

SETTLEMENT AGREEMENT
BETWEEN
THE UNITED STATES OF AMERICA
AND
CAMPUS INN/BELL TOWER JOINT VENTURE,
REGARDING
THE CAMPUS INN AND BELL TOWER HOTELS

The parties to this agreement (“Agreement”) are the United States of America and Campus Inn/Bell Tower Joint Venture. The parties hereby agree as follows:

I. BACKGROUND AND JURISDICTION

1. Campus Inn/Bell Tower Joint Venture (“Joint Venture”) is the owner/operator of the Campus Inn Hotel located at 615 E. Huron St., Ann Arbor, Michigan and the Bell Tower Hotel located at 300 S. Thayer St., Ann Arbor, Michigan (collectively “the Hotels”).
2. The United States Attorney’s Office for the Eastern District of Michigan, a component of the United States Department of Justice (“United States”), opened an investigation of the Campus Inn Hotel pursuant to the Americans with Disabilities Act (“ADA”), 42 U.S.C. §§12181-12189, as amended. The investigation was initiated upon the receipt of a complaint from an individual who alleged that he was unable to stay at the Campus Inn Hotel with his son, who has a physical disability, because the hotel did not have any accessible guest rooms. The investigation was later expanded to also include limited portions of the Bell Tower Hotel.
3. The United States Department of Justice is authorized under 42 U.S.C. §12188(b)(1)(A) to investigate the allegations of the complaints in this matter to determine compliance with title III of the ADA, as amended, 42 U.S.C. §§12181-12189, and its implementing regulations, 28 C.F.R. Part 36, including the ADA Standards for Accessible Design published in September 2010, (“the 2010 Standards”). Furthermore, the Attorney General is authorized under 42 U.S.C. §12188(b)(1)(B) to bring a civil action enforcing title III of the ADA should the Department of Justice fail to secure voluntary compliance.

4. Title III of the ADA bans discrimination against persons with disabilities by owners or operators of places of public accommodation, 42 U.S.C. §12182(a), and establishes an ongoing requirement by such owners and operators to, among other things: remove architectural barriers to access where such removal is “readily achievable,” *id.* at §12182(b)(2)(A)(iv), 28 C.F.R. §36.304; provide alternative methods to make goods and services available where it is deemed not readily achievable to remove barriers, 42 U.S.C. §12182(b)(2)(A)(v), 28 C.F.R. §36.305; make required alterations to facilities readily accessible to and usable by individuals with disabilities to the maximum extent feasible, 42 U.S.C. §12183(a)(2), 28 C.F.R. §3604.402-404; provide appropriate and necessary auxiliary aids and services, 42 U.S.C. §12182(b)(2)(A)(iii), 28 C.F.R. §36.303; and reasonably modify policies and practices so as to ensure “full and equal enjoyment” of their goods and services by individuals with disabilities, 42 U.S.C. §12182(a) and (b)(2)(A)(ii), 28 C.F.R. §§36.201-202.
5. The Hotels are places of public accommodation within the meaning of title III of the ADA. 42 U.S.C. §12181(7)(A); 28 C.F.R. §36.104. The Joint Venture is subject to title III because it is a private entity that owns, leases, or operates a place of public accommodation. *Id.*
6. The Hotels are existing facilities originally constructed prior to the effective date of the ADA, and so are subject to the “readily achievable” barrier removal provisions of the ADA at 42 U.S.C. §12182(b)(2)(iv)-(v) and 28 C.F.R. §36.304. However, portions of the Hotels were altered after January 26, 1992, and those portions should have been altered in such a manner that they are readily accessible to and usable by individuals with disabilities. 42 U.S.C. §12183(a).
7. The United States reviewed architectural plans and other information provided by the Joint Venture, and conducted a site visit of the Hotels on November 13, 2013. The results of the site visit, which were shared with the Joint Venture, revealed a number of architectural barriers to access in and around the hotels. 42 U.S.C. §12182(a); 28 C.F.R. §36.201(a).
8. The United States used the 1991 Standards for Accessible Design to identify what constituted an architectural barrier, *see* 28 C.F.R. §36.304, but any remedies for the identified barriers implemented by the Joint Venture under this Agreement shall be done in compliance with the 2010 Standards. *Id.*

