

**SETTLEMENT AGREEMENT
BETWEEN THE UNITED STATES OF AMERICA
AND THE TOWN OF IRMO, SOUTH CAROLINA
3:18-3106-JMC (D.S.C.)**

I. INTRODUCTION

1. This Settlement Agreement (“Agreement”) is made and entered into by and between the United States of America, through the U.S. Department of Justice (“the United States”), and the Town of Irmo, South Carolina (“the Town”) (collectively, “the Parties”), through their authorized representatives.

2. This Agreement resolves the claims asserted by the United States in *United States v. Town of Irmo, South Carolina* (D.S.C.), No. 3:18-3106-JMC, filed on November 16, 2018, to enforce Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988 (“the Fair Housing Act”), 42 U.S.C. §§ 3601–3631 (hereinafter “the Civil Action”).

3. The United States initiated the Civil Action on behalf of Patricia Witt under 42 U.S.C. § 3614(b)(1)(A).

4. The United States’ Complaint alleges that the Town’s failure to grant Ms. Witt a zoning variance to build a carport at her home (“the Subject Property”) to accommodate her permanent physical disability¹ is a violation of the reasonable modification and reasonable accommodation provisions of the Fair Housing Act. *See* 42 U.S.C. § 3604(f).

II. STATEMENT OF CONSIDERATION

5. The Parties agree that the claims against the Town should be resolved without further proceedings or a trial. Therefore, the United States and the Town agree to the entry of

¹ The term “disability” is synonymous with the term “handicap” as defined in 42 U.S.C. § 3602(h). The United States uses the term “disability” throughout this document.

this Agreement. This Agreement constitutes full resolution of the claims in the United States' Complaint in this case against the Town. The Parties agree and acknowledge that this consideration is adequate and sufficient.

THEREFORE, the Parties, through their authorized representatives, hereby stipulate and agree as follows:

III. TERMS AND CONDITIONS

6. **Prohibited Conduct and Affirmative Obligations:** In accordance with the Fair Housing Act, the Town, through its officers, employees, agents, and all other persons or entities in active concert or participation with it, shall not:

- a. Discriminate against any individual in the terms, conditions or privileges of renting a dwelling unit, or in the provision of services or facilities in connection therewith, because of disability, in violation of 42 U.S.C. § 3604(f)(2);
- b. Refuse to permit an individual with a disability, at his or her own expense, to make reasonable modifications to existing premises, when such modifications may be necessary to afford that person full enjoyment of the premises, in violation of 42 U.S.C. § 3604(f)(3)(A); and
- c. Refuse to make reasonable accommodations in rules, policies, practices or services, when such accommodations may be necessary to afford an individual with a disability an equal opportunity to use and enjoy a dwelling in violation of 42 U.S.C. § 3604(f)(3)(B).

7. The provisions of this Section shall apply to the subject property and all dwellings within the Town.

8. **Policies and Procedures for Requests for Reasonable Accommodations:** On December 18, 2018, the Council enacted Ordinance No. 18-34 establishing a reasonable accommodation policy, which allows individuals with disabilities to request modification or waiver of certain land use and zoning requirements within the Town.

9. **Grant of Reasonable Accommodation to Ms. Witt:** On December 5, 2019, the Town approved Ms. Witt's request for a reasonable accommodation to build a carport on the Subject Property. She subsequently did so. The Town agrees to allow Ms. Witt to keep her existing carport for the duration of her disability and her residency at the Subject Property. The carport will need to be removed in the event that Ms. Witt sells or otherwise conveys the Subject Property or no longer uses the Subject Property as her permanent residence.

10. **Monetary Damages for Ms. Witt:** Within thirty (30) calendar days of the effective date of this Agreement, the Town shall pay a total sum of \$25,000 in monetary damages to Ms. Witt by delivering a check payable to Patricia Witt to an address to be provided by the United States.

11. The United States shall not deliver payment under this Section before Ms. Witt has executed and provided to counsel for the United States a written release of all claims, legal or equitable, that she may have against the Town relating to this lawsuit. The release shall be in the form of **Attachment A**. Counsel for the United States shall deliver a photocopy of the signed release form to counsel for the Town.

12. **Education and Training:** Within ninety (90) calendar days of the effective date of this Agreement, the Town shall provide, at the Town's expense, with an anticipated cost not to exceed \$1000, a four-hour online education and training program regarding the provisions of the Fair Housing Act, focusing on the prohibition against disability discrimination and reasonable

accommodations, to the Town Attorney, the Town Administrator/Zoning Board Administrator, and the Zoning Clerk. A qualified third party who is unconnected to the Town or the Town's employees, agents or counsel, shall conduct the education and training. Within forty-five (45) calendar days of the effective date of this Agreement, the United States shall provide the name and resume of a proposed qualified third-party trainer to the Town.

13. The Town shall, no later than ten (10) calendar days after the training, provide the United States with certifications executed by all individuals who attended the training.² The certifications shall be in the form of **Attachment B**.

14. **Reporting and Recordkeeping**: The Town agrees to report all reasonable accommodation requests it receives for the next eighteen (18) months. The Town shall notify and provide documentation to the United States of any reasonable accommodation request within forty-five (45) calendar days of its occurrence. This reporting shall include any decision by the Town to change or rescind the terms of a previously granted reasonable accommodation. The reporting shall include the requestor's name, current address, telephone number, the details of the request, and the Town's decision, including the reasons for any denial or rescission.

15. The Town shall preserve all records relating to this Agreement. The Town agrees to cooperate with the United States in any review of compliance of this Agreement, and upon reasonable notice, the Town shall permit counsel for the United States to inspect and copy any records pertinent to this Agreement.

