

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

VOICES FOR INDEPENDENCE (VFI),	:	Civil Action No.: 06-78 Erie
MICHAEL L. EAKIN; JAY SHUFFSTALL;	:	
CAROLYN A CREHAN; KATHY A. HERTZOG;	:	
PAUL PECUNAS; SANDRA FULLER; MARY	:	HON: SEAN J. MCLAUGHLIN
ANN PARSNIK; PAT WEAVER; FELICIA	:	
BONGIORNO; MELVIN BORREO; STEPHEN	:	
CLARK; JILL HRINDA-PATTEN; MARY D.	:	
KRUG; and B. LYNNE VESTAL; on behalf of	:	
themselves and all others similarly situated,	:	
Plaintiffs	:	
	:	
vs.	:	
COMMONWEALTH OF PENNSYLVANIA	:	
DEPARTMENT OF TRANSPORTATION;	:	
ALLEN D. BIEHLER, P.E., in his official capacity	:	
as Secretary of Transportation of the	:	
Commonwealth of Pennsylvania, CITY OF ERIE,	:	
PENNSYLVANIA and CITY OF MEADVILLE,	:	
PENNSYLVANIA,	:	
Defendants	:	

**THIRD SETTLEMENT AGREEMENT BETWEEN  
PLAINTIFFS AND COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF TRANSPORTATION**

**I. BACKGROUND**

On March 28, 2006, Plaintiffs filed a class action complaint against the Commonwealth of Pennsylvania Department of Transportation (“PennDOT”) alleging violations of the Americans with Disabilities Act of 1990, 42 U.S.C. §§12101, et seq. (“ADA”) and the Rehabilitation Act of 1973, 29 U.S.C. §701, et seq. (“Rehabilitation Act”) arising from PennDOT’s failure to install curb ramps compliant with the applicable provisions of the ADA and the Rehabilitation Act along PennDOT highways located in the Cities of Erie and Meadville, Pennsylvania. On September 7, 2006, the Plaintiffs filed an amended complaint joining as Defendants the Cities of Erie and Meadville.

On December 22, 2006, this Court approved a settlement agreement between the Plaintiffs, the City of Meadville and PennDOT regarding, among other things, PennDOT's responsibility for constructing ADA compliant curb ramps in all future road projects in Meadville and PennDOT's responsibility to remediate non-compliant ramps which were constructed or which should have been corrected in conjunction with prior road projects going back to March 28, 2004.

Similarly, on April 19, 2007, this Court approved a settlement agreement between the Plaintiffs, the City of Erie and PennDOT regarding, among other things, PennDOT's responsibility for constructing ADA compliant curb ramps in all future road projects in Erie and PennDOT's responsibility to remediate non-compliant ramps which were constructed or which should have been corrected in conjunction with prior road projects going back to March 28, 2004.

PennDOT disputed its liability for non-compliant ramps constructed prior to March 28, 2004 based upon the defense of the statute of limitations. On January 5, 2007, PennDOT filed a summary judgment motion on the issue of the statute of limitations. By memorandum opinion of September 28, 2007, this Honorable Court denied PennDOT's motion.

## **II. AGREEMENT**

**A. Intent of the Parties.** The Plaintiffs and PennDOT now wish to settle claims regarding PennDOT's remediation obligations and responsibilities under the ADA and the Rehabilitation Act with regard to those ramps which should have been constructed or remediated in conjunction with road work or road projects going back to January 26, 1992.

**B. Ramps To Be Remediated Under This Settlement Agreement.** Pursuant to its obligations under the previous settlement agreements identified above, PennDOT has completed and has attached hereto the following schedules:

1. **Schedule E Erie.** A listing of all intersections at which there are, or where there should be, curb ramps crossing state highways that were altered or resurfaced by PennDOT in Erie from January 26, 1992 to March 28, 2004. This listing shall include measurements for the curb ramps listed therein and an identification of those ramps PennDOT plans to remediate due to their non-compliant nature.

