U.S. Department of Justice

Civil Rights Division

Washington, D.C. 20530

COMPLIANCE AGREEMENT BETWEEN

THE UNITED STATES OF AMERICA

AND

THE BOARD OF PLUMBING, HEATING AND COOLING EXAMINERS OF

ROCKLAND COUNTY, NEW YORK

DEPARTMENT OF JUSTICE COMPLAINT NUMBER X

This matter was initiated by a complaint filed under Title

II of the Americans with Disabilities Act of 1990 (ADA),

42 U.S.C. 12131 - 12134, with the United States Department of

Justice, Civil Rights Division, Coordination and Review Section

(Department), against the Board of Plumbing, Heating and Cooling

Examiners of Rockland County, New York (Board). The complainant,

Mr. XX XXXX, asserts that he is unable to read because he

has dyslexia. He alleges that he has requested accommodations to

enable him to take the written portion of the master plumber and

heating contractor's licensing exam, which he must pass in order

to obtain a master plumber and heating contractor's license, but

that his requests have been denied. Mr. XXXX asserts that

the Board's failure to either provide him with a reader for the

exam, or to allow him to take the exam orally, discriminates

against him on the basis of his disability, in violation of Title

II.

The Department investigated this matter and issued the

attached Letter of Findings concluding that the Board had

violated Title II of the ADA by failing to provide the requested

accommodations. To resolve this matter, the parties have entered

into this Compliance Agreement. In consideration of the Board's

agreement to the terms set forth below, the Attorney General

agrees to refrain from undertaking further enforcement action.

The parties to this Agreement are the United States of

America and the Board of Plumbing, Heating and Cooling Examiners

of Rockland County, New York. In order to avoid litigation, the

parties hereby agree as follows:

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1. The ADA applies to the Board of Plumbing, Heating and

Cooling Examiners of Rockland County because it is a public

entity as defined in 42 U.S.C. 12131.

2. The Board operates the master plumber and heating

contractor's licensing program.

3. Title II of the ADA prohibits discrimination against

qualified individuals with disabilities on the basis of

disability in the services, programs, or activities of a public

entity, such as the Board's licensing program.

4. Under the ADA, the Board cannot administer its licensing

program in a manner that subjects qualified individuals with

disabilities to discrimination on the basis of disability. 28

C.F.R. 35.130(b)(6). Further, the Board must make reasonable

modifications in policies, practices, or procedures when the

modifications are necessary to avoid discrimination on the basis

of disability, unless the public entity can demonstrate that

making the modifications would fundamentally alter the nature of

the service, program, or activity. 28 C.F.R. 35.130 (b)(7).

5. The subjects of this Compliance Agreement are the

provision of accommodations on the written portion of the

licensing examination for Mr. XXXX so that he has an equal

opportunity to pass the exam, and the development and adoption of

a non-discrimination policy by the Board for individuals with

disabilities who may seek accommodations on the licensing

examination in the future.

6. Beginning with the next examination date, the Board will

grant Mr. XXXX's requests for accommodations (i.e., the

provision of a qualified reader or by allowing him to take the

exam orally) on the written portion of the master plumber and

heating contractor's licensing examination. Depending upon the

agreed-upon accommodation (i.e., the provision of a reader or the

use of an oral examination), the Board will also grant Mr.

XXXX extra time as necessary given the accommodations

provided.

7. The Board shall develop and issue a written policy

(hereinafter "written policy") that states that the Board shall

not discriminate on the basis of disability. The written policy

shall include the name and telephone number of the ADA

Coordinator responsible for the Board and contain a general

description of the applicable ADA grievance procedures.

8. The written policy shall include the following

statement: "Pursuant to the requirements of Title II of the

Americans with Disabilities Act, the Board of Plumbing, Heating

and Cooling Examiners of Rockland County, New York, will not

discriminate against individuals with disabilities on the basis

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of disability (including individuals with learning disabilities

seeking accommodations) in the Board's services, programs, or

activities."

9. Within fifteen (15) days of the execution of this

Agreement, the Board shall submit a copy of the final written

policy complying with paragraphs 7 and 8 to the Department for

review and approval.

