

**SETTLEMENT AGREEMENT BETWEEN
THE UNITED STATES OF AMERICA AND
THE SPORTS HAVEN INTERNATIONAL, INC.,
OWNER AND OPERATOR OF THE SKYLINE MOUNTAIN RESORT
IN FAIRVIEW, UTAH,
UNDER THE AMERICANS WITH DISABILITIES ACT**

DJ# 202-77-40

BACKGROUND

1. This matter was initiated by a complaint filed under title III of the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. §§ 12181-12189, with the United States Department of Justice (the Department), against Sports Haven International, Inc. (the Owner/Operator), a nonprofit corporation that owns and operates Skyline Mountain Resort, Fairview, Utah (the Resort). The complainant alleged that the Resort was inaccessible to persons with mobility impairments and other disabilities.
2. The Attorney General is authorized to enforce title III of the ADA by requiring public accommodations to remove barriers to access when doing so is readily achievable. 42 U.S.C. § 12188(a)(2). In addition, the Attorney General may commence a civil action to enforce title III in any situation where the Attorney General believes that a pattern or practice of discrimination exists or a manner of general public importance is raised. *Id.* at § 12188(b)(1)(B).
3. The Skyline Mountain Resort is a place of recreation, that offers cabin rentals to the public, and cabin sites for sale only to Skyline Mountain Resort members where such members may camp or build a cabin. It also offers a swimming pool and snack bar, a clubhouse and office space, tennis courts, a golf course, and a pavilion for its members and guests, and is therefore a place of public accommodation under title III of the ADA. 42 U.S.C. 12181(7)(A). Much of the Resort was designed and constructed before January 26, 1993, the effective date of the ADA provisions that are applicable to new construction. Part of the Golf Course was constructed after the effective date of the ADA.
4. The Owner/Operator owns and manages the Skyline Mountain Resort and, as such, is a public accommodation covered by title III. 28 C.F.R. § 36.104.
5. The Owner/Operator agrees to undertake barrier removal as outlined in this Agreement throughout the portions of the facility that were constructed before January 26, 1993, to ensure that individuals with disabilities, including individuals who use wheelchairs, have

an opportunity to enjoy these facilities that is equal to the opportunity provided to individuals without disabilities.

6. The technical requirements and, where appropriate, the scoping requirements of the ADA Standards for Accessible Design at 28 C.F.R. Part 36, Appendix A (ADA Standards) are, for purposes of this Agreement, used as a guide as the Owner/Operator removes barriers to access throughout these facilities.
7. The Owner/Operator agrees that all barrier removal steps set forth in this agreement are readily achievable.
8. The Owner/Operator also agrees to make modifications to those facilities constructed after January 26, 1993, so that these facilities are readily accessible to and usable by individuals with disabilities.
9. The modifications set forth below will make these newly constructed facilities readily accessible and usable to individuals with disabilities in compliance with title III of the ADA, including the provision that newly-constructed facilities are designed and constructed consistent with the ADA Standards.
10. The Owner/Operator and the Department of Justice (together hereinafter referred to as the "Parties") have determined that Department of Justice complaint 202-77-40 can be resolved without litigation through the Remedial Actions set forth below.

REMEDIAL ACTIONS

11. Golf Course / Gravel Parking Area (New Construction). The Owner/Operator agrees to take the following actions by September 1, 2005:
 - a. There are no designated accessible parking spaces located in the gravel parking lot. On the shortest accessible route to the accessible entrance, provide one van-accessible space designated as reserved for people with disabilities. Van-accessible spaces shall be a minimum of 96 inches wide and served by an access aisle that is at least 96 inches wide. All spaces designated as reserved for people with disabilities shall have vertical signs with the International Symbol of Accessibility and shall be located so that they cannot be obstructed by parked vehicles. Van-accessible spaces shall have an additional "Van-Accessible" sign located below the International Symbol of Accessibility. Ensure that all spaces and access aisles for persons with disabilities are flat and level, with slopes and cross-slopes not exceeding 1:50 in all directions, and that their surfaces are firm, stable, and slip-resistant. Standards §§ 4.1.2(5), 4.6, 4.30.7(1).