² Correspondence may be sent via electronic mail to the U.S. Department of Justice, care of the United States' representative whom the United States will designate.

IV. IMPLEMENTATION, ENFORCEMENT AND DISMISSAL OF UNDERLYING ACTION

16. The Parties shall endeavor in good faith to resolve informally any differences regarding the interpretation of or compliance with this Agreement prior to initiating court action. If the United States believes that the Town has failed to perform in a timely manner any act required by this Agreement, or has otherwise not acted in conformance with any provision thereof, whether intentionally or not, the United States shall notify the Town in writing of its concerns. The Town shall have fifteen (15) calendar days from the date of the United States' notification to cure the breach.

17. If the Parties are unable to reach a resolution within fifteen (15) calendar days, the Parties may seek appropriate relief from the Court.

V. TERMINATION OF LITIGATION HOLD

18. The Parties agree that, following the dismissal of the Civil Action, as outlined in the Court's Order of Dismissal, ECF No. 86, litigation is not "reasonably foreseeable" concerning the matters described in this Agreement. To the extent that any party has previously implemented a litigation hold to preserve documents, electronically stored information (ESI), or things related to the matters described above, that party is no longer required to maintain such litigation hold. Nothing in this paragraph relieves any party of any other obligations under this Agreement.

VI. DURATION, EXECUTION AND OTHER TERMS

19. This Agreement is effective on the date of the signature of the last signatory to the Agreement. This Agreement may be executed in multiple counterparts, each of which together shall be considered an original but all of which shall constitute one Agreement. Facsimiles of signatures shall constitute acceptable, binding signatures for purposes of this Agreement.

20. The duration of this Agreement shall be for eighteen (18) months from the date of the last signatory to the Agreement.

21. Each party shall bear its own legal or other costs incurred in connection with this matter, including the preparation, negotiation and performance of this Agreement.

22. Each party and signatory to this Agreement represents that it freely and voluntarily enters into this Agreement without any degree of duress or compulsion.

23. This Agreement is governed by and shall be interpreted under the laws of the United States. For purposes of construing or interpreting this Agreement, it shall be deemed to have been drafted by all Parties and shall not be construed or interpreted against any party for that reason in any subsequent dispute.

24. This Agreement and the attachments hereto constitute the complete agreement among the Parties on the matters raised herein. No prior or contemporaneous communications, oral or written, or prior drafts shall be relevant or admissible for purposes of determining the meaning of any provision herein or in any other proceeding.

25. This Agreement may be modified only with the written consent of the Parties. Any modification must be in writing and signed by the Parties through their authorized representatives.

26. The undersigned represent and warrant that they are fully authorized to execute this Agreement on behalf of the persons and entities indicated below.

27. This Agreement is a public document. The Parties agree and consent to the United States' disclosure of this Agreement and information concerning this Agreement to the public.

28. The Parties agree that they will not, individually or in combination with another, seek to have any court declare or determine that any provision of this Agreement is illegal or invalid.

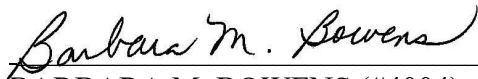
29. This Agreement is binding on the Parties, including all principals, officers, employees, agents, contractors, representatives, assignees, successors in interest, and all those in active concert or participation with any of them. Each party has a duty to inform any such successor in interest.


For Plaintiff United States of America:

Dated: November 6, 2020

PETER M. MCCOY JR.
United States Attorney
District of South Carolina

ERIC S. DREIBAND
Assistant Attorney General
Civil Rights Division

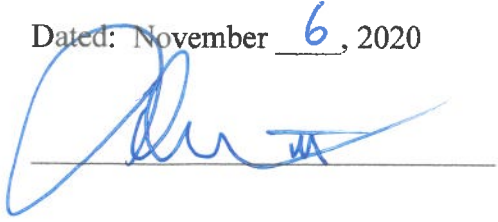

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Attorneys for the United States

For Defendant Town of Irmo:

Dated: November 6, 2020



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ATTACHMENT A

RELEASE OF ALL CLAIMS

I, Patricia K. Witt, hereby sign this release in consideration of the terms of the Settlement Agreement resolving the claims asserted by the United States in *United States v. Town of Irmo, South Carolina*, Civil Action No. 3:18-3106-JMC, filed in the United States District Court for the District of South Carolina on November 16, 2018. In consideration of the payment of \$25,000 to me and the Town's agreement that I can keep my existing carport for the duration of my disability and residency at the property located at 213 Minehead Road, Irmo, South Carolina, I hereby release the Town of Irmo, including all of its elected officials, employees, agents, officers, and insurers, from any and all liability for any and all claims under the Fair Housing Act, legal or equitable, as well as any and all claims for damages under federal or state law arising out of allegations as made in the Complaint or as could have been made in the Complaint.

I also acknowledge and agree that the carport will need to be removed in the event that I sell or otherwise convey the property located at 213 Minehead Road, Irmo, South Carolina, or in the event I am no longer using that property as my permanent residence.

I hereby acknowledge that I have read and understand this release and have executed it voluntarily and with full knowledge of its legal consequences.

Executed this ____ day of _____, 2020.

Patricia K. Witt

(Printed Name)

ATTACHMENT B

FAIR HOUSING ACT TRAINING CERTIFICATION

I certify that I attended Fair Housing Act training. I further certify that I understood the training and that any questions I had concerning the training were answered.

(Signature)

(Printed Name)

(Title)

(Date)