

RESOLUTION NO. 2193

A RESOLUTION OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE A SETTLEMENT AGREEMENT WITH THE STATE OF ARIZONA, OFFICE OF THE ATTORNEY GENERAL, CIVIL RIGHTS DIVISION.

WHEREAS, on or about April 15, 2005, a complaint was filed in the Office of the Arizona Attorney General, Civil Rights Division, alleging non-compliance with the Arizonans with Disabilities Act at the Town's Green Valley Park facilities; and

WHEREAS, after investigating such allegations, the Office of the Arizona Attorney General, Civil Rights Division, and the Town of Payson negotiated a settlement agreement whereby all claims against the Town under complaint number 05-3514 would be released; and

WHEREAS, for such purpose, a Settlement Agreement Between Civil Rights Division and Respondent has been prepared,

NOW, THEREFORE, THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, DO HEREBY RESOLVE AS FOLLOWS:

Section 1. That the Settlement Agreement Between Civil Rights Division and Respondent, attached hereto as Exhibit "A" and incorporated herein as though set forth in full at this point, be and is hereby approved in substantially the form as set forth in said Exhibit "A".

Section 2. That F. Robert Edwards, Mayor of the Town of Payson, be and is hereby authorized to execute such Agreement in substantially the form attached.

Section 3. That the Town of Payson be and hereby is authorized to take such other and further actions as are necessary or appropriate to carrying out the purposes of such Agreement.

PASSED AND ADOPTED BY THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, this ____ day of _____, 2006, by the following vote:

AYES _____ NOES _____ ABSTENTIONS _____ ABSENT _____

F. Robert Edwards, Mayor

ATTEST:

APPROVED AS TO FORM:

Silvia Smith, Town Clerk

Samuel I. Streichman, Town Attorney

EXHIBIT "A"

to Resolution No. 2193

STATE OF ARIZONA

OFFICE OF THE ATTORNEY GENERAL

CIVIL RIGHTS DIVISION

1		
2		
3		
4	William D. Stokes)
5	Complainant,) CRD NO. 05-3514
6	v.)
7	Town of Payson Parks and)
8	Recreation,) SETTLEMENT AGREEMENT BETWEEN
9	Respondent.) CIVIL RIGHTS DIVISION AND
) RESPONDENT
)
)

10 This Agreement is made between the Civil Rights
 11 Division of the Arizona Attorney General's Office (the
 12 "Division") and Respondent Town of Payson Parks and Recreation
 13 ("Payson"). A complaint of public accommodations discrimination
 14 based on disability was filed with the Division by Complainant
 15 William D. Stokes against Respondent pursuant to the Arizonans
 16 with Disabilities Act (AzDA), A.R.S. §41-1492 et seq. The
 17 Division issued a reasonable cause finding on the portion of Mr.
 18 Stokes' complaint that related to Payson's Green Valley Park
 19 parking lot, but issued a no cause determination on that portion
 20 of Mr. Stokes' complaint relating to Payson's treatment of Mr.
 21 Stokes, personally. Although Payson was willing to conciliate,
 22 the Division, Mr. Stokes and Payson were not able to reach a
 23 conciliation agreement within thirty days of the issuance of
 24 that cause finding, but Payson has agreed that it will remedy
 25 the parking issues that exist at the Green Valley Park.
 26

1 Accordingly, the Division and Payson (hereinafter, "the
 2 parties") have conferred and hereby voluntarily agree to and do
 3 resolve the issues in the complaint on the following terms:

4 I

5 This Agreement will not constitute or evidence an
 6 admission by the parties that an act or practice made unlawful
 7 by A.R.S. §41-1492 et seq. occurred, nor should any such
 8 inference be drawn.

9 II

10 Subject to the fulfillment by Payson of each of the
 11 obligations set forth in this Agreement, the Division agrees to
 12 close complaint CRD No. 05-3514 and to release the claims
 13 against Payson with respect to the matters which were alleged in
 14 complaint CRD No. 05-3514 and the subsequent cause finding
 15 issued by the Division.
 16

17 III

18 Although the Division does not waive its right to
 19 process any other complaint against Payson, the Division does
 20 waive its right to file a Divisional complaint against Payson
 21 relating to the matters which were alleged in the complaint in
 22 CRD No. 05-3514, except as otherwise provided in this Agreement.
 23 The Division has the right to make reasonable inquiry and
 24 investigation regarding compliance with this Agreement. The
 25
 26

1 Division further has the right to enforce the Agreement through
 2 all available means, including but not limited to, the
 3 institution of litigation in any court with jurisdiction should
 4 Payson fail to comply with any of the terms of this agreement.