12. Golf Shack - (Existing). The Owner/Operator agrees to take the following actions by September 1, 2005:
 - a. Service Counter - The service counter at the Golf Shack is inaccessible because the counter is mounted at 48 inches. Provide a counter on an accessible route such that a portion of the counter is at least 36 inches wide and no more than 36 inches above the finished floor, or provide an auxiliary counter with a maximum height of 36 inches in close proximity to the main counter, or provide equivalent facilitation. Equivalent facilitation may be provided in the form of a folding shelf attached to the main counter, an auxiliary table nearby, a clipboard made available to the public, or other means. Standards §§ 4.1.1(2), 7.2(2), 4.1.3(1), 4.3.

13. Club House Entrance and Access to the second floor (existing facility). There are numerous barriers to access in the existing Club House. The Owner/Operator agrees to take the following actions by September 1, 2005, unless otherwise indicated:
 - a. Exterior Entrance - There are no accessible entrances to the Club House. The resort has proposed installing a platform lift to provide access to the Club House.
 1. Provide at least one accessible route within the boundary of the site connecting exterior elements to at least one entrance that, to the maximum extent feasible, coincides with the route for the general public. The accessible route must have a minimum clear width of 36 inches, or a minimum clear width of 42 inches if there is a turn around an obstruction less than 48 inches wide; have passing spaces at least 60 inches by 60 inches at least every 200 feet; have a minimum clear headroom of 80 inches; have a surface that is firm, stable, and slip resistant; have, in the absence of a curb ramp, ramp, elevator, or platform lift, no level changes in excess of ½ inch vertically; and have a running slope of less than 1:20 (5%) (or have been constructed as a fully accessible ramp) and a cross slope of less than 1:50 (2%). Standards §§ 4.1.3(1), 4.3, 4.5, Fig. 7.

 - b. Access to the second floor. The Owner/Operator agrees to take the following actions by December 1, 2005:
 1. The Resort Management offices are located in the Club House on the second floor, and there is no elevator or accessible route to the second floor. Because providing physical access to the second floor office for persons who are unable to climb stairs would not be readily achievable, Owner/Operator will provide management services on the first floor, as needed, as a readily achievable alternative to barrier removal and will post a sign notifying the public of this policy.

14. Club House Toilet and Shower Rooms (existing facility). There are numerous barriers to access in the existing Club House's toilet and shower rooms. The Owner/Operator agrees to take the actions listed below by September 1, 2007, unless otherwise indicated. Alternatively, if the Owner/Operator prefers, by September 1, 2007, the Owner/Operator will build an additional, fully-accessible facility near the RV park. This new facility will have 24 hour access and at least two single-user combination toilet/shower rooms and will be located near the RV park. If the latter alternative is chosen, before submitting plans for a building permit, the Owner/Operator will submit plans (including a full set of architectural and construction documents) to the Department for approval consistent with the ADA Standards, which approval shall not be unreasonably withheld. Upon completion, the Department will conduct an onsite inspection of the New Toilet and Shower rooms and will supplement this Agreement to the extent necessary to ensure that all aspects of the new facility comply with the ADA. The Owner/Operator will cooperate in good faith with the Department in this regard.

15. Club House Toilet and Shower Rooms (existing facility). If the modifications required by the language of this Agreement are reasonably anticipated to become moot before the expiration of the deadlines associated with those modifications, the Owner/Operator may request in writing that the Department release the Owner/Operator from the relevant obligations, or revise the obligations, as appropriate. The Department will notify the Owner/Operator, in writing, within 30 days of receiving such a request. The Department shall not unreasonably deny such a request. If this latter option is chosen, the Owner/Operator does not need to take any specific barrier removal action with respect to the existing Club House's toilet and shower rooms.

16. Club House Toilet and Shower Rooms (existing facility). The Owner/Operator agrees to take the actions listed below by September 1, 2007, unless otherwise indicated.
 - a. Woman's and Men's Toilet and Shower Rooms (Entrance)
 1. Provide an accessible entrance to both toilet and shower facilities with after-hour access to each toilet room. Each accessible entrance shall have a minimum clear opening width of 32 inches with the door open 90 degrees, measured between the face of the door and the opposite stop; that has either an automatic door operator or clear and level maneuvering clearance that complies fully with Fig. 25; and that has a threshold not exceeding ½ inch in height and beveled with a slope no greater than 1:2. Ensure that all hardware and operating devices have shapes that are easy to grasp with one hand and do not require tight grasping, pinching or twisting of the wrist to operate; and that they are mounted no higher than 48 inches above the finished floor. Standards §§ 4.1.3(7)(a), 4.13, Figs. 24, 25.