10. Within fifteen (15) days of Departmental approval of

the written policy, the Board shall disseminate the policy to all

Board staff and include it in all written materials available to

license applicants regarding the licensing procedures or the

examination.

11. If at any time the Board desires to modify any portion

of this Agreement because of changed conditions making

performance impossible or impractical or for any other

reason, it shall promptly notify the Department in writing,

setting forth the facts and circumstances thought to justify

modification and the substance of the proposed modification.

Until there is written agreement by the Department to the

proposed modification, the proposed modification shall not take

effect.

12. If the Department determines that this Agreement or any

requirement thereof has been violated, it may institute a civil

action seeking specific performance of the provisions of this

Agreement and other appropriate relief in any appropriate Federal

court.

13. 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

the Department's right to enforce other deadlines and provisions

of this Agreement.

14. In the event that the Board fails to comply in a timely

manner with any requirement of this Agreement without obtaining

sufficient advance written agreement with the Department as a

temporary modification of the relevant terms of this Agreement,

all terms of this Agreement shall become enforceable in an

appropriate Federal court.

15. This Agreement is a public document. A copy of this

Agreement or any information contained in it may be made

available to any person by the Board or the Department on

request.

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16. The Board does not admit by the signing of this

Agreement that the operation of its current services, policies,

or practices is in violation of the ADA or its implementing

regulations.

17. The effective date of this Agreement is the date of the

last signature below.

18. 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 does not

purport to remedy any other potential violations of the ADA or

any other Federal law. This Agreement does not affect the

Board's continuing responsibility to comply with all aspects of

the ADA.

For the Board: For the United States:

(Signature) (Signature) Robb Wolfson

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John L. Wodatch, Chief

Joan A. Magagna, Deputy Chief

Sara Kaltenborn, Attorney

Robb Wolfson, Investigator

Disability Rights Section

Civil Rights Division

U.S. Department of Justice

Date 7/6/95 Date 8/24/95

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Department of Justice

FOR IMMEDIATE RELEASE CR

THURSDAY, AUGUST 24, 1995 (202) 616-2765

TDD (202) 514-1888

PLUMBER NOW ABLE TO TAKE LICENSING EXAM ACCORDING

TO AN AGREEMENT UNDER THE AMERICANS WITH DISABILITIES ACT

WASHINGTON, D.C. -- A man with a learning disability from

Rockland County, New York who has 42 years of plumbing experience

will now be able to take a licensing examination orally in place

of the county's written test, according to a settlement under the

Americans with Disabilities Act (ADA), the Justice Department

announced.

A county license is a prerequisite for ownership of a

plumbing and heating mechanic business in Rockland County.

XX XXXX has worked in the plumbing trade for 42

years and owned his own business until the time shortly after

Rockland County passed its licensing law in the late 1960's.

XXXX has dyslexia, a learning disability which causes an

individual to perceive letters and numbers in disordered fashion.

Because of his disability, he was unable to adequately read the

examination and had asked, for over 23 years, that it be given

orally or that he have it read to him. Until now, the Rockland

County Board of Plumbing, Heating, and Cooling Examiners had

denied his requests for accommodation.

(MORE)

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"The ADA protects persons with disabilities from unfair

restrictions," said Assistant Attorney General for Civil Rights

Deval L. Patrick. "The law ensures that an individual has the

opportunity to demonstrate the knowledge and skills he or she has

acquired and to fulfill the dream of business ownership."

Over the past 23 years XXXX continued working as a

plumber, and received numerous recommendations attesting to his

expertise both as a plumber and a heating mechanic. He even

installed the plumbing system in the building which houses the

board.

Under the ADA, a licensing board that requires passage of a

test as a condition for receiving a license must make necessary

accommodations to insure that the test is measuring an

individual's knowledge and abilities rather than merely

reflecting a disability.

According to the settlement, the Board will allow XXXX

to take the exam orally at the next available testing date. The

settlement also requires the board to develop and publicize a

policy stating that it will not discriminate against individuals

with disabilities.

# # #

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