Settlement Agreement between the United States of America and the Owners and Operators of the Blue Velvet Theatre, Inc., Branson, Missouri

Background

1. This matter was initiated by a complaint filed with the United States Department of Justice ("the Department") by Mr. XX XXX against the owners and operators of Bobby Vinton's Blue Velvet Theatre ("Respondent.") The complaint was investigated by the Department under the authority granted by Section 308 (b) of the Americans with Disabilities Act of 1990 ("ADA") 52 U.S.C. 12188. The complaint alleged that the theater violated title III of the ADA, 42 U.S.C. 12181-12189, by failing to maintain accessible features in accordance with the ADA and its regulations. Specifically, the complainant, an individual with a disability, stated that on September 20, 1994, when he attended a show at the theater, he was not allowed to park his car in the accessible parking spaces near the front of the theater. The complainant alleges that employees of the theater told him the spaces were being used by tour buses.

The Parties

2. The parties to this Settlement Agreement ("Agreement") are the United States of America and the owners and operators of Bobby Vinton's Blue Velvet Theatre.

3. Blue Velvet Theatre is a theater located at 2701 W. Highway 76, Branson, Missouri 65616.

4. Blue Velvet Production, Inc., the owner and operator of the Blue Velvet Theatre, is a public accommodation as defined by title III of the ADA because it is the owner or operator of a "theater . . . or other place of exhibition or entertainment." 42 U.S.C. 12181; 28 C.F.R. 36.104(3).

5. The subject of this Agreement is the maintenance of accessible features within the parking lot of the Blue Velvet Theatre, as well as the design and construction of these accessible parking spaces at the theater.

Factual History

6. On October 21, 1994, the Department received a complaint alleging discrimination against people with disabilities by the Respondent. The complainant stated that he and his wife attended a show at the theater and they were not allowed to park in the accessible parking spaces in front of the theatre because the attendants told them they were being used for the buses. The complainant, who has multiple sclerosis, and his wife had to park near the bottom of a steep hill. It was very difficult for him to negotiate the hill to reach the theater entrance. The complainant complained to the ticket office but was told that the person in charge of the parking was not available.

7. The Department's investigation identified a number of violations of the ADA's Standards for Accessible Design ("Standards") within the accessible parking area. Specifically, the slope and cross slope of the accessible parking spaces do not comply with the Standards. Standards 4.6.3. In addition,

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there are no van accessible spaces or van accessible signage in the accessible parking area. Standards 4.1.2 (5) and 4.6.

ACCORDINGLY, IT HEREBY AGREED THAT:

8. The theatre was designed and constructed after the effective date of the ADA's provisions for new construction. Therefore, the facility is subject to the new construction provisions under 42 U.S.C. 12183 and 28 C.F.R. 36.401 and the Standards.

9. This Agreement is final and binding on all parties to this action, including all principals, agents, and successors in interest of Blue Velvet Production, Inc. and the United States Department of Justice.

10. Respondent's failure to maintain its accessible parking spaces for its customers with disabilities is a violation of ADA. 28 C.F.R. 36.211.

11. The failure of Blue Velvet Production, Inc. to design and construct its accessible parking facilities in accordance with the Standards is a violation of the ADA. 42 U.S.C. 12183 and 28 C.F.R. 36.401.

ACTIONS TO BE TAKEN BY BLUE VELVET PRODUCTIONS, INC.

12. To resolve this matter Blue Velvet Production, Inc. agrees to complete the following measures by April 1, 1996:

a. Provide accessible and van accessible parking spaces in accordance with the Standards, 4.1.2 (5) and 4.6.

b. Develop and disseminate to all employees a written policy instructing all employees that such spaces are reserved solely for people with disabilities at all times in accordance with 36.211;

13. Prior to commencement of work, but no later than March 1, 1996, Respondent shall provide the Department with a detailed list of all proposed work to comply with the Standards, including a detailed dimensioned sketch or drawing as well as a draft of the policy instructing employees regarding the maintenance of accessible parking spaces. The Department shall have 10 days from receipt of Respondent's list to notify Respondent in writing of its approval.

14. Respondent agrees to complete the measures described in paragraph 12 and certify to the Department that they have been completed by April 15, 1995.

15. Within 20 days of the signature of this agreement, Respondent shall pay to Mr. XX XXX compensatory damages in the sum of One Thousand dollars ($1,000.00). Respondent shall make this payment by certified check or money order payable to Mr. XXX.

16. Within 20 days of the signature of this agreement, Respondent shall pay to the United States a civil penalty in the amount of One Thousand dollars ($1,000.00). Payment shall be made by certified check or money order payable to the United States Department of Justice, and tendered to counsel for the United States.

