



THE STATE
of **ALASKA**
GOVERNOR MIKE DUNLEAVY

Office of the Governor
COMMISSION FOR HUMAN RIGHTS

800 A Street, Suite 204
Anchorage, Alaska 99501-3669
Main: 907.274.4692 / 907.276.7474
TTY/TDD: 907.276.3177
Fax: 907.278-8588

Richard Malley
128 College Highway Apt. 205
Southampton, MA 01073

Holly Montague, Deputy Borough Attorney
Kenai Peninsula Borough
Office of the Borough Attorney
144 N. Binkley Street
Soldotna, AK 99669

RE: *Richard Malley v. Kenai Peninsula Borough*
ASCHR No. J-15-351

CONCILIATION AGREEMENT

Charges have been filed with the Alaska State Commission for Human Rights, hereinafter the Commission, by the above-named complainant against the above-named respondent, under the provisions of the Alaska Human Rights Law, AS 18.80.010-.300. The charges have been investigated, and substantial evidence to support the allegations of discrimination has been found.

I. GENERAL PROVISIONS:

A. All Parties:

1. It is agreed that this agreement constitutes a total settlement of the issues between the parties in this case.
2. It is understood that this agreement does not constitute an admission by the respondent of any violation of the Alaska Human Rights Law or other applicable federal and municipal civil rights laws. It is further understood that this agreement does not represent an admission or statement by any party relating to the requirements or remedies available pursuant to the Alaska Human Rights Law.
3. All parties agree that the Commission, on request of any party or on its own motion, may review compliance with this agreement. As a part of

such review, the Commission may require written reports concerning compliance, inspect premises, examine witnesses, and examine and copy documents.

4. The Commission will submit this agreement, if applicable, to the agencies that also have accepted this complaint pursuant to worksharing agreements with the Commission.

B. The Commission:

The Commission agrees to close the case and refrain from seeking other statutory remedies relating to the above-captioned complaint, subject to the parties' compliance with the terms of this agreement. In the event of noncompliance, the Commission staff may find that conciliation efforts have failed and forward the case to the Commission for hearing.

C. Complainant:

1. Complainant hereby agrees not to sue respondent with respect to any of the allegations of the above-captioned case, subject to respondent's compliance with this agreement.
2. Complainant hereby waives all further administrative procedures before the Commission on this matter, including a Commission hearing.

D. Respondent:

1. Respondent hereby waives all further administrative procedures before the Commission on this matter, including a Commission hearing.
2. Respondent acknowledges that failure to comply with the terms of this agreement could result in a certification that conciliation efforts have failed and a subsequent hearing on the complaint.

II. ENFORCEMENT:

The parties to this agreement agree that the terms of this agreement are legally binding in the same manner and to the same extent as a Commission order issued following a public hearing pursuant to AS 18.80.130. This agreement shall be enforceable in any court of competent jurisdiction.

III. REMEDIAL PROVISIONS:

- A. Respondent agrees to adopt an approved statement reflecting a policy and procedure that will promote meaningful access to private and independent voting by visually impaired voters, in accordance with the Americans with Disabilities Act and its regulations. The policy must be approved by the Commission before it is adopted and disseminated.

DUE: Three months from the date the Commission approves this agreement.

- B. Respondent agrees to propose a resolution for passage by the Kenai Peninsula Borough Assembly at its schedule January 8, 2019 meeting. The proposed resolution will direct the Borough Clerk's Office to explore accessible voting options, including the option of distributing ballots to all voters by mail and establishing voting centers with accessible voting equipment open two-weeks prior to each election. The proposed resolution shall authorize the establishment of a respondent stakeholder group, which shall include at least one community representative qualified to represent the interests of persons with visual impairments.

DUE: January 8, 2019.

- C. Respondent will establish and direct the stakeholder group to explore options for providing assistive technology to visually impaired voters, including the option of distributing ballots to all voters by mail and establishing voting centers with accessible voting equipment open two-weeks prior to each election. Respondent will direct the stakeholder group to advance options for its consideration that will allow visually impaired voters to vote privately and independently.