9. The parties agree that the settlement of this matter and entry of this Agreement does not constitute an admission of any violation, liability, or wrongdoing by the Joint Venture. The Joint Venture denies that it violated the provisions of the ADA or the sections of the ADA as cited in the agreement.
10. In consideration of the terms of this Agreement, the United States agrees to refrain from filing a civil suit against the Joint Venture for failure to comply with title III of the ADA, the Standards, or the implementing regulations, with respect to the Campus Inn Hotel and those portions of the Bell Tower Hotel that are addressed in this Agreement; provided however, that the United States reserves the right to file a civil lawsuit to enforce this Agreement in accordance with paragraph 41 below.
11. The United States does not assert that this Agreement or the modifications contemplated herein will necessarily bring the Hotels into compliance with all aspects of the ADA, and nothing in this Agreement is intended to constitute an interpretation of the legal requirements of the ADA by the United States. Rather, this Agreement is entered into by the parties for the purpose of compromising disputed claims and avoiding the risk and expenses of litigation. This Agreement is a compromise and it shall not be used or introduced into evidence in any other case or proceeding other than between the parties to this Agreement.

II. REMEDIAL ACTIONS TO BE TAKEN BY THE JOINT VENTURE

12. In order to resolve this matter, the Joint Venture agrees to take the following steps to remove barriers to access at the Hotels according to the deadlines stated below. For actions that have no specific deadline, the Joint Venture shall commence them as soon as practicable, shall complete the restrooms identified in this agreement within one (1) year of this Agreement, and shall complete the balance of the construction within six (6) months of this Agreement.
 - A. **Barrier Removal at the Campus Inn Hotel**
13. The Joint Venture shall remove barriers to access to and within the Campus Inn Hotel in the manner set forth below.
14. The Joint Venture shall modify no less than ten (10) guest rooms at the Campus Inn Hotel (to be

referred to as “Limited Accessible Rooms”), with at least one room in each offered price/amenity category, as follows:

- a. Install grab bars in the shower/tub in compliance with §607 and §609 of the 2010 Standards;
 - b. Install grab bars around the toilet in compliance to the fullest extent possible with §604 and §609 of the 2010 Standards;
 - c. Raise the height of the toilet seat to be between 17-19 inches above the finish floor in compliance with §604.4 of the 2010 Standards;
 - d. Replace the hardware on the entry and bathroom doors with hardware that does not require tight pinching to operate in compliance with §404.2.7 and §309.4 of the 2010 Standards;
 - e. Provide for a removable in-tub seat in compliance with §610 of the 2010 Standards;
 - f. Lower the thermostat so that the control is no higher than 48 inches above the floor in compliance with §309.3 and §308, or alternatively, provide a hand-held remote control for the thermostat.
15. The Joint Venture shall adjust the Campus Inn Hotel’s Fitness Room door so that no more than 5 lbs of force is required to open the door in compliance with §404.2.9 of the 2010 Standards.
16. The Joint Venture shall modify the Campus Inn Hotel’s 2nd floor public women’s restroom as follows:
- a. Ensure that the entrance door has a clear width opening of 32 inches at a minimum in compliance with §404.2.3 of the 2010 Standards;
 - b. Provide one accessible toilet stall in compliance with §604 of the 2010 Standards;
 - c. Ensure that water supply and drain pipes under the sinks are insulated or otherwise

configured to protect against contact in compliance with §606.5 of the 2010 Standards.

