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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

ROBERT SANCHEZ,
Plaintiff,

vs.

TOM'S AUTOMOTIVE SERVICE
CENTER aka TOM'S TIRE PER-
FORMANCE CENTER, a business;
TOM'S DISCOUNT TIRE CENTER,
INC., a corporation; JOSEPH
VIVILACQUA, an individual,
Defendants.

Case No.: CV 17-6812-DMG (SSMx)

**ORDER RE DISMISSAL OF
ACTION AND ENTRY OF
JUDGMENT [31]**

I. FINDINGS

1. The Court has jurisdiction over the Parties and the subject matter of this action;

2. The Parties agree to the entry of this Final Order, without the adjudication of the remaining issues of fact or law pleaded in the Complaint, to settle and resolve all matters in dispute arising from the conduct alleged in the Complaint to the date this Final Order is entered;

3. Defendants TOM'S AUTOMOTIVE SERVICE CENTER INC., and JOSEPH VIVILACQUA neither admit nor deny any of allegations made in

1 Complaint, except as stated in this Final Order. For purposes of this Final Order,
2 Defendants admit the facts necessary to establish the Court's jurisdiction over them
3 and the subject matter of this action;

4 4. The Parties stipulate that there is no readily achievable means of
5 altering the Site without compromising the safety of wheelchair-bound patrons.
6 Said conclusion is based on a California Access Specialist's Report, the relevant
7 portion of which is attached and marked as Exhibit A.

8 **II. ORDER**

9
10 1. There is no readily achievable means for bringing this Site into
11 compliance with the Americans with Disabilities Architectural Guidelines, or the
12 California Building Code;

13 2. Defendant TOM'S AUTOMOTIVE SERVICE CENTER INC., and
14 JOSEPH VIVILACQUA shall pay \$1,500 (One Thousand Five Hundred Dollars),
15 to compensate Plaintiff for damages, fees and costs purportedly incurred as a result
16 of the incident, within 30 days of the entry of this Order;

17 3. Each party shall bear its own costs and expenses, including, without
18 limitation, attorneys' fees;

19
20 4. The Parties waive service under Rule 4(d) of the Federal Rules of
21 Civil Procedure, and waive all rights to seek judicial review or otherwise challenge
22 or contest the validity of this Final Order;

23 5. The above-captioned action is dismissed with prejudice.

24 IT IS SO ORDERED.

25
26 DATED: March 6, 2018

27 
28 DOLLY M. GEE
UNITED STATES DISTRICT JUDGE

EXHIBIT A

Site Accessibility Evaluation

Americans with Disabilities Act
And
Title 24 And Part 2 - California Building Code



**Tom's Automotive Service
Center**

**4401 E Anaheim St
Long Beach, CA 90804**

CASp Evaluation

Inspection Date: 10/05/2017

Inspector: Jason James

Prepared By
Building Principles
(951) 526 - 7960
www.buildingprinciples.com

Parking

Finding: 1

There are no customer parking stalls.

There is not ample room in the vehicle storage lot to provide parking stalls, much less a van accessible parking stall, and still provide a safe pedestrian route or fire department access.

This configuration was approved by the local jurisdiction having authority in 2017 without the requirement of public parking.

2016 CBC 11B Section 11B-208.2

Parking spaces complying with Section 11 B-502 shall be provided in accordance with Table 11B-208.2 except as required by Sections 11 B-208.2.1, 11 B-208.2.2, and 11B-208.2.3. Where more than one parking facility is provided on a site, the number of accessible spaces provided on the site shall be calculated according to the number of spaces required for each parking facility.

Citation:

2016 CBC 11B Section: 11B-208.2



Total Number of Parking Spaces Provided in Parking Facility	Minimum Number of Required Accessible Parking Spaces
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1000	2 percent of total
1001 and over	20, plus 1 for each 100, or fraction thereof, over 1000