 - b. Women's Toilet Room and Shower Facilities

1. The toilet room sign is not accessible. Provide a toilet room sign with the International Symbol of Accessibility and raised and Braille characters. The sign shall be mounted on the wall adjacent to the latch side of the door with the centerline of the sign at 60 inches above the finished floor and situated such that a person can approach within 3 inches of the sign without encountering an obstruction or standing within a door swing. Standards §§ 4.1.2(7)(d), 4.30.1, 4.30.4, 4.30.5, 4.30.6, 4.30.7.
2. The exterior and interior doors to the toilet room are inaccessible because the door hardware requires twisting of the wrist to operate. Provide doors with hardware usable with one hand and without tight grasping, pinching, or twisting of the wrist. Lever-operated, push-type, and U-shaped handles are acceptable designs. Standards § 4.13.9.
3. Provide exterior and interior doors with clear opening widths of 32 inches, as measured between the face of the door and the opposite stop with the door open 90 degrees. Standards §§ 4.1.3(7)(b), 4.13.5, Fig. 24.
4. The lavatory is inaccessible because there is no knee space and no accessible hardware is provided. Provide a lavatory with the top of its rim or counter 34 inches or less above the finished floor; the bottom edge of the apron at least 29 inches above the finished floor; knee and toe clearances that comply with Fig. 31; hot water and drain pipes covered or otherwise configured to protect against contact; clear floor space at least 30 inches wide and 48 inches deep centered on the lavatory; and a faucet that can be operated with 5 pounds of force or less and can be used with one hand and without tight grasping, pinching, or twisting of the wrist (lever-operated, push-type, and electronically controlled mechanisms are examples of acceptable designs). Standards §§ 4.19.2, 4.19.3, 4.19.4, 4.19.5, 4.27.4, Figs. 31, 32.
5. No accessible mirror has been provided. Provide a mirror with the bottom edge of its reflecting surface no more than 40 inches above the finished floor. Standards § 4.19.6.
6. The circulation path within the toilet room is inaccessible because the wall-mounted paper towel dispenser protrudes into the main walkway and would not be detectable to a blind person using a cane. Ensure that there are no objects in the circulation path with their bottom leading edges measuring between 27 inches and 80 inches above the finished floor and that protrude more than 4 inches into walks, halls, corridors, passageways, or aisles. Ensure that free-standing objects mounted on posts or pylons do not overhang the circulation path by more than 12 inches at a height of

between 27 inches to 80 inches above the ground or finished floor.
Standards § 4.4.

7. There is no accessible stall provided. Provide a “standard” accessible toilet stall at least 60 inches wide and at least 59 inches deep (or at least 56 inches deep with a wall-mounted toilet) such that all of the stall’s elements, including stall door, stall door hardware, water closet, size and arrangement, toe clearances, grab bars, controls, and dispensers, comply with the Standards. Standards §§ 4.13, 4.16, 4.17, 4.26, 4.27, Fig. 30.
8. The shower facilities are inaccessible. Provide a shower in this room that is exactly 36 inches wide and 36 inches deep with a 48 inch long and 36 inch wide clear floor space alongside the shower opening, and an L-shaped shower seat mounted on the wall opposite the controls and extending the full depth of the stall; OR a shower that is at least 30 inches deep and 60 inches wide with no curb or threshold and with a 36 inch deep and 60 inch wide clear floor space at the shower opening. Ensure that the shower has grab bars, controls, a shower spray unit, and a seat, curb, and enclosure, if provided, that comply fully with the Standards and with Figs. 35, 36, and 37, as applicable. Standards § 4.21, Figs. 35, 36, 37.

