



U.S. Department of Justice

United States Attorney
Eastern District of Pennsylvania

VOLUNTARY COMPLIANCE AGREEMENT

between

THE UNITED STATES OF AMERICA

and

WASHINGTON SQUARE RESTAURANT PARTNERS, L.P.

WHEREAS, the Americans with Disabilities Act of 1990, as amended (“ADA”), 42 U.S.C. §§ 12181-12189, provides, among other things, that “[n]o individual shall be discriminated against on the basis of disability in the full and equal enjoyment of the goods, services, privileges, advantages, or accommodations of any place of public accommodation by any person who owns, leases (or leases to), or operates a place of public accommodation,” 42 U.S.C. § 12182(a);

WHEREAS, the term “public accommodation” under the ADA includes “a restaurant, bar, or other establishment serving food or drink,” 42 U.S.C. § 12181(7)(B);

WHEREAS, the ADA authorizes the United States Department of Justice to “undertake periodic reviews of compliance of covered entities,” 42 U.S.C. § 12188(b)(1)(A)(i);

WHEREAS, the United States Attorney’s Office for the Eastern District of Pennsylvania (the “United States”), pursuant to its authority under 42 U.S.C. § 12188(b)(1)(A)(i), commenced a limited review of certain restaurants in Philadelphia, Pennsylvania to determine, with respect to the specific areas reviewed, whether those restaurants were operating in compliance with Title III of the ADA (the “Compliance Review”);

WHEREAS, Washington Square Restaurant Partners, L.P. (“WSRP”) owns and operates a restaurant, currently operating under the name Talula’s Garden, which is located at 210 W. Washington Square, Philadelphia, Pennsylvania 19106 (the “Restaurant”);

WHEREAS, WSRP is a subsidiary of Starr Restaurant Organization, L.P.;

WHEREAS, as part of the Compliance Review, the United States requested information from Starr Restaurant Organization, L.P. regarding the Restaurant;

WHEREAS, Starr Restaurant Organization, L.P. manages the operations of each of its affiliated restaurants, including the Restaurant, through its wholly owned subsidiary, SUR Organization, LLC (“SUR”);

WHEREAS, the United States conducted a limited site inspection of certain features and facilities within the Restaurant and met with representatives of the Starr Organization;

WHEREAS, the United States and WSRP share the goal of resolving the Compliance Review with respect to the Restaurant and ensuring that the Restaurant operates in compliance with Title III of the ADA;

WHEREAS, contemporaneously with the execution of this Voluntary Compliance Agreement (this "Agreement"), Starr Restaurant Organization, L.P. and SUR separately executed a Voluntary Compliance Agreement concerning ADA compliance in all restaurants affiliated with Starr Restaurant Organization, L.P.;

WHEREAS, in light of the actions taken by WSRP to date to comply with the ADA and the actions that WSRP has agreed to take within the next year as set forth in this Voluntary Compliance Agreement (the "Agreement"), the United States has decided to take no further enforcement action at this time with respect to the Restaurant as a result of this Compliance Review; and

NOW, THEREFORE, IT IS HEREBY AGREED, BY AND BETWEEN THE UNITED STATES OF AMERICA AND WASHINGTON SQUARE RESTAURANT PARTNERS, L.P., AS FOLLOWS:

I. APPLICATION AND PARTIES BOUND

1. Talula's Garden is a place of public accommodation within the meaning of 42 U.S.C. § 12181(7) because, among other things, it is "a restaurant, bar, or other establishment serving food or drink." 42 U.S.C. § 12181(7)(B); *see* 28 C.F.R. § 36.104.

2. WSRP is a public accommodation within the meaning of Title III of the ADA because it owns and operates the Restaurant, which is a place of public accommodation. *See* 42 U.S.C. § 12182(a); 28 C.F.R. § 36.104.

3. This Agreement shall be binding on WSRP and each of its agents and employees. In the event WSRP seeks to transfer or assign all or part of their interest in the Restaurant, and the successor or assignee intends to carry on the same or similar use of the facility, as a condition of sale WSRP shall obtain the written agreement of the successor or assignee to any obligations remaining under this Agreement for the remaining term of this Agreement.

4. This Agreement shall apply to all public use areas within the Restaurant. This includes, but is not limited to: public entrances, waiting areas, bar areas, dining areas, restrooms, and corridors. This Agreement shall not apply to non-public use areas, such as food preparation and storage locations, employee locker rooms, and other service-related areas.