17. The Joint Venture shall modify the Campus Inn Hotel's 2nd floor public men's restroom as follows:
 - a. Ensure that the entrance door has a clear width opening of 32 inches at a minimum in compliance with §404.2.3 of the 2010 Standards;
 - b. Ensure that water supply and drain pipes under the sinks are insulated or otherwise configured to protect against contact in compliance with §606.5 of the 2010 Standards;
 - c. Provide, at the door of the restroom, directional signage to indicate the route to the nearest accessible public men's restroom in compliance with § 216.8 and §703.5 of the 2010 Standards.

18. The Joint Venture shall install in the Campus Inn Hotel's 3rd floor unisex restroom, grab bars around the toilet in compliance with §604 of the 2010 Standards.

19. In lieu of lowering the counter at the Front Desk of the Campus Inn Hotel, the Joint Venture shall:
 - a. Provide a writing surface in close proximity to the Front Desk that is no higher than 36 inches above the finish floor;
 - b. Install signs at the Front Desk informing the public of the availability of accessibility features in the Campus Inn Hotel, including the portable kits used to accommodate guests who are deaf or hard of hearing;

20. The Joint Venture shall install interior and exterior signage identifying permanent rooms and spaces on the 1st, 2nd, and 3rd floors of the Campus Inn Hotel in compliance with §703 of the 2010 Standards. Should the Joint Venture subsequently renovate any portion of a guest room floor, the Joint Venture must install compliant signage on the corresponding floor.

21. The Joint Venture shall install at least one set of elevator call buttons on the 1st, 2nd, and 3rd floors that is between 15 and 48 inches above the finish floor in compliance with §308 of the 2010 Standards. Should the Joint Venture subsequently renovate any portion of a guest room floor, the

Joint Venture must install elevator call buttons at the same height on the corresponding floor.

22. The Joint Venture shall ensure that accessible parking spots are connected to the Campus Inn Hotel entrance by accessible routes. If the accessible route crosses a vehicular traffic lane, the Joint Venture shall create a marked pedestrian crossing.

B. Barrier Removal at the Bell Tower Hotel

23. The Joint Venture shall remove barriers to access to and within the Bell Tower Hotel in the manner set forth below.
24. The Joint Venture shall modify the guest rooms that are currently designated as accessible to fully meet the 2010 Standards in all respects.
25. In lieu of lowering the counter at the Front Desk of the Bell Tower Hotel, the Joint Venture shall:
 - a. Provide a writing surface in close proximity to the Front Desk that is no higher than 36 inches above the finish floor;
 - b. Install signs at the Front Desk informing the public of the availability of accessibility features in the Bell Tower Hotel, including the portable kits used to accommodate guests who are deaf or hard of hearing.

26. The Joint Venture shall install signs in compliance with §703 of the 2010 Standards identifying the route to and location of the wheelchair lift.
27. The Joint Venture shall ensure that the path of travel going to the wheelchair lift and to the accessible guest rooms is accessible and clear of any obstructions.

C. Alterations and New Construction

28. Any renovations or alterations, as defined in 42 U.S.C. §12183, made to the Hotels and not described in this Agreement shall comply in all respects with the ADA, its implementing regulations, and the 2010 Standards, as such statute, regulations, and Standards are in effect as of the date that physical renovations or alterations begin.

29. The Joint Venture further acknowledges and agrees that if an alteration affects or could affect the usability of or access to an area of either of the Hotels that contains a primary function, that alteration shall be made so as to ensure that, to the maximum extent feasible, the path of travel to the altered areas and the restrooms, telephones, and drinking fountain serving the altered area are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, unless the cost and scope of such alterations is disproportionate to the cost of the overall alteration. 42 U.S.C. §12183(a).