2. **Schedule E Meadville.** A listing of all intersections at which there are, or where there should be, curb ramps crossing state highways that were altered or resurfaced by PennDOT in Meadville from January 26, 1992 to March 28, 2004. This listing shall include measurements for the curb ramps listed therein and an identification of those ramps PennDOT plans to remediate due to their non-compliant nature.

**C. Remediation Schedule.** PennDOT shall, at its expense, cause all curb ramps listed in Schedule E Erie and Schedule E Meadville to be installed, repaired and/or retrofitted to comply fully with the standards and requirements of the ADA and the Rehabilitation Act and all such work shall be completed by January 1, 2014.

**D. Annual Report.** On or before January 31 of each year during which this Settlement Agreement is in effect, PennDOT shall identify the work it performed in the year prior in satisfaction of its obligations under this Settlement Agreement. In this regard, PennDOT shall send to Plaintiffs' counsel, all defense counsel and to the Court, a written report which shall include for each curb ramp which was installed, repaired or retrofitted in the year prior (a) relevant ramp measurements and other data necessary to substantiate compliance with the ADA, (b) identification of the specific intersection and/or other identifiable street references for each ramp.

This annual report shall also state the total number of ramps remediated under this Settlement Agreement during the year which is the subject of the report, the number of the ramps remaining to be remediated under this Settlement Agreement and the percentage of such ramps completed to date. This data shall be stated separately from all other data contained in the annual report and shall be conspicuously identified.

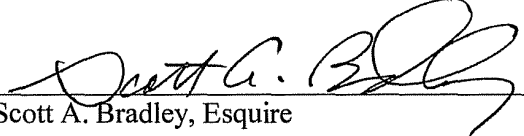
If the Plaintiffs conclude that PennDOT's yearly rate of remediation makes it unlikely that PennDOT will complete all of the work required by January 1, 2014, then the Plaintiffs shall utilize the procedures established by the prior settlement agreements of December 22, 2006 and/or April 19, 2007 for unresolved disputes, which procedures include the filing of an appropriate motion with the Court.

**E. Prior settlement agreements not affected.** This settlement agreement shall not affect nor alter any of the obligations, duties and/or requirements arising under or created by the previously entered settlement agreements or consent decrees which have been entered in this case. To the contrary, to the extent that the terms and conditions of those prior settlement agreements and/or consent decrees are applicable, they are hereby incorporated by reference.

**F. Retention of jurisdiction.** This Court shall retain jurisdiction concerning the interpretation of and compliance with this Settlement Agreement.

Read and Approved as to Form on this 13<sup>th</sup> day of February, 2009, by:

Commonwealth of Pennsylvania  
Department of Transportation

  
\_\_\_\_\_  
Scott A. Bradley, Esquire

Date: February 13, 2009

Read and Approved as to Form on this 3<sup>rd</sup> day of ~~February~~ <sup>MARCH</sup>, 2009, by:


Voices for Independence, (VFI,); Michael L. Eakin;  
Jay Shuffstall; Carolyn A. Crehan; Kathy A. Hertzog;  
Paul Pecunas; Sandra Fuller; Mary Ann Parsnik; Pat  
Weaver; Felicia Bongiorno; Melvin Borreo; Stephen  
Clark; Jill Hrinda-Patten; Mary D. Krug; and B.  
Lynne Vestal

J. Mark Finnegan / CAM  
J. Mark Finnegan, Esquire

Date: MARCH 3, 2009

Read and Approved as to Form on this 3<sup>rd</sup> day of ~~February~~ <sup>MARCH</sup>, 2009, by:

Voices for Independence, (VFI,); Michael L. Eakin;  
Jay Shuffstall; Carolyn A. Crehan; Kathy A. Hertzog;  
Paul Pecunas; Sandra Fuller; Mary Ann Parsnik; Pat  
Weaver; Felicia Bongiorno; Melvin Borreo; Stephen  
Clark; Jill Hrinda-Patten; Mary D. Krug; and B.  
Lynne Vestal



