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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
MEDFORD DIVISION

RICHARD WAGNER, an individual,

Case No. 1:18-cv-01437-CL

Plaintiff,

Consent Decree and Order

v.

JOSEPHINE COUNTY, a municipal
corporation of the State of Oregon,

Defendant.

WHEREAS Plaintiff Richard Wagner ("Wagner") filed this action against Josephine County, a political subdivision of the State of Oregon, in the United States District Court for the District of Oregon, Case Number 1:18-cv-01437-CL;

WHEREAS Wagner alleged violations of Title II of the Americans with Disabilities Act, 42 U.S.C. § 12132 ("Title II" of the "ADA") and § 504 of the

Rehabilitation Act at Schroeder Park, one of the public parks in the Josephine County Parks system;

WHEREAS, the Parties desire to resolve this matter, without any further formal court proceedings and each has voluntarily entered into this consent decree;

NOW, THEREFORE, in consideration of the promises and mutual covenants set forth in this Decree and Order, the parties request that the Court enter consent judgment accordingly.

A. Actions Taken by Josephine County

1. Josephine County has hired and designated an ADA Coordinator to assist with and oversee compliance with Title II of the ADA, as well as support County department leadership in their ongoing efforts to ensure that the programs and services offered by the County are readily accessible and usable by individuals with mobility and other impairments.

2. Josephine County has engaged an ADA Title II expert, Jennifer Skulski of Skulski Consulting LLC, to complete accessibility assessments of three of Josephine County parks: Indian Mary Park, Griffin Park, and Pierce Riffle Park. These assessments have been completed and working versions will henceforth be utilized to maintain an up-to-date Transition Plan for the Josephine County Parks Department's properties, programs, and services offered to the public.

3. Josephine County has updated, and will continue to maintain, its parks reservation website to accurately reflect those parks with accessible features. With respect to overnight campgrounds, the reservation website has been updated to direct those patrons who may require accessible features to either Indian Mary Park or Griffin Park.

4. Josephine County has altered its parks reservation and information websites to direct all public inquiries to the Josephine County Parks main office,

not an independent reservation service, to ensure that any inquiries into accessible features are answered accurately.

5. Josephine County has equipped its parks maintenance staff with essential tools to measure compliance of features and fixtures with technical accessibility specifications, to ensure that installation and maintenance of these features and fixtures is done in compliance with applicable specifications.

6. Josephine County has undertaken a complete site renovation of a portion of Whitehorse Park, one of its properties that offers overnight camping. The initial plans for this project have been reviewed for compliance with ADA standards, and alterations have been made to optimize the site renovations for accessibility.

B. Undertakings by Josephine County

Without admitting liability, in response to and in settlement of the allegations contained in Mr. Wagner's Complaint and all other allegations brought or which could have been brought in this action with respect to Josephine County and the Josephine County Parks system, Josephine County agrees to:

1. Josephine County will ensure that its camping program will be readily accessible to patrons with disabilities. Josephine County will utilize the accessibility assessment prepared by Skulski Consulting, LLC as a guide to prioritizing repairs, alterations, and renovations.

2. Josephine County will ensure that its fishing program will be readily accessible to patrons with disabilities. The primary location accessible to persons with mobility impairments will be the accessible fishing platform located at Pierce Riffle County Park. Josephine County will utilize the accessibility assessment prepared by Skulski Consulting, LLC as a guide to maintaining and improving accessibility of this feature.

3. Josephine County will ensure that its picnicking program will be readily accessible to patrons with disabilities. Josephine County will utilize the accessibility assessment prepared by Skulski Consulting, LLC as a guide to prioritizing repairs, alterations, and renovations.

4. Josephine County will complete comprehensive plans for its parks and campgrounds prior to undertaking any major renovations, which will prioritize continuous accessible routes that link accessible site amenities including the individual camp sites, restrooms and shower facilities, office and host sites, picnic areas, fishing access, and other facilities offered to the public. For each campground, the plan will designate a minimum number of accessible camping units by type and amenities.

5. Josephine County will ensure that all new construction, alterations, and renovations in all of its parks will be in compliance with the 2010 Americans with Disabilities Act Standards for Accessible Design to the maximum extent feasible, and will further ensure that maintenance and operation of its parks will be in compliance with Title II of the Americans with Disabilities Act program access requirement.

6. Josephine County will ensure that any and all of its employees who field calls regarding reservations for its campgrounds will receive adequate training to ensure that they are able to accurately answer questions and describe the accessibility features available to patrons.

7. Josephine County will henceforth require agreements with third-party contractors who perform construction, installation, maintenance, and/or renovation in its parks, which will provide the County the right of inspection and oversight to ensure compliance with ADA technical specifications.

8. Josephine County will complete and maintain an up-to-date Transition Plan for the Josephine County Parks Department's properties, programs, and services offered to the public.

9. Josephine County will compile a work list of maintenance needed to maintain continuous accessible routes to existing accessible features in its parks, including but not limited to asphalt and concrete repairs, and as soon as reasonably practicable will retain a contractor to perform these repairs.

C. Undertakings by Plaintiff Wagner

Plaintiff Wagner understands and agrees that he is releasing Josephine County from any and all claims, causes, damages, demands, liabilities, equities, and any and all other claims, whether known or unknown, arising up to and including the date of entry of this Consent Decree and Order.

D. Upon completion of the above, the Court and the parties agree that Josephine County Parks fishing, camping, and picnicking programs will be in compliance with the program access requirements of Title II of the Americans with Disabilities Act.

E. Josephine County shall pay, or cause to be paid, a total of \$110,000 inclusive of damages, attorney fees, and costs to Plaintiff Wagner, which represents the total amount to be paid to Plaintiff Wagner in this litigation.

F. The Parties have requested the Court to dismiss the case with prejudice and retain jurisdiction over this case for the sole purpose of enforcing the terms of this Decree and Order and the Agreement between the Parties. In the event of a dispute between the Parties, the Parties agree to submit themselves to the jurisdiction of the U.S. District Court for the District of Oregon. The Parties further waive any objection on the grounds of lack of personal jurisdiction or venue to the exercise of such jurisdiction now or in the future, but only in connection with the present litigation.

G. Based upon the foregoing, the Court finds that this Decree is fair and reasonable, both procedurally and substantively, consistent with applicable law, in good faith, and in the public interest. The Court enters judgment accordingly:

WHEREFORE, IT IS ORDERED, ADJUDGED AND DECREED that each party is hereby ordered to comply with the terms and conditions of this Decree and Order entered into as a result of the settlement of the Parties.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that with the concurrence of each of the parties, this matter be DISMISSED WITH PREJUDICE and, that the jurisdiction of this Court is reserved to enforce the terms and conditions of this Decree and Order.

The Clerk of Court is directed to enter judgment accordingly.

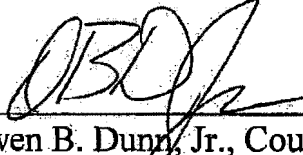
Dated this 19 day of December 2019.



MARK D. CLARKE
United States Magistrate Judge

Approved for entry by:

 12/14/19
Sarah R. Henderson, Counsel for Defendant

 12/13/2019
Owen B. Dunn, Jr., Counsel for Plaintiff