5 IV

6
 7 Payson agrees that it and its agents will not knowingly or
 8 intentionally engage in any unlawful discrimination of any kind
 9 against Mr. Stokes or against any other person because he/she has
 10 opposed any practice reasonably believed by him/her to be
 11 unlawful under the AzDA, or because he/she has filed a complaint,
 12 given testimony or assistance, or participated in any manner in
 13 any investigation or proceeding under the Arizonans with
 14 Disabilities Act.

15 V

16 The parties agree to the following,

- 17 1. Payson agrees to install new signs and poles for all of the
 18 accessible parking spaces at the Green Valley Park parking
 19 lots and will install/mount those new poles and signs at
 20 heights required under the AzDA within 60 days of the signing
 21 of this Agreement.
 22
 23 2. Payson will designate one or more of the current accessible
 24 parking spaces in Green Valley Park Lot #1 as a van accessible
 25 space within 60 days of the signing of this Agreement.
 26

- 1 3. Payson will measure all of its designated accessible parking
2 spaces at the Green Valley Park parking lots to ensure that
3 they are at least 96 inches wide, and will re-stripe those
4 spaces that measure less than 96 inches wide where necessary
5 within 60 days of the signing of this Agreement.
- 6 4. Within 60 days of the signing of this Agreement, Payson will
7 use its best efforts to determine whether the one-half inch
8 deviation of clearance in the sink in the men's lavatory can
9 be changed to comply with the requirements of the Americans
10 with Disabilities Act Accessibility Guidelines (the "ADAAG").
11 If the sink cannot reasonably be changed, Payson will post a
12 sign outside of the lavatory door indicating where other
13 lavatories that meet ADAAG are available on site.

VI

14
15 Payson agrees to confirm to the Division in writing that
16 it is in compliance with the terms and conditions of this Agreement
17 within ten (10) business days after satisfaction of each obligation.
18

VII

19
20 The Division and Payson agree to pay their own
21 attorneys' fees and costs, if any.

VIII

22
23 This Agreement will not become effective until it has
24 been reviewed and signed by a Division representative.
25
26

IX

1 This Agreement may be executed in two or more
2 counterparts, each of which will be deemed an original.
3

X

4
5 The parties represent that they have read this
6 Agreement in its entirety, have had an opportunity to consult
7 with counsel of their own choice, are satisfied that they
8 understand and agree to all of its provisions, and have freely
9 signed this Agreement without coercion.
10

XI

11 This Agreement will be binding on the heirs, assigns,
12 successors, successors-in-interest, receivers, trustees in
13 bankruptcy, and personal representatives of the parties hereto.
14

XII

15
16 Dispute Resolution. This Agreement shall be governed
17 and construed in accordance with the internal laws of the State
18 of Arizona. In particular, this Agreement is subject to the
19 provisions of A.R.S. § 38-511, the terms of which are
20 incorporated herein, and which provides for cancellation of
21 contracts by the municipality for certain conflicts of interest.
22 With the written consent of both Parties, any dispute,
23 controversy, claim, or cause of action arising out of or related
24 to this Agreement may, but in no event need, be settled by
25 submission to mediation; or any such dispute, controversy,
26

1 claim, or cause of action may be litigated in the Superior Court
 2 of Maricopa County, Arizona. Neither Party shall be entitled to
 3 recover from the other party any of its attorneys' fees, costs,
 4 or expert witness fees incurred in any such dispute,
 5 controversy, claim, or cause of action, but each party shall
 6 bear its own attorneys' fees without contribution from the other
 7 party, whether the same is resolved through arbitration,
 8 litigation in a court, or otherwise.

TOWN OF PAYSON

By _____

Date

Its Mayor

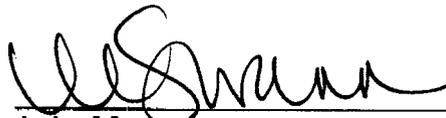
ATTEST:

TOWN CLERK

State of Arizona,
Office of The Attorney General
Civil Rights Division

18 May 2006

Date



Michelle Swann
Assistant Attorney General
1275 West Washington Street
Phoenix, Arizona 85007