II. DEFINITIONS

5. For purposes of this Agreement, the term "Standards" means the 1991 ADA Standards for Accessible Design, 28 C.F.R. Part 36, Appendix D, and the 2010 ADA Standards for Accessible Design, 28 C.F.R. § 36.104, which consist of the 2004 ADA Accessibility Guidelines (set forth in

appendices B and D to 36 C.F.R. part 1191). The 2010 Standards shall apply to the remedial actions to be taken under this Agreement, unless otherwise expressly stated in this Agreement. 28 C.F.R. § 36.406(a)(5)(ii).

6. For purposes of this Agreement, the term “accessible” means in compliance with the Standards.

7. For purposes of this Agreement, the term “alterations” means a change to the Restaurant that affects or could affect the usability of the building or facility or any part thereof and includes, but is not limited to, “remodeling, renovation, rehabilitation, reconstruction, historic restoration, changes or rearrangement in structural parts or elements, and changes or rearrangement in the plan configuration of walls and full-height partitions. Normal maintenance, reroofing, painting or wallpapering, asbestos removal, or changes to mechanical and electrical systems are not alterations unless they affect the usability of the building or facility.” *See* 28 C.F.R. § 36.402.

III. TALULA’S GARDEN

TALULUA’S GARDEN – GARDEN AREA

8. WSRP shall remove the following barriers to accessibility at the bar counter and bar area tables in the garden, which the United States observed during its August 4, 2015 site inspection of the Restaurant: The bar counter at which food and/or drink is served for consumption by customers seated on stools or standing at the counter exceeds 34 inches in height and does not have a portion of the main counter which is at least five feet long and no higher than 34 inches above the finish floor (“AFF”) with knee space under that is at least 27 inches high by 30 inches wide by 19 inches deep. The nearest tables within the same area at which outdoor bar service is available do not provide compliant knee space.

9. WSRP can satisfy the requirements of paragraph 8 of this Agreement by completing all of the following steps within one hundred twenty (120) days of the effective date of this Agreement: Provide a compliant dining table adjacent to the bar with clear floor space a minimum of 30 inches wide and a minimum of 48 inches deep positioned for a forward approach, knee and toe clearance extending a minimum of 17 inches, and a dining surface 28 inches minimum and 34 inches maximum AFF. *See* the Title III Regulations § 36.302(a), the 2010 Standards §§ 226, 902, 305, and 306 and Figures 305.5(a), 306.2, and 306.3. Instruct staff to seat guests using wheelchairs or other mobility devices at this table adjacent to the bar and to provide the same service and experience as sitting at the bar counter. *See* the 1991 Standards §§ 5.2, 4.32.3, and 4.32.4.

10. WSRP shall remove the following barriers to accessibility at the designated accessible dining table in the garden area, which the United States observed during its August 4, 2015 site inspection of the Restaurant: The floor space and knee clearance at the designated accessible dining table in the garden is not compliant with the 1991 Standards. *See* the Title III Regulations § 36.302(a) and the 1991 Standards §§ 4.32.2 and 4.32.3.

11. WSRP can satisfy the requirements of paragraph 10 of this Agreement by completing all of the following steps within one hundred twenty (120) days of the effective date of this Agreement: Provide a compliant dining table in the garden area with clear floor space a minimum of 30 inches

wide and a minimum of 48 inches deep positioned for a forward approach, knee and toe clearance extending a minimum of 17 inches, and a dining surface 28 inches minimum and 34 inches maximum AFF. *See* the Title III Regulations § 36.302(a) and the 2010 Standards §§ 226, 902, 305, and 306 and Figures 305.5(a), 306.2, and 306.3. Instruct staff to seat guests using wheelchairs or other mobility devices at this table and provide the same service and experience as sitting at the bar counter.

TALULA'S GARDEN RESTROOM

12. WSRP shall remove the following barriers to accessibility in the multi-user unisex toilet room, which the United States observed during its August 4, 2015 site inspection of the Restaurant:

- a. A sign identifying the toilet room in raised characters and Braille is not provided at the toilet room entrance. *See* the 1991 Standards §§ 4.1.6 (1)(b), 4.1.3(16)(a), 4.30.1, 4.30.4, 4.30.5 and 4.30.6.
- b. The centerline of the toilet is more than 18 inches from the side wall. *See* the 1991 Standards § 4.17.3 and Figure 30(a); 2010 Standards §§ 213.3.1, 604.2 and Figure 604.2(a).