Craig A. Markham, Esquire

Date: MARCH 3, 2009

Schedule E

Identification of Curb Ramps Adjacent to State Routes in the City of Erie

Municipality	Year	Contract No.	SR	From Seg/Off	To Seg/Off	Length (Miles)	Ramps X-ing SR's	Ramps X-ing Local's	*Ramps X-ing Both	Completed SR Ramps 2007-2008	Completion Date 2013 SR Ramps	SR Ramps w/ pending issues
Erie	<2000	N/A	0005 (West 12th St.)	0480/0452 Pitt Ave.	0590/0290 French St.	2.90	18	12	12	30	0	22
Erie	2003	012292	0005 (East 12th St.)	0590/0290 French St.	0660/2229 Lake Rd.	1.13	23	27	19		42	
Erie	2005	72365	0005 (East 12th St.)	0620/1395 East Ave	0670/0000 East Lake Rd	2.27	10	15	0		10	
Erie	<2000	N/A	0008 (Pine Ave.)	0620/0459 Burton Ave.	0660/0696 26th St.	1.78	18	40	1		19	
Erie	<2000	N/A	0019 (Peach St.)	0370/0000 Grandview St.	0390/0000 38th St.	0.76	0	2	0		0	
Erie	2003	1060	0019 (Peach St.)	0390/0040 38th St.	0400/0150 Craig St.	0.53	16	9	0		16	
Erie	<2000	N/A	0019 (Peach St.)	0400/0150 Craig St.	0410/1685 Peach St.	0.57	12	16	0	12	0	
Erie	<2000	N/A	0020 (West 26th St.)	0530/0000 Rudolph St.	0560/1446 Cherry St.	1.76	40	44	0		40	
Erie	2001	012259	0020 (West 26th St.)	0560/1446 Cherry St.	0580/0100 Peach St.	1.27	15	20	0		15	
Erie	2004	69958	0020 (Buffalo Rd.)	0630/0000 McKinley Ave	0690/0000 Bird Dr.	2.75	57	14	2		59	
Erie	<2000	N/A	0097 (Old French Rd.)	0420/0000 Lakeview St.	0420/2681 38th St.	0.51	4	1	0		4	
Erie	2003	012295	0097 (Old French Rd.)	0420/2681 38th St.	0440/2077 Pine Ave.	0.83	4	39	0		4	
Erie	2002	012285	0290 (Bayfront)	0010/0000 E. 12th St.	0030/0000 Broad St.	1.05	10	0	0	10	0	
Erie	2003	012283	0290 (Bayfront)	0030/0000 Broad St.	0060/0000 McClelland	1.38	0	0	0		0	
Erie	2001	012265	0290 (Bayfront)	0060/0000 McClelland	0070/0000 E 38th St	0.35	14	0	0	14	0	
Erie	2003	012295	0505 (Perry Highway)	0030/0000 Glenwood Pk.	0050/1056 38th St.	1.95	0	0	0		0	
Erie	<2000	N/A	0505 (Perry Highway)	0050/1056 38th St.	0070/1481 26th St.	1.08	3	17	1		4	
Erie	<2000	N/A	1001 (Lake Pleasant Rd.)	0270/2134 34th St.	0270/3063 Pine Ave.	0.18	0	0	0		0	
Erie	<2000	N/A	4014 (Grandview Blvd.)	0010/2985 Zuck Rd.	0040/2508 Peach St.	1.42	0	0	0		0	
Erie	<2000	N/A	4016 (West 38th St.)	0140/0000 Pitt Ave.	0170/2041 Poplar St.	1.90	35	48	5		40	
Erie	2002	012286	4016 (West 38th St.)	0170/2041 Poplar St.	0180/0000 Peach St.	0.08	33	8	0	33	0	
Erie	N/A	N/A	4016 (West 38th St.)	0180/0000 Peach St.	0200/0000 State St		36	32	0	36	0	
Erie	2006	75386	4016 (East 38th St.)	0200/0000 State St	0270/0000 McClelland	2.84	32	96	1	33	0	
Erie	<2000	N/A	4016 (West 38th St.)	0270/0000 McClelland	0280/1722 Bird Dr	0.08	6	4	0		6	
Erie	<2000	N/A	4017 (Pittsburgh Ave.)	0010/0000 38th St.	0060/1613 8th St.	1.96	12	12	0		12	
Erie	2006	75837	4034 01M (Bayfront)	0010/0000 Lincoln	0090/0000 E. 6th St.	3.65	16	16	0	16	0	24
Erie	2002	012804	4034 A51 (Bayfront)	0090/0000 E 6th St.	0090/2484 E. 12th St.	0.47	12	12	0	12	0	
<b>Totals =</b>						35.45	467	525	41	196.00	271.00	46.00