c. Men’s Toilet Room and Shower Facilities

1. The toilet room sign is not accessible. Provide a toilet room sign with the International Symbol of Accessibility and raised and Braille characters. The sign shall be mounted on the wall adjacent to the latch side of the door with the centerline of the sign at 60 inches above the finished floor and situated such that a person can approach within 3 inches of the sign without encountering an obstruction or standing within a door swing. Standards §§ 4.1.2(7)(d), 4.30.1, 4.30.4, 4.30.5, 4.30.6, 4.30.7.
2. The exterior and interior doors to the toilet room are inaccessible because the door hardware require twisting of the wrist to operate. Provide doors with hardware usable with one hand and without tight grasping, pinching, or twisting of the wrist. Lever-operated, push-type, and U-shaped handles are acceptable designs. Standards § 4.13.9.
3. Provide exterior and interior doors with clear openings of 32 inches with the door open 90 degrees, measured between the face of the door and the opposite stop. Standards §§ 4.1.3(7)(b), 4.13.5, Fig. 24.

4. The lavatory is inaccessible because there is no knee space and no accessible hardware is provided. Provide a lavatory with the top of its rim or counter 34 inches or less above the finished floor; the bottom edge of the apron at least 29 inches above the finished floor; knee and toe clearances that comply with Fig. 31; hot water and drain pipes covered or otherwise configured to protect against contact; clear floor space at least 30 inches wide and 48 inches deep centered on the lavatory; and a faucet that can be operated with 5 pounds of force or less and can be used with one hand and without tight grasping, pinching, or twisting of the wrist (lever-operated, push-type, and electronically controlled mechanisms are examples of acceptable designs). Standards §§ 4.19.2, 4.19.3, 4.19.4, 4.19.5, 4.27.4, Figs. 31, 32.
 5. No accessible mirror has been provided. Provide a mirror with the bottom edge of its reflecting surface no more than 40 inches above the finished floor. Standards § 4.19.6.
 6. There is no accessible stall provided. Provide a “standard” accessible toilet stall at least 60 inches wide and at least 59 inches deep (or at least 56 inches deep with a wall-mounted toilet) such that all of the stall’s elements, including stall door, stall door hardware, water closet, size and arrangement, toe clearances, grab bars, controls, and dispensers, comply with the Standards. Standards §§ 4.13, 4.16, 4.17, 4.26, 4.27, Fig. 30.
 7. The shower facilities are inaccessible. Provide a shower in this room that is exactly 36 inches wide and 36 inches deep with a 48 inch long and 36 inch wide clear floor space alongside the shower opening, and an L-shaped shower seat mounted on the wall opposite the controls and extending the full depth of the stall; OR a shower that is at least 30 inches deep and 60 inches wide with no curb or threshold and with a 36 inch deep and 60 inch wide clear floor space at the shower opening. Ensure that the shower has grab bars, controls, a shower spray unit, and a seat, curb, and enclosure, if provided, that comply fully with the Standards and with Figs. 35, 36, and 37, as applicable. Standards § 4.21, Figs. 35, 36, 37.
17. At present, none of the Cabins are accessible to people with disabilities. Cabin #1, an existing facility, was surveyed. The Owner/Operator agrees to take the following actions by June 1, 2006, with respect to Cabin #1. Alternatively, if the Owner/Operator elects, by June 1, 2006, the Owner/Operator will modify a different cabin to ensure that there is at least one fully-accessible Cabin available to guests with disabilities. If the latter alternative is chosen, before submitting plans for a building permit to make the modifications, the Owner/Operator will submit plans (including a full set of architectural and construction documents) to the Department for approval consistent with the ADA Standards, which approval shall not be unreasonably withheld. The Owner/Operator will modify plans in accordance with the Department’s comments to bring the chosen cabin

into full compliance with the ADA. If this latter option is chosen, the Owner/Operator does not need to take any specific barrier removal action with respect to Cabin #1.

