

**SETTLEMENT AGREEMENT BETWEEN
THE UNITED STATES OF AMERICA**

AND

THE TOWN OF WHEELOCK, VERMONT

DJ NUMBER: 204-78-45

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 ("United States"), against the Town of Wheelock, Vermont ("Town"). The complainant alleges that the Town violated Title II of the ADA and its implementing regulation, 28 C.F.R. Part 35, because a Town facility ("Town Hall") is not accessible to individuals with mobility impairments.
2. The parties to this Settlement Agreement ("Agreement") are the United States and the Town of Wheelock, Vermont.
3. The U.S. Attorney's Office is authorized under the ADA to determine HCA's compliance with Title II of the ADA and Title II's implementing regulation, and to resolve the matter by informal resolution, such as through the terms of this settlement agreement. If informal resolution is not achieved, the U.S. Attorney's Office is authorized to issue findings, and, where appropriate, to negotiate and secure voluntary compliance agreements. 28 C.F.R. pt. 35, Subpart F. The Attorney General is authorized, under 42 U.S.C. § 12133, to bring a civil action to enforce Title II of the ADA.
4. The Town is a public entity as defined in the Title II regulation. 28 C.F.R. § 35.104.
5. Public entities are required to ensure that no qualified individual with a disability shall, because a public entities' facilities are inaccessible to or unusable by individuals with disabilities, be excluded from participation in, or be denied the benefits of the services, programs or activities of a public entity. 28 CFR 35.149.
6. The Town Hall is an existing facility, and therefore, the Town is obligated to operate each service, program or activity, when viewed in its entirety, to be readily accessible to and usable by individuals with disabilities. 28 C.F.R. 35.150. If physical changes are necessary to ensure program accessibility in existing facilities, these changes are required to comply with the ADA's accessibility requirements, including the 2010 ADA Standards for Accessible Design. 28 C.F.R. § 35.151.

7. 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 Town Hall specifically referenced in this Agreement only.

REMEDIAL ACTION

8. 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.
9. In order to ensure that each of the Town Hall's programs, services, and activities are readily accessible to and usable by individuals with disabilities, including persons who use wheelchairs, the Town has either taken or will take the following actions set forth in subparagraphs 10-15 below, in accordance with the schedule set forth in this Agreement.

10. Parking

- a. The Town will continue to ensure that the Town Hall parking lot contains at least one van-accessible parking space, located on the shortest accessible route to the designated accessible entrance. See 2010 Standards §§ 208.2.2, 208.2.4, 208.3, 502.
- b. The Town will ensure that the designated accessible parking space, the adjacent access aisle, and the route to the designated accessible entrance is cleared of snow and ice during all times when the building is open. 28 C.F.R. 35.133.
- c. The Town will designate its van parking space with a sign containing the designation "van accessible." See 2010 Standards §§ 216.5 and 502.6.

11. Accessible Entrance

- a. The Town has removed and replaced the exterior light sconce protruding into the circulation path on the ramp, and has ensured that the replacement sconce protrudes no more than four inches into the circulation path. See 2010 Standards §§ 204.1, 307.2. It will continue to ensure that this path is unobstructed.
- b. The Town has installed a new handrail on the driveway side of the ramp, ensuring that the handrail has a proper gripping surface and is unobstructed by the existing balusters. See 2010 Standards §§ 206.2.1, 405.8, 505.6, and 505.7.2.
- c. The Town has ensured that the handrails on the ramp continue to the bottom portion of the ramp, properly extend beyond the top and bottom of the ramp run, and return to a wall, guard, or landing surface. See 2010 Standards §§ 206.2.1, 405.8, 505.4, and 505.10.1.

- d. The Town has installed a directional sign indicating the location of the designated accessible entrance at the inaccessible west entrance of the building. See 2010 Standards §§ 216.6 and 703.5.
- e. The Town has installed, and will continue to maintain, an accessible door handle on the designated accessible entrance door. See 2010 Standards §§ 309.4 and 404.2.7.

12. Interior Stairs

- a. The Town has ensured that the underside of the leading edge of the tread nosing on the west-side interior stairs is curved or beveled. See 2010 Standards §§ 210.1 and 504.5.
- b. The Town has installed stable, firm, and slip resistant treads on the top half set of the west- side interior stairs. See 2010 Standards §§ 210.1, 504.4, and 302.1.
- c. The Town has installed handrails on both sides of the west-side interior stairs. See 2010 Standards §§ 210.1, 504.6, and 505.2.
- d. The Town will ensure that the handrails on the west-side interior stairs extend at the slope of the stair flight for a horizontal distance at least equal to one tread depth beyond the last riser nosing, and that the handrail extension shall return to a wall, guard, or the landing surface. See 2010 Standards §§ 210.1, 504.6, and 505.10.3.

13. Restrooms

- a. The Town will continue to post a tactile sign with raised characters and Braille to indicate the location of the toilet room. See 2010 Standards §§ 216.2, 703.1, 703.2, and 703.5.

14. Program Accessibility

- a. To the maximum extent possible, the Town has ensured that all public programs, services, and activities operating at the Town Hall are held in an accessible space. See 42 U.S.C. Subchapter II, Part A. Methods may include relocating meetings to an accessible space and/or allowing individuals to participate from other locations. See 28 CFR 35.150(b).

15. General

- a. The Town will continue to post a public notice designating a Town employee as a contact person for accommodation requests.
- b. The Town has moved the Town Clerk's office desk to create an accessible pathway into and around the public areas of the Town Clerk's office and will continue to ensure its accessibility. See 2010 Standards §§ 206.2.4 and 403.5.1.