\* Indicates diagonal curb ramp quantity added to SR and Local totals

Complete 2013 Pending



STATE ROUTE	Local Name	Intersecting State Route	Local Name Intersecting State Route	Intersecting Local Street	Intersection Quadrant	Comments	Action	LEGEND for Action
322	Linden Street			South Main Street	Northeast	PPB'S non Compliant		No action
322	Linden Street			South Main Street	Northwest	PPB'S non Compliant		Meadville
322	Linden Street			South Main Street	Southeast	PPB'S non Compliant		PENNIDOT
322	Linden Street			South Main Street	Southwest	PPB'S non Compliant		FINISHED
322	South Main Street			Clark Road		No PAR		JOINTLY
322	Linden Street	SR 1001	Park Ave		Northeast	PPB'S non Compliant-Path of Travel-NO PAR - NE to SE & NE to NW		
322	Linden Street	SR 1001	Park Ave		Northwest	PPB'S non Compliant-Path of Travel-NO PAR - NE to SE & NE to NW		
322	Linden Street	SR 1001	Park Ave		Southeast	PPB'S non Compliant-Path of Travel-NO PAR - NE to SE & NE to NW		
322	Linden Street	SR 1001	Park Ave		Northwest	PPB'S non Compliant-Path of Travel-NO PAR - NE to SE & NE to NW		
322	Linden Street	SR 1001	Park Ave		Southwest	PPB'S non Compliant-Path of Travel-NO PAR - NE to SE & NE to NW		
1001	Park Ave			Willow Street	Northeast	ramps & PPB'S		
1001	Park Ave			Willow Street	Northwest	ramps & PPB'S		
1001	Park Ave			Willow Street	Southeast	ramps & PPB'S		
1001	Park Ave			Willow Street	Southwest	ramps & PPB'S		
1001	Park Ave			Poplar Street	Northeast	ramps & PPB'S		
1001	Park Ave			Poplar Street	Northwest	ramps & PPB'S		
1001	Park Ave			Poplar Street	Southeast	ramps & PPB'S		
1001	Park Ave			Poplar Street	Southwest	ramps & PPB'S		
1001	Park Ave			Pine Street	Northeast	ramps & PPB'S		
1001	Park Ave			Pine Street	Northwest	ramps & PPB'S		
1001	Park Ave			Pine Street	Southeast	ramps & PPB'S		
1001	Park Ave			Pine Street	Southwest	ramps & PPB'S		