18. If the modifications required by the language of this Agreement are reasonably anticipated to become moot before the expiration of the deadlines associated with those modifications, the Owner/Operator may request in writing that the Department release the Owner/Operator from the relevant obligations, or revise the obligations, as appropriate. The Department will notify the Owner/Operator, in writing, within 30 days of receiving such a request. The Department shall not unreasonably deny such a request. If this latter option is chosen, the Owner/Operator does not need to take any specific barrier removal action with respect to Cabin #1.
19. Cabin #1. (existing facility).
 - a. Cabin Entrance:
 1. Provide a ramp that is at least 36 inches wide with a slope not exceeding 1:12 and a cross slope not exceeding 1:50; with level landings at least as wide as the ramp and 60 inches long at the top and bottom of the ramp; and with edge protection at least 2 inches high at the drop off sides. Provide handrails that are between 1¼ inches and 1½ inches in diameter with a continuous gripping surface along both sides of the ramp, extending at least 12 inches beyond the top and bottom of the ramp parallel with the ground surface. Ensure that handrails are mounted between 34 inches and 38 inches above the ramp surface, with ends rounded or returned smoothly to the floor, wall, or post, and that they do not rotate within their fittings. Ensure that the ramp and approaches are designed so that water will not accumulate on walking surfaces. Standards §§ 4.1.2(1), 4.1.2(2), 4.3.8, 4.8.
 2. Provide a designated accessible entrance that has a minimum clear opening width of 32 inches, measured between the face of the door and the opposite stop with the door open 90 degrees; that has either an automatic door operator or clear and level maneuvering clearance that complies fully with Fig. 25; and that has a threshold not exceeding ½ inch in height and beveled with a slope no greater than 1:2. Ensure that all hardware and operating devices have shapes that are easy to grasp with one hand and do not require tight grasping, pinching or twisting of the wrist to operate; and that they are mounted no higher than 48 inches above the finished floor. Standards §§ 4.1.3(7)(a), 4.13, Figs. 24, 25.
 - b. Cabin Interior: [Note: the interior modifications to the cabin(s) indicated in plans submitted to the Department present only a partial accessibility solution.]
 1. Provide at least one accessible route within the cabin that connects all features and elements (e.g., the bedroom, bathroom, kitchen, storage

areas) that, to the maximum extent feasible, coincides with the route for the general public. The accessible route must have a minimum clear width of 36 inches, or a minimum clear width of 42 inches if there is a turn around an obstruction less than 48 inches wide; have a minimum clear headroom of 80 inches; have a surface that is firm, stable, and slip resistant; have, in the absence of a ramp, elevator, or platform lift, no level changes in excess of ½ inch vertically; and have a running slope of less than 1:20 (5%) (or have been constructed as a fully accessible ramp) and a cross slope of less than 1:50 (2%). Standards §§ 4.1.3(1), 4.3, 4.5, Fig. 7.

2. Provide an amenities dispenser with mechanical controls, if any, that can be operated with 5 pounds of force or less and that can be used with one hand and without tight grasping, pinching, or twisting of the wrist (lever-operated, push-type, and electronically controlled mechanisms are examples of acceptable designs). Ensure that the controls are a maximum height above the finished floor of 48 inches for a forward approach or 54 inches for a side approach and that it is accompanied by clear floor space of 30 by 48 inches that allows a forward or parallel approach by a person using a wheelchair. Standards §§ 4.27.2, 4.27.3, 4.27.4, 4.2.4, 4.2.5, 4.2.6.
3. The toilet room door swings into the required clear floor space at the lavatory. Ensure that no door swings into the required clear floor space at any accessible fixture. Standards §§ 4.22.2.
4. The lavatory is inaccessible. Provide a lavatory with the top of its rim or counter 34 inches or less above the finished floor; the bottom edge of the apron at least 29 inches above the finished floor; knee and toe clearances that comply with Fig. 31; hot water and drain pipes covered or otherwise configured to protect against contact; clear floor space at least 30 inches wide and 48 inches deep centered on the lavatory; and a faucet that can be operated with 5 pounds of force or less and can be used with one hand and without tight grasping, pinching, or twisting of the wrist (lever-operated, push-type, and electronically controlled mechanisms are examples of acceptable designs). Standards §§ 4.22.6, 4.19.2, 4.19.3, 4.19.4, 4.19.5, 4.27.4, Figs. 31, 32.
5. There is no accessible mirror. Provide a mirror with the bottom edge of its reflecting surface no more than 40 inches above the finished floor. Standards §§ 4.22.6, 4.19.6.
6. The toilet is inaccessible. Provide a toilet with a centerline that is 18 inches from the near side wall; a seat that is between 17 and 19 inches above the finished floor; clear floor space at the toilet that complies with

Fig. 28; and a flush control mounted on the “open” side of the toilet’s clear floor space. Standards §§ 4.22.4, 4.16.2, 4.16.3, 4.16.5, Figs. 28, 29.