13. WSRP can satisfy the requirements of paragraph 12 of this Agreement by completing all of the following steps within one hundred twenty (120) days of the effective date of this Agreement:

- a. Provide compliant signage in raised characters and braille and located alongside the door on the latch side at 48 inches minimum AFF, measured from the baseline of the lowest tactile character, and 60 inches maximum AFF, measured from the baseline of the highest tactile character. *See* the 2010 Standards §§ 216.2 and 703.1-703.5.
- b. Reposition the toilet so that its centerline is at least 16 inches and no more than 18 inches from the side wall. *See* 2010 Standards §§ 213.3.1, 604.2 and Figure 604.2(a).

TALULA'S GARDEN INSIDE DINING AREA

14. WSRP shall remove the following barriers to accessibility at the designated accessible dining table in the main dining room, which the United States observed during its August 4, 2015 site inspection of the Restaurant: The clear floor space and knee clearance at the designated accessible dining table inside is not compliant. The metal hinges/supports for the flip-up extension that has been added to this table to provide the required minimum depth of knee space protrude into the required minimum knee clearance height of 27 inches AFF. The sharpness of the metal hinges/supports and the narrow width between them could be a safety hazard. *See* the Title III Regulations § 36.302(a) and the 1991 Standards §§ 4.32.2 and 4.32.3.

15. WSRP can satisfy the requirements of paragraph 14 of this Agreement by completing all of the following steps within one hundred twenty (120) days of the effective date of this Agreement: Modify or replace the metal hinges on the designated accessible tables to provide clearance that complies with the 2010 Standards. *See* the Title III Regulations § 36.302(a) and the 2010 Standards §§ 226, 902, 305, and 306, and Figures 305.5(a), 306.2, and 306.3.

16. WSRP shall remove the following barriers to accessibility at the bar counter and bar area tables inside the restaurant, which the United States observed during its August 4, 2015 site inspection of the Restaurant: The bar counter at which food and/or drink is served for consumption by customers seated on stools or standing at the counter exceeds 34 inches in height and does not have a portion of the main counter which is at least five feet long and no higher than 34 inches AFF with knee space under that is at least 27 inches high by 30 inches wide by 19 inches deep. The nearest tables within the same area at which indoor bar service is available do not provide compliant knee space. *See* the 1991 Standards §§ 5.2, 4.32.3, and 4.32.4.

17. WSRP can satisfy the requirements of paragraph 16 of this Agreement by completing all of the following steps within one hundred twenty (120) days of the effective date of this Agreement: Provide a dining table in the bar area with clear floor space a minimum of 30 inches wide and a minimum of 48 inches deep positioned for a forward approach, knee and toe clearance extending a minimum of 17 inches, and a dining surface 28 inches minimum and 34 inches maximum AFF. Instruct staff to seat guests using wheelchairs or other mobility devices at the tables adjacent to the bar and to provide the same service and experience as sitting at the bar counter. *See* the Title III Regulations § 36.302(a) and the 2010 Standards §§ 226, 305, 306, and 902, and Figures 305.5(a), 306.2 and 306.3.

TALULA'S GARDEN PROTRUDING HAZARDOUS OBJECTS

18. WSRP shall remove the following barriers to accessibility inside the restaurant, which the United States observed during its August 4, 2015 site inspection of the Restaurant:

- a. A device mounted on the wall protrudes into the path of travel more than four inches with its leading edge between 27 inches and 80 inches AFF and is a protruding object hazard. *See* the 1991 Standards § 4.4.1 and Figure 8(a).
- b. The floor lamps are protruding object hazards. The arm of the lamp protrudes into the path of travel more than four inches with its leading edge between 27 inches and 80 inches AFF. *See* the 1991 Standards § 4.4.1 and Figure 8(a).

19. WSRP can satisfy the requirements of paragraph 18 of this Agreement by completing all of the following steps within one hundred twenty (120) days of the effective date of this Agreement:

- a. Provide either cane detection in the form of casework or place a potted plant under the device mounted on the wall identified as a protruding object hazard above. *See* 2010 Standards § 307.2; Advisory 307.2.
- b. Rearrange the placement of the existing lamps so that the lamp arm is recessed back one inch from the sofa table creating a distance between the lamp arms to the wall of 33 inches and does not protrude into the path of travel. *See* 2010 Standards § 307.2; Advisory 307.2.

IV. MONITORING AND COMPLIANCE

20. Within one hundred twenty (120) days of the effective date of this Agreement, WSRP shall provide the United States with written confirmation of all steps that WSRP has taken pursuant to section III of this Agreement.

21. WSRP shall cooperate in good faith with any and all reasonable requests by the United States for access to the Restaurant and for information and documents concerning the Restaurant's compliance with this Agreement and the ADA.