STATE ROUTE	Local Name	Intersecting State Route	Local Name Intersecting State Route	Intersecting Local Street	Intersection Quadrant	Comments	Action	LEGEND for Action
1001	Park Ave			Arch Street	Northwest	ramps & PPBS		No action
1001	Park Ave			Arch Street	Northwest	ramps & PPBS		Meadville
1001	Park Ave			Arch Street	Southeast	ramps & PPBS		PENNDOT
1001	Park Ave			Arch Street	Southeast	ramps & PPBS		FINISHED
1001	Park Ave	2012	Chestnut St		Northwest	ramps & PPBS		JOINTLY
1001	Park Ave	2012	Chestnut St		Northwest	ramps & PPBS		
1001	Park Ave	2012	Chestnut St		Southeast	ramps & PPBS		
1001	Park Ave	2012	Chestnut St		Southeast	ramps & PPBS		
1001	Park Ave			W. Center ST	Southwest	ramps (mid block)		
1001	Park Ave			W. Center ST	Northwest	ramps (mid block)		
1001	Park Ave			W. Center ST	Southeast	ramps (mid block)		
1001	Park Ave			W. Center ST	Southwest	ramps (mid block)		
1001	Park Ave			Walnut Street	Northwest	ramps		
1001	Park Ave			Walnut Street	Northwest	ramps		
1001	Park Ave			Walnut Street	Southwest	ramps		
1001	Park Ave			Walnut Street	Southwest	ramps		
1001	Park Ave	27	North Street		Northwest	ramps & PPBS		
1001	Park Ave	27	North Street		Northwest	ramps & PPBS		
1001	Park Ave	27	North Street		Southeast	ramps & PPBS		
1001	Park Ave	27	North Street		Southeast	ramps & PPBS		
1001	Park Ave			Randolph Street	Northwest	ramps		
1001	Park Ave			Randolph Street	Northwest	ramps		
1001	Park Ave			Randolph Street	Southeast	ramps		
1001	Park Ave			Randolph Street	Southeast	ramps		
1001	Park Ave	2037	Baldwin St		Southwest	ramps		
27	North Street	886	N. Main St		SEE SR 2037 (Baldwin St)	ramps & PPBS		
27	North Street	886	N. Main St		Northwest	ramps & PPBS		
27	North Street	886	N. Main St		Northwest	ramps & PPBS		
27	North Street	886	N. Main St		Southeast	ramps & PPBS		



STATE ROUTE	Local Name	Intersecting State Route	Local Name Intersecting State Route	Intersecting Local Street	Intersection Quadrant	Comments	Action	LEGEND for Action
886	Main Street	2037	Baldwin Street		Northeast	ramps-MID BLOCK SCHOOL crossing-guarded		No action
886	Main Street	2037	Baldwin Street		Northwest	ramps-MID BLOCK SCHOOL crossing-guarded		Meadville
886	Main Street			College crossing	Mid-Block	ramps		PENNDOT
886	Main Street			College crossing	Mid-Block	ramps		FINISHED
886	Main Street			College crossing	Mid-Block	ramps		JOINTLY
2012	Chestnut St			Main Street	Northwest	ramps		
2012	Chestnut St			Main Street	Northwest	ramps		
2012	Chestnut St			Main Street	Southwest	ramps		
2012	Chestnut St			Main Street	Southwest	ramps		
2012	Chestnut St			Main Street	Southwest	ramps		
2012	Chestnut St			Main Street	Southwest	ramps		
2012	Chestnut St			Grove Street	Northwest	ramps		
2012	Chestnut St			Grove Street	Northwest	ramps		
2012	Chestnut St			Grove Street	Southwest	ramps		
2012	Chestnut St			Grove Street	Southwest	ramps		
2012	Alden			South Morgan	Northwest	ramps		
2012	Alden			South Morgan	Southwest	ramps		
2012	Alden			South Morgan	Southwest	ramps		
2012	Alden			South Morgan	Southwest	ramps		
2012	Alden			South Morgan	Southwest	ramps		
2034	Spring Street	2037	Baldwin St		Northwest	ramps		
2034	Spring Street	2037	Baldwin St		Southwest	ramps		
2034 & 2040	Spring Street			Terrace Street	Northwest	Path of travel-NE to SE & SE to SW		