DUE: Seven months from the date the Commission approves this agreement.

- D. Respondent shall determine, in light of its budget and operations, the feasibility of each option advanced by the stakeholder group, or of any one option ultimately selected and successfully implemented by respondent.

DUE: Eight months from the date the Commission approves this agreement.

- E. Respondent shall prepare a written report summarizing the options the stakeholder group has explored. If respondent has selected an option for implementation, the report shall also include a detailed explanation of: 1) how the option will allow visually impaired voters to vote privately and independently; 2) its costs and a plan for implementation; and 3) a summary of

findings about any option that was advanced but not selected. If respondent has not selected an option for implementation, the report shall include: detailed findings about each option advanced, including 1) whether and how each option will allow visually impaired voters to vote privately and independently; 2) an assessment of the costs of each option; and 3) whether and how each option may be implemented without constituting an undue hardship or fundamental alteration of respondent's programs and services. Respondent shall provide a copy of its report to the Commission.

DUE: Eight months from the date the Commission approves this agreement.

- F. Respondent shall prepare a summary of its analysis and provide this summary to any local or state election committees, commissions, working groups, or boards on which a representative of Respondent sits so that government entities operating elections in Alaska may benefit from the knowledge and information learned through the study.

DUE: One year from the date the Commission approves this agreement.

- G. Respondent shall initiate the necessary process to implement any option it chooses which will allow visually impaired voters to vote privately and independently without constituting an undue hardship or fundamental alteration of its programs and services.

DUE: One year from the date the Commission approves this agreement.

- H. Respondent shall submit a preliminary report to the Commission describing the manner in which it has carried out the undertakings herein outlined, and explaining the necessary steps to complete implementation of any selected program.

DUE: One year from the date the Commission approves this agreement.

- I. Respondent shall submit a final report to the Commission describing in detail the efforts taken to adopt and implement a program allowing for the private and independent voting of visually impaired voters, the present and projected success of those efforts, and any barriers to implementation.

DUE: Two years from the date the Commission approves this agreement.

- J. Effectuating this agreement is subject to approval by respondent's governing body. It is understood that in order to comply with 6 AAC 30.340 the agreement is being executed prior to ratification by respondent's governing

body. In the event that respondent's governing body does not ratify this agreement, the parties agree to enter into a supplemental agreement, defining a new process and deadline agreed to by the parties.

DUE: If needed, April 15, 2018.

K. In the event respondent does not adopt a program allowing for the private and independent voting of visually impaired voters, the Commission may certify the failure of the conciliation under 6 AAC 30.340(e).

DUE: Within two years of the date the Commission approves this agreement, or within the extended term of the agreement if modified by the actions or writings of the parties.

IV. EXECUTION:

The parties agree that this document may be executed by conformed copies and that a party's signature on one conformed copy constitutes that party's signature on all other conformed copies.

12/17/2018

Date

DocuSigned by:
Richard Malley
521AE5EC56D8491

Richard Malley, Complainant

Date

Holly Montague, for Respondent

Approved at Anchorage this ____ day of _____ 20__.

For the Commission:

Marti Buscaglia
Executive Director

body. In the event that respondent's governing body does not ratify this agreement, the parties agree to enter into a supplemental agreement, defining a new process and deadline agreed to by the parties.

DUE: If needed, April 15, 2018.

- K. In the event respondent does not adopt a program allowing for the private and independent voting of visually impaired voters, the Commission may certify the failure of the conciliation under 6 AAC 30.340(e).

DUE: Within two years of the date the Commission approves this agreement, or within the extended term of the agreement if modified by the actions or writings of the parties.

IV. EXECUTION:

The parties agree that this document may be executed by conformed copies and that a party's signature on one conformed copy constitutes that party's signature on all other conformed copies.

Date

Date

12/18/18

Richard Malley, Complainant

Holly Montague, for Respondent

Approved at Anchorage this 19th day of December 2018.

For the Commission:

Marti Buscaglia
Executive Director