PROSPECTIVE REMEDIAL ACTION

16. In consideration of the Town's need to receive voter approval for large projects and spending, the Parties agree that the Town will take the following steps to secure approval for the necessary improvements:

- a. By December 31, 2021, the Town Selectboard will create a proposal regarding Town Hall accessibility ("Town Hall Accessibility Proposal") and will share the same with the Department of Justice.
- b. By Town Meeting Day, March 2022, the Town will hold a vote wherein residents vote on whether to approve the Town Hall Accessibility Proposal.
- c. If the Town voters approve the Town Hall Accessibility Proposal, in April 2022, the Town will contract with relevant professionals to create construction bid documents by August 2022.
- d. If the Town voters have approved the Town Hall Accessibility Proposal, and the construction bid documents have been received by July 2022, the Selectboard will prepare to fulfill the legal requirements to bring a bond proposal to the voters for the purpose of borrowing funds to pay for the project, subject to reductions from grant funding. This will entail meeting the noticing requirements and holding a public hearing.

If the Town voters approve the Town Hall Accessibility Proposal bond vote in September 2022, and if the bond vote passes, the Town will put the construction project out to bid and begin construction no later than July 2023.

17. The Town Hall Accessibility Proposal will enable the Town to achieve the following:

- a. The Town will ensure that all public programs, services, and activities operating at the Town Hall are accessible to people with disabilities. See 28 C.F.R. § 35.149.
- b. The Town will ensure that the path of travel from the accessible parking area to the accessible entrance includes a firm and stable slip-resistant surface. See 2010 Standards §§ 502.4, 302.
- c. The Town will ensure that the path of travel to the restrooms is accessible and free of obstruction. See 2010 Standards §§ 213.1 and 402.1.
- d. The Town will ensure that restroom entrances and features are compliant with Standards. See 2010 Standards §§ 213 and 603.
- e. The Town will install directional signs including the International Symbol of Accessibility to indicate the location of the nearest accessible toilet room. See 2010 Standards §§ 216.8, 703.5, and 703.7.2.1.

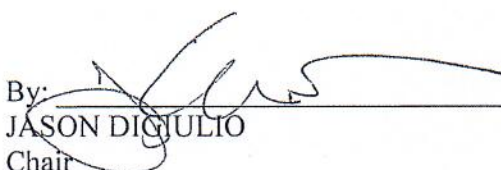
- f. The Town will identify accessible toilet rooms with signs including the International Symbol of Accessibility. See 2010 Standards §§ 216.8 and 703.7.2.1.

IMPLEMENTATION AND ENFORCEMENT

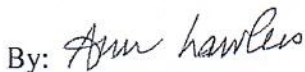
18. By April 15, 2020, August 15, 2020, and November 15, 2020, the Town will submit written reports to the United States summarizing the actions the Town has taken pursuant to this Agreement. Reports will include, if relevant, photographs that clearly show conformance to the requirements outlined in this Agreement.
19. If, at any time, the Town 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 United States 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 United States to the proposed modification, the proposed modification will not take effect. These actions must receive the prior written approval of the United States, which approval shall not be unreasonably withheld or delayed.
20. The United States may review compliance with this Agreement at any time. If the United States believes that this Agreement or any portion of it has been violated, it will so notify the Town in writing and it will attempt to resolve the issue or issues in good faith. If the United States is unable to reach a satisfactory resolution of the issue or issues raised within 30 days of the date it provides notice to the Town, it may institute a civil action in federal district court directly to enforce Title II or to enforce the terms of this Agreement, or it may initiate appropriate administrative or legal steps to enforce section 504 of the Rehabilitation Act.
21. The United States may review compliance with this Agreement at any time. If the United States believes that this Agreement or any portion of it has been violated, it will so notify the Town in writing and it will attempt to resolve the issue or issues in good faith. If the United States is unable to reach a satisfactory resolution of the issue or issues raised within 30 days of the date it provides notice to the Town, it may institute a civil action in federal district court directly to enforce Title II or to enforce the terms of this Agreement, or it may initiate appropriate administrative or legal steps to enforce section 504 of the Rehabilitation Act.
22. Failure by the United States 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 United States' right to enforce other deadlines and provisions of this Agreement.
23. The effective date of this Agreement is the date of the last signature below.
24. 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.
25. 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 Town's continuing responsibility to comply with all aspects of the ADA.

26. This Agreement is a public document. A copy of this document may be made available to any person by the Town or the United States.
27. This Agreement will remain in effect for three years from the effective date of this Agreement.
28. The persons signing for the Town of Wheelock represent that they are authorized to bind the Town to this Agreement. The signatures of at least three members of the Selectboard shall be sufficient to make this Agreement binding upon the Town.

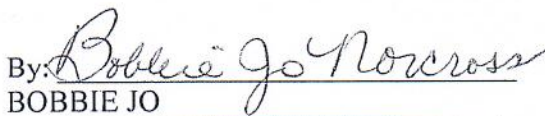
For the Town:

By: 
JASON DIGIULIO
Chair
Wheelock Selectboard

Dated: _____

By: 
ANN LAWLESS
Member
Wheelock Selectboard

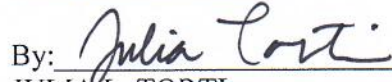
Dated: 5/6/2020

By: 
BOBBIE JO
NORCROSS
Member
Wheelock Selectboard

Dated: 5-13-20

For the United States

CHRISTINA E. NOLAN
United States Attorney

By: 
JULIA L. TORTI
Assistant U.S. Attorney
U.S. Attorney's Office
District of Vermont
Dated: 5/22/2020