22. The United States shall have the right to verify compliance with this Agreement and the ADA, both as set forth in this Agreement and through any means available to the general public, including visits to the public areas of the Restaurant and communications with the Restaurant's staff. The United States shall have the right to inspect the Restaurant at any time, and counsel for the United States need not identify themselves in the course of visits to the public areas.

V. ENFORCEMENT

23. If the United States believes that this Agreement or any of its requirements has been violated, it will notify WSRP in writing and attempt to resolve the issue or issues in good faith. If the United States and WSRP are unable to reach a satisfactory resolution of the issue or issues, the United States may commence a civil action in the United States District Court for the Eastern District of Pennsylvania to enforce the terms of this Agreement and/or the ADA.

VI. GENERAL PROVISIONS

24. In consideration for WSRP's timely performance of all of its obligations under this Agreement, the United States agrees to discontinue the Compliance Review of the Restaurant, except as provided in the Enforcement portion of this Agreement. The United States reserves the right to investigate any complaint it receives concerning the Restaurant, to investigate and commence a civil action with respect to any violation of the ADA, and to initiate future compliance reviews concerning the Restaurant with respect to any aspect of the Restaurant or its operation not expressly identified by the government in writing during the course of the Compliance Review. In the event the United States receives and investigates an ADA complaint concerning the Restaurant, or commences any future compliance review concerning the Restaurant, nothing in this Agreement shall limit the scope of any investigation or compliance review of the Restaurant or preclude the United States from seeking relief beyond that required under this Agreement.

25. A copy of this Agreement shall be made available to any person upon request and may, at the government's sole discretion, be posted on www.ada.gov or any other government website.

26. The Effective Date of this Agreement is the date of the last signature on the Agreement. The term of this Agreement is one year from the Effective Date.

27. This Agreement memorializes the commitments made by WSRP to increase accessibility of the Restaurant and the terms under which the United States has agreed to conclude this particular Compliance Review of the Restaurant without further review or enforcement action. This Agreement

is not intended to certify or signify, however, that the Restaurant is now (or, with the actions taken pursuant to this Agreement, will be) in full compliance with the ADA, or constitute a finding by the United States of such compliance, and it may not be used in any proceeding to signify such compliance. This Agreement does not affect the Restaurant's continuing responsibility and obligation to comply with all aspects of the ADA. This Agreement is not intended to reflect any legal interpretation of any provisions of the ADA by the United States, and it may not be used in any proceeding to demonstrate such legal interpretations.

28. This Agreement does not constitute an admission by the WSRP of non-compliance with any provision of the ADA.

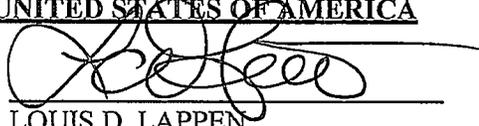
29. The individuals signing this Agreement represent that they are authorized to bind the parties to this Agreement.

30. Failure by the United States to enforce the entire Agreement, with regard to any deadline or any other provision of the Agreement, shall not be construed as a waiver of its right to enforce any deadline or provision of the Agreement.

31. This Agreement constitutes the entire agreement between the parties relating to the remedial measures WSRP has agreed to take in the Restaurant in response to the Compliance Review, and no other statement, promise, or agreement, either written or oral, made by either party or agents of either party regarding the scope of such remedial measures that is not contained in this Agreement, shall be enforceable.

THE UNITED STATES OF AMERICA

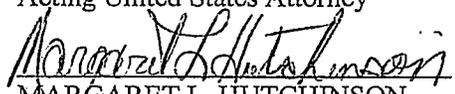
BY:



LOUIS D. LAPPEN
Acting United States Attorney

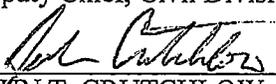
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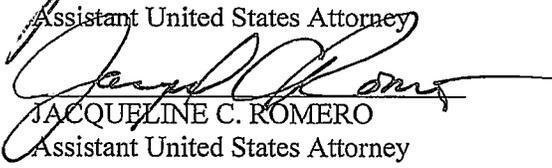


MARGARET L. HUTCHINSON
Assistant United States Attorney
Chief, Civil Division

CHARLENE KELLER FULLMER
Assistant United States Attorney
Deputy Chief, Civil Division



JOHN T. CRUTCHLOW
Assistant United States Attorney



JACQUELINE C. ROMERO
Assistant United States Attorney

WASHINGTON SQUARE RESTAURANT PARTNERS, L.P.

BY: Melissa MacLeod
Melissa MacLeod
Vice President & General Counsel
Washington Square Restaurant Partners, L.P.

DATED: 8-16-17