAREMONT, NEW HAMPSHIRE

DEPARTMENT OF JUSTICE COMPLAINT NUMBER 204-47-50

A. BACKGROUND

- 1 This matter was initiated by a complaint filed under title II of the Americans with Disabilities Act of 1990 ("ADA"), 42 U.S.C. §§12131-12134, with the United States Department of Justice through the U.S. Attorney's Office for the District of New Hampshire ("Department"), against the City of Claremont, New Hampshire ("City"). The complainant alleges that the City has violated title II of the ADA and the Department of Justice's implementing regulation, 28 C.F.R. Part 35, because the Visitor's Center building ("the Visitor's Center"), located at 14 North Street, is not accessible to individuals with mobility impairments.
2. The parties to this Settlement Agreement ("Agreement") are the United States of America and the City of Claremont, New Hampshire.
3. The Department of Justice is authorized under 28 C.F.R. Part 35, Subpart F, to investigate fully the allegations of the complaint in this matter to determine whether the City complied with title II of the ADA and the Justice Department's implementing regulation; issue findings; and, where appropriate, negotiate and secure voluntary compliance agreements. Furthermore, the Attorney General is authorized under 42 U.S.C. § 12133 to bring a civil action enforcing title II of the ADA should the Department of Justice fail to secure voluntary compliance pursuant to Subpart F.
4. The City of Claremont, New Hampshire, is a public entity as defined in the Department of Justice's regulation implementing title II. 28 C.F.R. § 35.104.
5. Because the Visitor's Center was constructed after January 26, 1992, it is required to be readily accessible to and usable by persons with disabilities, in accordance with the (1) the Department's title II regulations and (2) ADA Standards for Accessible Design ("Standards") or the Uniform Federal Accessibility Standards ("UFAS"), 28 C.F.R. § 35.151. The Parties agree that the technical requirements of the Standards apply to the Visitor's Center.
6. The parties have decided to resolve this matter as set forth below without adjudication of factual and legal disputes. This Agreement applies to the programs, services, and activities offered at the Visitors Center only. At the time of signing, the Department of Justice and the City of Claremont are unaware of any other violations of the ADA at this facility.

B. REMEDIAL ACTION

7. In consideration of, and consistent with, the terms of this Agreement as set forth below, the Attorney General agrees to refrain from filing a civil suit in this matter, except as provided for in the "Implementation and Enforcement" section of this Agreement. Remedies for violating this Agreement are set out below.
8. In order to ensure that each of the City's programs, services, and activities operating at the Visitors Center is readily accessible to and usable by persons with mobility impairments, the City will take the following actions in accordance with the schedule set forth in this Agreement:

9. PARKING

- a. Prior to December 31, 2006, the City will create a properly-marked van-accessible parking space that complies with the Standards, including Standards §§ 4.1.2 (5) and 4.6. The City will provide an access aisle for the van-accessible space that is at least 96 inches wide. See Standards §§ 4.1.2(5) and 4.6.3. The City will ensure that the space has proper signage and striping in accordance with the Standards. See Standard 4.6.3.
- b. The slope of the parking space and access aisle will not exceed 1:50 in all directions.
- c. The curb ramp from the parking area to the sidewalk will not have a slope of more than 1:12.
- d. If the ramp rise is more than six inches or the horizontal ramp projection is more than 72 inches, then handrails will be installed on both sides of the ramp. If the ramp is not protected on both sides by handrails or guardrails, then it will have a flared side with a slope of no more than 1:10. Side flares will not project into the access aisle. See Standards §§ 4.3.8, 4.7.2, 4.7.5, 4.8.2, and 4.8.5.
- e. Prior to commencing work, the City will submit a sketch of the proposed parking area that demonstrates its compliance with the above parameters. Within 30 days of receiving the sketch, the Department will either approve the sketch or request changes in order to ensure that the parking area complies with the Standards. The City agrees to implement any changes to ensure that the parking area complies with the Standards.

10. Planning Office Parking

- a. Prior to December 31, 2006, the City will post prominent "No Parking" signs in the area currently used for planning office parking. The area will not be used for parking for either employees or the public.
- b. Prior to December 31, 2006, the City will pave the area outside the planning office in order to create a stable ground surface. This will ensure that individuals with mobility impairments can exit the lower level in the event of a fire or other emergency. See Standards §§ 4.1.2(2), 4.1.3(9), 4.3, and 4.3.10, and 4.5.

11. **North Street Exterior Route and Entrance**

- a. Prior to June 30, 2006, the City will hire a surveyor and submit a sworn statement to the Department regarding the running slope of the sidewalk leading the North Street entrance.
- b. In the event that all or part of the sidewalk leading to the North Street entrance exceeds a 1:20 slope, the City will take appropriate action to upgrade the sidewalk to ensure that the slope complies with the Standards. Any such corrective action will be completed prior to December 31, 2006.
- c. Prior to December 31, 2006, the City will remove the one inch lip between the sidewalk and the North Street entrance by grinding it down to a height of less than ½ inch. See Standard 4.3.8.

12. **East and West Side Exterior Routes**

- a. Prior to December 31, 2006, the City will construct a sidewalk from the entrance on the west side of the building that will connect to the sidewalk that encircles the “jug handle” outside the building. The running slope will not exceed 1:20 and the cross slope will not exceed 1:50. See Standards §§ 4.1.3(1) and 4.3.7.
- b. Prior to December 31, 2006, the City will install handrails, edge protection, and a landing on the ramp located at the east side entrance. See Standards §§ 4.8.4, 4.8.5, and 4.8.7.
- c. Prior to commencing work on the sidewalk, the City will submit a detailed sketch of the proposed sidewalk that demonstrates its cross slope, running slope, and side slope, as well as a detailed sketch of the proposed changes to the east side ramp. Within 30 days of receiving the sketches, the Department will either approve the sketches or request changes in order to ensure that the proposals comply with the Standards. The City agrees to implement any changes to ensure that the construction complies with the Standards.

