

**UNITED STATES DISTRICT COURT  
DISTRICT OF RHODE ISLAND**

|   |   |                             |
|---|---|-----------------------------|
| RHODE ISLAND HOMELESS ADVOCACY                | : |                             |
| PROJECT, BRUCE FIELDS, et al.                 | : |                             |
|   | : | CA No.: 17-cv-00602-WES-PAS |
| v.  | : |                             |
|   | : |                             |
| GINA RAIMONDO, in her official capacity as    | : |                             |
| Governor of the State of Rhode Island, et al. | : |                             |

**STIPULATION AND ORDER OF SETTLEMENT**

WHEREAS, this action was commenced by Plaintiffs pursuant to 42 U.S.C. § 1983 under the Equal Protection Clause of the Fourteenth Amendment of the United States Constitution and federal statutes prohibiting discrimination in housing and/or on the basis of disability to challenge the constitutionality of Rhode Island General Laws §42-11.2-11(c), effective January 1, 2018 (“the statute”);

WHEREAS, the parties preliminarily agreed to defer application of the statute during the pendency of the litigation;

WHEREAS, the statute in question has not been interpreted or applied prior to the institution of this law suit;

WHEREAS, the statute does not contain a mandatory enforcement procedure to effectuate its terms, and Defendants have therefore denied the existence of a case or controversy;

WHEREAS, Plaintiffs claim that they are irreparably injured by the operation of the statute;

WHEREAS, Defendants deny any and all claims of wrongdoing asserted in connection with Plaintiffs’ complaint;

WHEREAS, no finding of liability has been made;

WHEREAS, the Parties wish to avoid the expense and disruption of litigation on the issues presented in this litigation, and are prepared to settle their differences without admitting any fault or liability;

NOW, THEREFORE, IT IS HEREBY ORDERED, UPON THE STIPULATION AND AGREEMENT OF THE PARTIES, through their undersigned attorneys for the respective parties herein, that this action is settled, subject to the approval of this Honorable Court pursuant to the Federal Rules of Civil Procedure, on the following terms and conditions:

1. Defendants agree that, with respect to each “facility” as defined in the statute, a facility shall not be considered to have exceeded the nightly occupancy restrictions provided that the operator satisfies the following requirements:

(i) The facility complies with the reporting requirements of § 11-37.1-21(c); and

(ii) The facility reports to the same authorities as required by § 11-37.1-21(c) that they have considered available alternative shelters and/or housing for the subject individuals.

2. Nothing herein shall restrict, limit or impair Defendants’ discretion or management of contracts or facilities for reasons unrelated to the provisions of paragraph 1.

3. This agreement is subject to and may be superseded by amendment or modification of the statute. In such event, nothing herein shall limit or preclude Plaintiffs from commencing new litigation to challenge such superseding legislation.

4. Defendants shall, no later than forty-five (45) days after the Court’s ordering the entry of this Stipulation and Order of Settlement, pay plaintiff’s attorneys Lynette Labinger and John MacDonald costs and attorneys’ fees in the agreed-upon amounts of:

Lynette Labinger: \$ 23,996.00 attorneys’ fee + \$867.92= \$24,863.92

John MacDonald: \$ 2,688.00 attorneys’ fee + \$ 0.00 costs = \$2,688.00

5. The Court further finds that the sharing of the tribunal-approved award with the American Civil Liberties Union Foundation of Rhode Island is consistent with this Court's decision in *Inmates of the RI Training School v. Martinez*, 465 F.Supp.2d 131 (D.R.I. 2006), and Rhode Island R.P.C. 5.4(a)(4).<sup>1</sup>

ENTERED as the Order of the Court this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

By Order,

Enter: \_\_\_\_\_  
United States District Judge

\_\_\_\_\_  
Clerk

AGREED TO AS TO FORM AND SUBSTANCE:

\_\_\_\_\_  
/s/ Lynette Labinger  
Attorney for Plaintiffs  
Lynette Labinger # 1645  
128 Dorrance Street, Box 710  
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\_\_\_\_\_  
/s/ John E. MacDonald  
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Cooperating Counsel,  
American Civil Liberties Union  
Foundation of Rhode Island

Dated: \_\_\_\_\_  
December 5, 2018

<sup>1</sup> Defendants do not object to the inclusion of paragraph 5 in this Stipulation and Order but take no position on its substance.

/s/ Neil F.X. Kelly

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Dated: December 5, 2018