STATE ROUTE	Local Name	Intersecting State Route	Local Name Intersecting State Route	Intersecting Local Street	Intersection Quadrant	Comments	Action	LEGEND for Action
2034 & 2040	Spring Street			Terrace Street	Southeast	Path of travel-NE to SE & SE to SW		No action
2040	Spring Street			Lincoln Avenue	Northeast	Path of travel-NE to SE & NE to NW RAMPS		Meadville
2040	Spring Street			Lincoln Avenue	Southeast	Path of travel-NE to SE & NE to NW RAMPS		PENNIDOT
2040	Spring Street			Lincoln Avenue	Southwest			FINISHED
2035	Liberty Street	27	North Street		Northeast			JOINTLY
2035	Liberty Street	27	North Street		Northwest			
2035	Liberty Street	27	North Street		Southeast			
2035	Liberty Street	27	North Street		Southwest			
2035	Liberty Street	2012	Chestnut St		Southwest	See SR 2012		
2035	Liberty Street			Arch Street	Northeast	ramps		
2035	Liberty Street			Arch Street	Northwest	ramps		
2035	Liberty Street			Arch Street	Southeast	ramps		
2035	Liberty Street			Arch Street	Southwest	ramps		
2035	Liberty Street			Arch Street	Northeast	ramps		
2035	Liberty Street			Arch Street	Northwest	ramps		
2035	Liberty Street			Arch Street	Southeast	ramps		
2035	Liberty Street			Arch Street	Southwest	ramps		
2035	Liberty Street			Pine Street	Northeast	ramps		
2035	Liberty Street			Pine Street	Northwest	ramps		
2035	Liberty Street			Pine Street	Southeast	ramps		
2035	Liberty Street			Pine Street	Southwest	ramps		
2035	Liberty Street	2035	Poplar Street		Northeast	ramps		
2035	Liberty Street	2035	Poplar Street		Northwest	ramps		
2035	Liberty Street	2035	Poplar Street		Southeast	ramps		
2035	Liberty Street	2035	Poplar Street		Southwest	ramps		
2035	Poplar Street			Grove Street	Southeast	Huidekoper Park No PAR		
2035	Poplar Street			Fairmont Avenue	Mid Block	ramps		
2037	Baldwin Street	886	Main Street		Northeast	ramps		
2037	Baldwin Street	886	Main Street		Northwest	ramps		
2037	Baldwin Street	1001	Park Avenue		Northeast	ramps		
2037	Baldwin Street	1001	Park Avenue		Northwest	ramps		
2037	Baldwin Street	1001	Park Avenue		Southeast	ramps		
2037	Baldwin Street	1001	Park Avenue		Southwest	ramps		











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FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

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STEPHEN CLARK; JILL HRINDA-PATTEN )  
MARY D. KRUG; and B. LYNNE VESTAL, )  
on behalf of themselves and all others )  
similarly situated )

Plaintiffs, )

v. )

COMMONWEALTH OF PENNSYLVANIA )  
DEPARTMENT OF TRANSPORTATION; )  
ALLEN D. BIEHLER, P.E., in his official )  
capacity as Secretary of Transportation of )  
the Commonwealth of Pennsylvania, CITY OF )  
ERIE, PENNSYLVANIA and CITY OF )  
MEADVILLE, PENNSYLVANIA )

Defendants. )

\*\*\*\*\*

Civil Action No.: 1:06cv00078-SJM

HON. SEAN J. McLAUGHLIN

Upon consideration of the Third Settlement Agreement between Plaintiffs and Commonwealth of Pennsylvania, Department of Transportation, it is hereby ORDERED, ADJUDGED and DECREED that said Settlement Agreement is APPROVED.

\_\_\_\_\_  
JUDGE McLAUGHLIN  
UNITED STATES DISTRICT COURT

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VOICES FOR INDEPENDENCE, (VFI),
MICHAEL L. EAKIN; JAY SHUFFSTALL;
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v.

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION;
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capacity as Secretary of Transportation of
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ERIE, PENNSYLVANIA and CITY OF
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UNITED STATES DISTRICT COURT