D. Policies and Procedures

30. The Joint Venture shall implement and enforce a written policy with regard to ADA compliance at the Hotels. The Hotels' policies shall specify that the accessible rooms in the Bell Tower Hotel may be rented to persons who do not have a disability only if all non-accessible rooms in the Bell Tower Hotel are occupied or reserved.
31. The Joint Venture shall include in the Hotels' ADA policies provisions to ensure that if a person requiring a fully accessible guest room requests an accessible room at the Campus Inn Hotel, that person must be offered an accessible guest room at the Bell Tower Hotel at the lowest room rate offered by the Campus Inn Hotel. The Joint Venture shall also provide any necessary transportation for the person with a disability and his or her travelling companion(s) if any, between the Hotels during their stay. The Department of Justice acknowledges that the fully compliant accessible rooms available are limited in number and therefore occasions may arise where fully compliant accessible rooms may be occupied and thus unavailable to persons seeking accessible space. Such occasions and circumstances as described above shall not be deemed a violation of this compromise agreement.
32. Given the limited number of fully compliant accessible guest rooms at the Bell Tower Hotel, if a person requiring an accessible guest room requests an accessible room at the Bell Tower Hotel, the Joint Venture shall rent those rooms at the lowest room rate offered by the Bell Tower Hotel.
33. The Hotels' ADA policies shall also ensure that if a person with a disability requests a Limited Accessible Room at the Campus Inn Hotel, as delineated in paragraph 14, in an advertised or

otherwise available price range in which there are no Limited Accessible Rooms available, that person must be given a Limited Accessible Room in the next higher price range available, but rented at the price of the Limited Accessible Room originally requested.

34. The Hotels' ADA policies shall specify that persons with disabilities may reserve rooms in the same manner that guest may reserve other rooms. The Hotels shall enforce their ADA policies with respect to all reservation practices under their control. As for reservations taken by entities not controlled by the Hotels, including internet booking engines, the Hotels shall satisfy their obligations under this paragraph by providing such entities with a copy of the Hotels' written policies.
35. In addition to the specific requirements set forth in this Agreement, the Joint Venture agrees to ensure that all accessible features within the Hotels are maintained in operable working condition, within the meaning of 28 C.F.R. §36.211.
36. The Joint Venture shall implement and enforce a written policy providing that the Hotels will welcome persons with disabilities accompanied by service animals, as required by 42 U.S.C. §12181(b)(2)(A)(iii) and 28 C.F.R. §§36.201 and 36.302.

E. Training

37. The Joint Venture shall train all present and future staff who work at the Hotels on any ADA issues relevant to their position at the Hotels, including but not limited to: (1) location and type of accessible guest rooms; (2) accessible features within each accessible room; (3) the location of all accessible public restrooms and accessible routes to each throughout the hotel, where all routes are not accessible; (4) location and use of accessibility equipment (e.g., portable kits containing TDD machines, visual alarms and notification devices, etc.); (5) all of the Hotels' reservation policies and other policies regarding visitors with disabilities or accessible features including transportation between the Hotels; (6) maintenance of accessibility equipment and routes; (7) the Hotels' service animal policy; and (8) all other requirements of this Agreement. The Joint Venture shall ensure that all present employees of the Hotels are trained in ADA issues no later than thirty (30) days after the effective date of this Agreement, that future employees of the Hotels are trained in these

issues within fourteen (14) days of their first date of employment, and that employees of the Hotels are trained on an annual basis at a date and time selected by the Joint Venture in its sole discretion.

38. The Joint Venture agrees to take measures to ensure that the employees at the Hotels comply with obligations in this Agreement and shall use all of their legally available powers to do so, including but not limited to using personnel actions, reprimanding, or terminating the employment of any employee who violates or causes a failure to comply with the requirements of this Agreement.

III. DAMAGES FOR AGGRIEVED PERSONS

39. The Joint Venture shall pay One Thousand Five Hundred Dollars (\$1,500) in compensatory damages for alleged violations of the ADA to Larry Pollack, an aggrieved person. Payment shall be made within thirty (30) days after the Effective Date of this Agreement by certified check payable to Larry Pollack.