7. The toilet paper dispenser is inaccessible. Provide a toilet paper dispenser that is mounted within reach, with its top at least 1½ inches under the side grab bar, and centered at least 19 inches above the finished floor. Standards §§ 4.22.4, 4.16.6, Fig. 29(b).
8. There are no grab bars. Provide a side grab bar that is at least 40 inches in overall length, with the far end mounted at least 52 inches from the rear wall and the closer end 12 inches or less from the rear wall; mounted 33 to 36 inches above the finished floor; with a diameter between 1¼ and 1½ inches; with 1½ inches between the grab bar and the wall; and at least 1½ inches between the grab bar and any other object, such as the toilet paper dispenser. Standards §§ 4.17.6, 4.26.2, Figs. 30(a), (d). Provide a rear grab bar that is at least 36 inches in overall length, with the closer end no more than 6 inches from the side wall; mounted 33 to 36 inches above the finished floor; with a diameter between 1¼ and 1½ inches; with 1½ inches between the grab bar and the wall; and at least 1½ inches between the grab bar and any other object, such as a toilet seat cover dispenser. Standards §§ 4.17.6, 4.26.2, Fig. 30.
9. Provide one set of visual notification devices to alert guests who are deaf or hard of hearing to knocks on the door, OR electrical outlets within the reach ranges of a person using a wheelchair and portable notification devices. Standards §§ 4.1.3(14), 4.2.5, 4.2.6, 9.2.2(8), 9.3.1, 9.3.2.

REPORTING

20. On the anniversaries of the effective date of this Agreement, the Owner/Operator will submit reports to the Department summarizing the actions it has taken pursuant to this agreement. The reports will consist of descriptions and detailed photographs of the architectural modifications taken pursuant to this Agreement to clearly show the dimensions of the various elements and spaces so that compliance with the ADA Standards may be determined.

ENFORCEMENT

21. The Department of Justice may review compliance with this Agreement at any time. If the Department believes that this Agreement or any of its requirements have been violated, it may institute a civil action in federal district court to enforce this agreement or the requirements of the title III, following written notices to the Owner/Operator of possible violations and a period of 10 days in which each has the opportunity to cure the

alleged violations. If the Department has to enforce the provisions of this Agreement, it may seek damages, civil penalties, and all other relief authorized by law.

22. Failure by the Department to enforce this entire Agreement or any of its provisions or deadlines as to one or more of the parties shall not be construed as a waiver of the Department's right to enforce other deadlines and provisions of this Agreement.
23. This Agreement shall be binding on the Owner/Operator, its agents and employees. In the event the Owner/Operator seeks to transfer or assign all or part of its interest in any facility covered by this Agreement, and the successor or assign intends on carrying on the same or similar use of the facility, as a condition of sale the Owner/Operator shall obtain the written accession of the successor or assign to any obligations remaining under this Agreement for the remaining term of this Agreement.

IMPLEMENTATION

24. This Agreement is a public document. A copy of this document or any information contained in it shall be made available to any person by the Owner/Operator or the Department upon request.
25. The effective date of this Agreement is the date of the last signature below.
26. This Agreement constitutes the entire agreement among 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, will be enforceable under its provisions.
27. This Agreement is limited to the facts set forth above the does not purport to remedy any other potential violations of the ADA or any other Federal law. This Agreement does not affect the Owner/Operator's continuing responsibility to comply with all aspects of title III of the ADA, including the ongoing obligation to engage in readily achievable barrier removal and maintain accessible features.
28. This Agreement will remain in effect for 3 years from the effective date of this Agreement.

For Sports Haven International, Inc.:

For the United States:

R. ALEXANDER ACOSTA,
Assistant Attorney General for Civil Rights

By: _____

By: _____

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Date: _____

Date: _____