13. **Interior Routes**

- a. Prior to December 31, 2007, the City will install a full passenger elevator to provide access between the floors of the building. Pursuant to 28 C.F.R. § 35.151(c), the elevator exemption contained in the Standards does not apply to public facilities.
- b. Prior to commencing work on the elevator, the City will submit detailed sketches and specifications to the Department. Within 30 days of receiving this information, the Department will either approve the proposal or suggest changes in order to ensure that the elevator complies with the Standards. The City agrees to implement any changes to ensure that the elevator complies with the Standards.

14. **Break Room**

- a. Prior to December 31, 2006, the City will ensure that at least one of each type of storage space, as well as the sink and a portion of the counter in the break room are accessible. See

Standards §§ 4.1.3(12)(a), 4.2.3, 4.2.5, and 4.2.6 The City will also ensure that the entrance to the break room has sufficient turning space and an accessible entrance. See Standards §§ 4.2.3 and 4.13.5.

- b. Prior to commencing work on the break room, the City will submit a detailed sketch of a proposed layout to the Department. Within 30 days of receiving this information, the Department will either approve the proposal or suggest changes in order to ensure that the break room complies with the Standards. The City agrees to implement any changes to ensure that the break room complies with the Standards

15. Public Toilet Rooms

- a. Prior to December 31, 2006, the City will either construct a unisex ADA-compliant toilet room on the first floor or retrofit the existing men's and women's restrooms to bring them into compliance with the ADA, including providing adequate maneuvering clearance, signage, and lavatory height. See Standards §§ 4.1.2.(7)(d), 4.1.3(16), 4.19.2, 4.22, and 4.30.
- b. Prior to December 31, 2006, the City will modify its lower level unisex restroom by providing ADA-compliant door knob hardware, insulating hot water and drain pipes, relocating the toilet and installing ADA-compliant signage and grab bars. See Standards 4.1.2(7)(d), 4.1.3(16)(a), 4.13.9, 4.16.4, 4.19.4, 4.22, and 4.30.
- c. Prior to commencing work on the toilet rooms, the City will submit detailed sketches of the proposed changes to the Department. Within 30 days of receiving this information, the Department will either approve the proposals or suggest changes in order to ensure that the toilet rooms comply with the Standards. The City agrees to implement any changes to ensure that the toilet rooms comply with the Standards

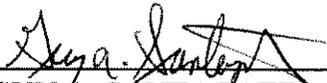
C. IMPLEMENTATION AND ENFORCEMENT

16. By January 31, 2007, and January 31, 2008, the City will submit written reports to the Department summarizing the actions the City has taken pursuant to this Agreement. Reports will include photographs that clearly show conformance to the requirements outlined in this Agreement.
17. If, at any time, the City desires to modify any portion of this Agreement because changed conditions make performance impossible or impractical or for any other reason, it will promptly notify the Department in writing, setting forth the facts and circumstances thought to justify modification and the substance of the proposed modification. Until there is a written Agreement by the Department to the proposed modification, the proposed modification will not take effect. These actions must receive the prior written approval of the Department, which approval shall not be unreasonably withheld or delayed.
18. The Department may review compliance with this Agreement at any time. If the Department believes that this Agreement or any portion of it has been violated, it will so notify the City in writing and it will attempt to resolve the issue or issues in good faith. If the Department is unable to reach a satisfactory resolution of the issue or issues raised within 30 days of the date it provides

notice to the City, it may institute a civil action in federal district court directly to enforce title II or to enforce the terms of this Agreement.

19. For purposes of the immediately preceding paragraph, it is a violation of this Agreement for the City to fail to comply in a timely manner with any of its requirements without obtaining sufficient advance written agreement with the Department for an extension of the relevant time frame imposed by the Agreement.
20. Failure by the Department to enforce this entire Agreement or any provision thereof with regard to any deadline or any other provision herein shall not be construed as a waiver of the Department's right to enforce other deadlines and provisions of this Agreement.
21. A copy of this document or any information contained in it may be made available to any person by the City or the Department on request.
22. The effective date of this Agreement is the date of the last signature below.
23. This Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or agents of either party, that is not contained in this written Agreement, shall be enforceable. This Agreement does not purport to remedy any other potential violations of the ADA or any other federal law. This Agreement does not affect the City's continuing responsibility to comply with all aspects of the ADA.
24. This Agreement will remain in effect for three years from the effective date of this Agreement, or until the parties agree that full compliance with this Agreement by the City has been achieved.
25. The person signing for the City of Claremont represents that he is authorized to bind the City to this Agreement.

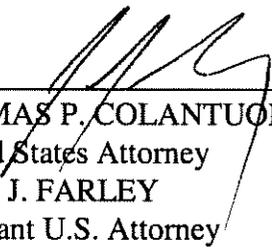
For the City:



GUY A. SANTAGATE
City Manager
City of Claremont, New Hampshire

Dated: 4/26/06

For the United States:

By: 

THOMAS P. COLANTUONO
United States Attorney
JOHN J. FARLEY
Assistant U.S. Attorney
U.S. Attorney's Office
District of New Hampshire

Dated: April 4, 2006

SEARCHED INDEXED

SERIALIZED FILED