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Township of Middletown

RECEIVED

FEB 28 2006

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY
AT 8:30
WILLIAM T. WALSH
CLERK

Advocates for Disabled
Americans (AFDS): Carolyn
Schwebel; Carmena Stoney

CASE NO. 04-3030 (SRC)

Plaintiff

v.

CIVIL ACTION

TOWNSHIP OF MIDDLETOWN

Defendant

CONSENT ORDER

THIS MATTER having come before the Court by the attorneys for the defendant, Dowd & Reilly, and the parties representing to the Court that all issues concerning the injunctive relief sought in plaintiff's Complaint are settled, and the Court having considered the positions of the parties, and in consideration for the mutual promises made between the parties, and the parties having agreed as follows; and good cause having been shown:

IT IS on this 27th day of February, 2006, **ORDERED** as follows:

1. This consent Order is designed to resolve the disputes between the parties with regard to this lawsuit. This Consent Order is being entered by mutual agreement of the parties solely for the purpose of settlement. It is understood and agreed that this Consent Order is settlement of disputed claims, and that it shall not constitute an adjudication on the merits of this lawsuit and shall not be construed as an admission by the defendant of a

violation of the Americans With Disability Act and the Rehabilitation Act of 1973 or other Federal or State Civil Rights Laws.

2. References made to the "plaintiff's expert report" shall mean the report titled "Township of Middletown" authored by William B. Cody, M.Ed. and submitted to the Township on November 28, 2004.

3. The Township shall prepare and adopt a Transition Plan that pursuant to 25 C.F.R. Section 35.150 within one year of the entry of this Order.

4. The violations outlined in "plaintiff's expert report" which exist in Town Hall and the New Monmouth Road Library shall be remedied within 180 days of the entry of this Order. **It is understood by all parties that the Middletown Township Public Library is a separate and exclusive entity established pursuant to N.J.S.A. 40:54-1 which controls all branches of libraries located in the Township. The Township shall exert all due influence to compel the Middletown Township Public Library to abide by the terms of this Order.**

5. To the extent of the Townships control, all other Township Libraries including the following branches, Bayshore, Navesink and Lincroft shall be compliant with the ADA within two years of the entry of this Order. **It is understood by all parties that the Middletown Township Public Library is a separate and exclusive entity established pursuant to N.J.S.A. 40:54-1 which controls all branches of libraries located in the Township. The Township shall exert all due influence to compel the Middletown Township Public Library to abide by the terms of this Order.**

6. Township parks which include the following: Tindall, Normandy, Ideal Beach, Bodman, Kunkle and Port Monmouth Beach shall be made ADA compliant at a rate of two

parks per year, beginning in the year of the entry of this Order. Said compliance shall be subject to the Township Transition Plan adopted pursuant to 25 C.F.R. Section 35.150.

7. All Township employees who have responsibility for enforcement of disability access of public buildings or inspection of buildings to be accessed by the general public shall be learned in and if necessary shall attend classes regarding disabled persons accessibility codes with the New Jersey Department of Civil Rights of the Department of Community Affairs

8. All new construction of Township's facilities shall be constructed in compliance with the ADA and the New Jersey Barrier Free Codes.

9. The Township shall submit periodic written reports regarding its progress with ADA compliance to the plaintiffs for review.

10. The completion of alterations outlined herein shall be subject to review by the plaintiff's expert at the Township's expense subject to the Township's right to make application to the Court as to the reasonableness of plaintiff's expert's fees. Any alterations which are found to be non-ADA compliant will be made so within 90 days.

11. The Township shall pay to plaintiffs damages, attorneys fees, and expert fees in an amount to be negotiated. Should said amount not be negotiated prior to February 28, 2006, then the parties shall agree upon an arbitrator whom shall be qualified as no less than a retired State Superior Court Judge within 30 days thereof and said matter shall be arbitrated subject to the arbitrator's schedule within 30 days of choosing same. The decision of the arbitrator shall be binding on all parties. The cost of the arbitration shall be borne by both parties.

12. The complaint of plaintiff be and hereby is dismissed with prejudice.

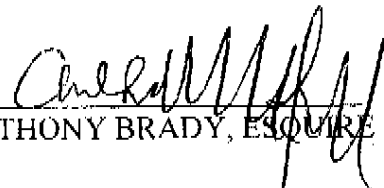
13. The District Court shall retain jurisdiction for purposes of enforcement of this Order.

The undersigned hereby consent to the entry of the within Consent Order. The undersigned advise that they are expressly authorized to enter into the within Order.

ADVOCATES FOR DISABLED AMERICANS

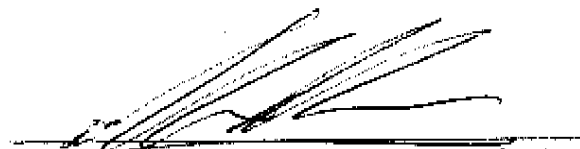
Carolyn Schwebel, Individually

Carmena Stoney, Individually

BY: 
ANTHONY BRADY, ESQUIRE

TOWNSHIP OF MIDDLETOWN

BY: 
ROBERT CZECII
Township Administrator


HONORABLE JOHN J. HUGHES, U.S.M.