IV. IMPLEMENTATION AND ENFORCEMENT OF AGREEMENT

40. The United States may review compliance with this Agreement at any time. Upon reasonable advance notice to the Joint Venture (through undersigned counsel), the Joint Venture shall permit the United States and any person acting on its behalf unlimited access to the Hotels to review compliance with the ADA and this Agreement, provided that such access does not interfere with the comfort, privacy or safety of the guests at the Hotel, or unreasonably interfere with the management and operation of the Hotels.
41. If the United States believes that this Agreement or any requirement thereof has been violated, it agrees to notify the Joint Venture in writing of the specific violation(s) alleged. The Joint Venture shall have thirty (30) days from its receipt of the notice to cure and/or respond in writing to the United States the alleged violation(s). If, after further discussion with the Joint Venture, the United States believes that the Joint Venture has violated the Agreement, the United States may institute a civil action for relief in federal district court, and the United States is authorized to seek civil penalties for any violation of this Agreement, pursuant to 42 U.S.C. §12188(b)(2)(C).
42. Six months after the Effective Date of this Agreement, the Joint Venture shall certify to the United States, in writing, that it has fulfilled to completion all of its obligations, with the exception of the

restrooms, under this Agreement. The certification shall describe the steps that were taken to fulfill those obligations and shall be accompanied by photographs depicting the completed barrier removal work. One year after the Effective Date of this Agreement, the Joint Venture shall submit a similar certification regarding the completion of all modifications to the restrooms under this Agreement. The parties expressly agree that providing such certifications is essential to the enforcement of this Agreement, and that a failure to provide the certifications required by this paragraph constitutes a breach of this Agreement sufficient to warrant the penalties set out in paragraph 41.

43. All notices, demands, reports or other communication to be provided to the United States pursuant to this Agreement shall be in writing and delivered by U.S. mail or electronic mail to the following:

Susan K. DeClercq, Assistant U.S. Attorney

U.S. Attorney's Office

211 W. Fort Street, Ste. 2001

Detroit, MI 48226

email: susan.declercq@usdoj.gov

44. This Agreement is a public document. A copy of this document or any information contained in it may be made available to any person.
45. 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 its right to do so with regard to other deadlines and provisions of this Agreement.
46. 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 is limited to the facts set forth herein and it does not purport to remedy any other potential violations of the Americans with Disabilities Act, including violations of the alterations or new construction provisions of the Act, or any other Federal law. This Agreement does not affect the continuing responsibility of the Joint Venture to comply with all aspects of the Americans with Disabilities Act, including readily achievable barrier removal.

47. If any provision of this Agreement is determined by any court to be unenforceable, the other terms of this Agreement shall nonetheless remain in full force and effect, provided however, that if the severance of any such provision materially alters the rights or obligations of the parties, the United States and the Joint Venture shall engage in good faith negotiations in order to adopt such mutually agreeable amendments to this Agreement as may be necessary to restore the parties as closely as possible to the initially agreed-upon relative rights and obligations.
48. A signor of this document in a representative capacity for an entity represents that he or she is authorized to bind such entity to this Agreement.
49. This Agreement shall be binding on the Joint Venture and its successors in interest in ownership or operation of the Hotels, and the Joint Venture has a duty to so notify all such successors in interest.
50. The Effective Date of this Agreement is the date of the last signature below. This Agreement shall remain in effect for three (3) years from the Effective Date.

Agreed and Consented to:

For the UNITED STATES OF AMERICA

BARBARA L. McQUADE
United States Attorney
Eastern District of Michigan

/s/ Susan DeClercq
SUSAN K. DeCLERCQ
Assistant United States Attorney
211 W. Fort Street, Ste. 2001
Detroit, Michigan 48226
(313) 226-9149
Email: susan.declercq@usdoj.gov

Dated: June 3, 2014

For CAMPUS INN/BELL TOWER JOINT
VENTURE

By: /s/ Dennis A. Dahlmann
Dennis A. Dahlmann, Partner

/s/ Steven Zarnowitz
Steven Zarnowitz, Attorney for Repondent

Dated: May 29,
2014

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June 6, 2014