IMPLEMENTATION AND ENFORCEMENT OF THE SETTLEMENT AGREEMENT

17. The Attorney General is authorized, pursuant to 42 U.S.C. 12188(b)(1)(B), to bring a civil action under title III, enforcing the ADA in any situation where a pattern or practice of discrimination is believed to exist or a matter of general public importance is raised. In consideration of the terms of this Agreement, the Attorney General agrees to refrain from filing civil suit under title III in this matter regarding the specific issues discussed herein, so long as Respondent complies with the terms of this Agreement.

18. The Department may review compliance with this Agreement at any time. If the Department believes that this Agreement or any requirement thereof has been violated, it may institute a civil action in federal district court and is authorized to seek civil penalties pursuant to 42 U.S.C. 12188(b)(2)(C).

19. Failure by the Department 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.

20. The effective date of this Agreement is the date of the last signature below. This Agreement shall be binding on Blue Velvet Production, Inc. and its successors in interest, and Blue Velvet Production, Inc. has a duty to so notify all such successors in interest.

21. This document is a public agreement. A copy of this document or any information contained in it, may be made available to any person. Blue Velvet Production, Inc. and the Department shall provide a copy of this Agreement to any person on request.

22. 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 new construction standards within the theater itself, or any other Federal law. This Agreement does not affect the continuing responsibility of Blue Velvet Production, Inc. to comply with all aspects of the Americans with Disabilities Act.

23. The Department agrees that Respondent's completion of the steps set forth in this Agreement will fully resolve the complaint submitted to the Department relating to the accessible parking.

24. A signor of this document in a representative capacity for a partnership, corporation, or other such entity, represents that he or she is authorized to bind such partnership, corporation or other entity to this Agreement.

Agreed and Consented to:

For the United States of America

Deval L. Patrick, Assistant Attorney General for Civil Rights

By: Date

John L. Wodatch; L. Irene Bowen; Kaye L. Pestaina; Lucille K. Johansen; Disability Rights Section

Civil Rights Division

U.S. Department of Justice

P.O. Box 66738

Washington, D.C. 20035-6738

Tel: (202) 307-1495

For Blue Velvet Productions, Inc.

By: Date

Department of Justice

FOR IMMEDIATE RELEASE CR

TUESDAY, FEBRUARY 27, 1996 (202) 616-2765

TDD (202) 514-1888

THEATER IN BRANSON, MISSOURI TO IMPROVE ACCESSIBILITY UNDER JUSTICE DEPARTMENT SETTLEMENT

WASHINGTON, D.C. -- A Branson, Missouri Theater will change its parking policies after the theater permitted tour buses to block parking spaces designated for people with disabilities. Under the agreement, reached with the Justice Department today, the Blue Velvet Theater will ensure that its parking facilities comply with the Americans with Disabilities Act (ADA), which became law before the theater was built.

The theater will also correct the slopes of the existing accessible spaces because they are too steep to be used safely by individuals transferring between a vehicle and a wheelchair. In October of 1994, a Kansas man, XX XXX, visited the Blue Velvet Theater to attend a concert. Mr. XXX, who has multiple sclerosis, was unable to park his car in the space designated for persons with disabilities, and had to climb a steep hill in order to reach the theater's entrance. Mr. XXX filed a complaint with the Justice Department alleging that a theater employee told him the parking spaces for people with disabilities were reserved only for tour buses.

"There is no point in designating a feature accessible to people with disabilities and then allowing it to be blocked," said Assistant Attorney General for Civil Rights Deval L. Patrick. "Businesses must be willing to follow through in their efforts to comply with the ADA - it's the law."

The ADA, passed in July 1990, prohibits discrimination against persons with disabilities. Title III of the Act requires that public accommodations, including theaters built after January 1993, comply with certain architectural guidelines known as the ADA Standards for Accessible Design, which include specifications for parking facilities.

"As Branson's economic development continues, it is important that all new facilities be accessible to persons with disabilities," added Patrick. The Blue Velvet Theater was built in 1993, after the ADA Standards for Accessible Design went into effect.

Under the agreement, the theater will ensure that designated accessible spaces are available for use by people with disabilities at all times and that these spaces come into compliance with the ADA by April 1, 1996. The theater will also pay $1,000 in damages to Mr. XXX and a $1,000 civil penalty to the United States. Branson attracts more than 5.8 million tourists each year, who primarily visit to attend performances by country music stars. Copies of the settlement may be obtained by calling the Justice Department's toll-free ADA Information Line. The hotline was established by Attorney General Janet Reno as part of a nationwide campaign to educate the public about the law. The number is 800-514-0301 or 800-514-0383 (TDD).