

**SETTLEMENT AGREEMENT BETWEEN
THE UNITED STATES OF AMERICA
AND
HAMILTON INITIATIVE, LLC**

DJ # 202-50-148

BACKGROUND

SCOPE OF THE INVESTIGATION

1. The United States Department of Justice (United States) initiated a compliance review of Nichols and Beal Restaurant (Restaurant) to determine whether it complies with title III of the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. §§ 12181-12189, and its implementing regulation, 28 C.F.R. Part 36. Hamilton Initiative, LLC (Hamilton), is the owner and lessor of the property (Property), located at 10 Utica Street, Hamilton, New York, leased to Nichols and Beal Restaurant. In May 2014, Nichols and Beal Restaurant closed its business. Hamilton was notified by the United States of the pending investigation, and the Property is now leased by Hamilton to No. 10 Tavern (Tavern).
2. In the course of its investigation, the United States surveyed the Restaurant. Nichols and Beal LLC made alterations to the Restaurant between January 26, 1992 and March 15, 2010. The survey showed, that Nichols and Beal LLC had failed to make alterations to the Restaurant in such a manner that, to the maximum extent feasible, the altered portions are readily accessible to and usable by individuals with disabilities, in violation of 42 U.S.C. § 12183(a)(2) and 28 C.F.R. §§ 36.402 and 36.403. As the owner and lessor of the Restaurant, Hamilton thereby discriminated against persons with disabilities in the full and equal enjoyment of the Restaurant's goods, services, facilities, privileges, advantages, and accommodations, in violation of 42 U.S.C. § 12182(a) and 28 C.F.R. § 36.201(a).

JURISDICTION

3. As owner and lessor of the Property, Hamilton, is a place of public accommodation, subject to the requirements of title III of the ADA. 42 U.S.C. § 12182 (a); 28 C.F.R. § 36.201(a).
4. The United States is authorized under 42 U.S.C. § 12188(b)(1)(A) and 28 C.F.R. § 36.502, to undertake reviews of public accommodations including Hamilton Initiative, LLC to determine whether it complies with title III of the ADA and the implementing regulation.

5. The Attorney General of the United States may commence a civil action in any appropriate United States district court to enforce title III where he has reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of discrimination, or that any person or group of persons has been discriminated against under title III of the ADA and that discrimination raises an issue of general public importance. 42 U.S.C. § 12188(b)(1)(B); 28 C.F.R. § 36.503.
6. The parties to the Settlement Agreement (Agreement) are the United States and Hamilton Initiative, LLC.
7. The parties agree that it is in their mutual interest, and the United States believes that it is the public interest, to resolve this dispute without engaging in protracted litigation. The parties have therefore voluntarily entered into this Agreement.
8. In consideration of, and consistent with, the terms of this Agreement, the United States agrees to refrain from filing a civil suit under title III in this matter, except as provided in the section entitled "Implementation and Enforcement."

REMEDIAL ACTIONS

9. Hamilton will not violate title III of the ADA by, among other things, discriminating against any individual on the basis of disability in the full and equal enjoyment of the Property's goods, services, facilities, privileges, advantages, and accommodations. 42 U.S.C. §§ 12181-12189; 28 C.F.R. Part 36.
10. Within 180 days from the effective date of this Agreement, Hamilton will make the modifications listed in Attachment A.
11. Hamilton will comply with the cited provisions of the 2010 ADA Standards For Accessible Design (Standards) when making the modifications identified in Attachment A and when taking the actions required by this Agreement. 28 C.F.R. § 35.104; Appendices B and D to 36 C.F.R part 1191 and the requirements contained in subpart D of 28 C.F.R. part 3.
12. Except as otherwise specified in this Agreement, by the 3rd month, by the 6th month and by the 9th month of the effective date of this Agreement, Hamilton will submit written reports to the United States summarizing the actions it has taken pursuant to this Agreement. These reports will include detailed photographs showing measurements, architectural plans, work orders, and notices.

IMPLEMENTATION AND ENFORCEMENT

13. The United States may review compliance with this Agreement at any time. If the United States believes that Hamilton has violated this Agreement, the United States

will notify Hamilton and will attempt to resolve the issues in good faith. If the United States' concerns are not fully resolved within 30 days of the notice, it may institute a civil action in federal district court to enforce the terms of this Agreement or to enforce title III of the ADA.

14. It is a violation of this Agreement for Hamilton to fail to comply in a timely manner with any of its requirements set out in this Agreement.
15. Failure by the United States to enforce any provision or deadline of this Agreement will not be construed as a waiver of the United States' right to enforce any provisions or deadlines of this Agreement.
16. This Agreement is a public document. A copy of this Agreement, including Attachments, will be made available to any person by Hamilton or the United States on request.
17. This Agreement constitutes the entire agreement between the parties on the matters raised in it, 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, including its Attachments will 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 Hamilton Initiative, LLC's continuing responsibility to comply with all aspects of the ADA.
18. This Agreement will remain in effect for one year.
19. The person signing for Hamilton represents that he or she is authorized to bind Hamilton Initiative, LLC to this Agreement.
20. The effective date of this Agreement is the date of the last signature below.

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For Hamilton Initiative, LLC:

By: 
SHANNON MANTARO,
Executive Director

Date: 6/11/14

For the United States:

JOCELYN SAMUELS

Acting Assistant Attorney General for Civil Rights
EVE L. HILL, Deputy Assistant
Attorney General

REBECCA B. BOND, Chief

KATHLEEN P. WOLFE, Special Litigation Counsel

KEVIN KNEWSKI, Deputy Chief

By: 

PAULA N. RUBIN, Trial Attorney

U.S. Department of Justice

Civil Rights Division

950 Pennsylvania Avenue, N.W.

Disability Rights Section - NYA

Washington, DC 20530

Phone: 202-305-2191

Fax: 202-514-7821

Date: 9.30.14