

Dowd & Reilly
90 Maple Avenue
Red Bank, New Jersey 07701
(732) 530-7777
Attorneys for Defendant
Township of Middletown

RECEIVED

AUG - 1 2007

AT 8:30 _____ M
WILLIAM T. WALSH
CLERK

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

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

Plaintiff

CASE NO. 04-5030 (SRC,

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 implementation of the Consent Order entered February 27, 2006 are settled, same having been subject to mediation and arbitration as provided for in said February 27, 2006 Consent Order, 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 31st day of July, 2007, **ORDERED** as follows:

1. The provisions of the Consent Order entered on February 27, 2006 entered in the within matter shall remain in full force and effect except as modified here within.
2. The Township of Middletown shall issue a check made payable to the trust account of Anthony Brady, Esquire in the amount of \$45,000.00 in full and total payment

and satisfaction of any and all current damages claimed by the plaintiffs and any claim for legal fees. This check shall be issued no later than July 20, 2007.

3. The Township shall obtain a Transition Plan according to 28 C.F.R. § 35.150 according to the following schedule of events:

The Township will publish a RFP (Request for Proposal) seeking qualified bids for completion of an ADA Compliance Plan (Transition Plan) pursuant to 28 C.F.R.

§ 35.150 on or before September 15, 2007. The specifications of the RFP shall require a complete Transition Plan for the Township of Middletown including an implementation schedule which shall address the necessity of ADA requirements pursuant to requirements of the Transition Plan.

The RFPs shall require submission of qualified bids no later than November 15, 2007.

The Township shall award a contract for preparation of a Transition Plan pursuant to 28 C.F.R. § 35.150 not later than February 1, 2008. Said Plan shall be completed by August 1, 2008.

Plaintiffs, any other interested parties as mandated by 28 C.F.R. § 35.150, herein shall have the right to review and suggest input, changes or amendments to the Transition Plan during all stages presented to the Township.

The Township shall appoint an ADA coordinator who shall be responsible for receipt and response to all resident complaints and queries. Said coordinator shall be appointed not later than August 15, 2007 and said appointment shall be made known to the public through posting and/or publication. Said coordinator shall receive training in the requirements for success.

Should the Township fail to complete the outlined events by the dates set forth above, the Township shall pay a penalty of \$10,000 to the plaintiffs for each said non-occurrence.

4. The Township shall provide to plaintiff's counsel written confirmation of the remediation of all violations outlined in "plaintiff's expert report" as referenced in paragraph 4 of the February 27, 2006 Consent Order under the Township's direct control within 30 days.

5. The Township shall provide to plaintiff's counsel a written status report concerning the progress of completion of events outlined herein within 60 days of the entry of this Order and every 60 days thereafter until the Township receives a completed Transition Plan.

6. The District Court shall retain jurisdiction for purposes of enforcement of this Order. Any and all enforcement of the terms of the within Order shall be referred to in the first instance arbitration by Benchmark Resolution Services, LLC for binding arbitration. Enforcement of any and all arbitration findings shall be on application to the Federal District Court or other Court of competent jurisdiction if necessary. It is agreed that the prevailing party shall be entitled to reasonable attorney fees at the discretion of the Court as part of said application in accordance with the Civil Rights Laws.

Agreement shall be posted on the defendant's web site.

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

ADVOCATES FOR DISABLED AMERICANS

Carolyn Schwebel, Individually
Carmena Storey, Individually


BY:


ANTHONY BRADY, ESQUIRE

TOWNSHIP OF MIDDLETOWN


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

BY:

 5/14/07
ROBERT CZECH
Township Administrator