

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

JANE DOE,
 SUZETTE LINDGREN,
 ANDREW MOYER,
 on behalf of themselves and all others
 similarly situated, and
 MASSACHUSETTS COALITION
 FOR THE HOMELESS, and
 CENTRAL MASSACHUSETTS
 HOUSING ALLIANCE,

Plaintiffs,

v.

CITY OF WORCESTER,
 WORCESTER PUBLIC LIBRARY, and
 WORCESTER PUBLIC LIBRARY
 BOARD OF DIRECTORS,

Defendants.

CIVIL ACTION NO.:
06-40133-FDS

CONSENT ORDER AND SETTLEMENT AGREEMENT

Plaintiffs brought this action challenging the constitutionality of Defendants' policy that restricts the public library borrowing privileges of residents of homeless shelters, transitional housing programs, teen/children's programs and other facilities.

WHEREAS, Plaintiffs and Defendants, having carefully considered the issues raised in this case, agree that such issues should be resolved without further litigation;

WHEREAS, Plaintiffs acknowledge that Defendants understand the need for and believe in promoting fair and equitable lending practices for all of Worcester's residents, including those people who are homeless and/or reside in homeless shelters, transitional housing programs,

teen/children's programs and other facilities, and further acknowledge that the agreements herein are motivated by the desire of both the Plaintiffs and the Defendants to assure that the goal of fair and equitable lending practices for all of Worcester's residents is achieved;

WHEREAS, by agreeing to this Consent Order and Settlement Agreement (hereinafter described as "Consent Order"), the Defendants do not admit to any liability to the Plaintiffs; and

WHEREAS, the parties acknowledge and affirm that the agreements and undertakings set forth herein, as well as avoidance of the risk and expense of further litigation, constitute good and valuable consideration for the settlement of this litigation;

It is, therefore, mutually agreed between the Plaintiffs and the Defendants as follows:

1. The Defendants agree that the policy attached as Exhibit A to this Consent Order and entitled "Borrowing Criteria for Homeless Shelter and Transitional Housing Residents" is null and void, and that the Defendants will no longer (a) limit people residing in "temporary" residences to borrowing two items, or (b) use their existing list, or create any new lists, of transitional housing programs, teen/children's programs, homeless shelters and/or other similar facilities for the purpose of limiting the borrowing privileges of the residents of these facilities.

2. The Defendants agree that the policy attached as Exhibit B to this Consent Order has been adopted by the Worcester Public Library Board of Directors or other entity with authority to create policies for the Worcester Public Library, and that said policy will be applied at each of the Worcester Public Library's locations.

3. Nothing in this Consent Order shall prohibit the Defendants from providing library patrons with the option of obtaining "firm cards" or "temporary library cards"; however, the Defendants agree that (a) they will make such cards generally available on an equal basis; (b)

they will not specifically inform the residents, owners or operators of transitional housing programs, teen/children's programs, homeless shelters and/or other similar facilities about the availability of such cards unless they give the same information to the general public, or unless they are responding to a specific inquiry; (c) they will not pressure or coerce the residents, owners or operators of transitional housing programs, teen/children's programs, homeless shelters and/or other similar facilities into accepting or obtaining such cards, and (d) the borrowing privileges of any person residing in a transitional housing program, teen/children's program, homeless shelter and/or other similar facility shall not be denied, restricted or otherwise limited (i) because of such person's refusal to accept or obtain a temporary library card or (ii) because the operator/owner of the facility in which such person resides refuses to accept or obtain a firm card.

4. The Defendants agree that they will disseminate the policy attached as Exhibit B to the general public. In furtherance thereof, the Defendants shall (a) place the full text of the new policy on the Worcester Public Library's website (and remove any reference to the policy attached as Exhibit A); and (b) post the full text of the new policy in each of the Worcester Public Library's locations (and remove any existing postings which make reference to the policy attached as Exhibit A).

5. The Defendants agree to make arrangements for, host, and fund one session of the Faces of Homelessness Speakers' Bureau of the National Coalition for the Homeless. Such a session will be held at the Worcester Public Library's main branch before the expiration of this Consent Order. Defendants further agree to make reasonable efforts to promote and publicize the session, including, but not limited to, (a) placing an announcement on the Worcester Public

Library's website, (b) placing an announcement in the Worcester Telegram & Gazette, and (c) posting an announcement at each of the Worcester Public Library's locations. Defendants further agree to notify Plaintiffs' counsel of the date and time of the session within seven days of the Defendants having scheduled said session.

6. The Plaintiffs acknowledge that the Defendants are developing a bookmobile program. Defendants agree that any bookmobile program undertaken by the Worcester Public Library during the duration of this Consent Order will include stops at least two shelters or transitional housing programs; provided, that such visits shall be in accordance with a generally applicable library policy governing the selection of bookmobile stops, which policy shall address factors such as the general hours of operation of the bookmobile, the staff time required for the operation of the bookmobile, the safety of the public using the bookmobile, the visibility of the bookmobile, the potential volume of usage at any particular location, the day and time of day and period of any bookmobile stop and the route and travel times of bookmobile stops. The Library shall give reasonable notice of each bookmobile visit to each shelter or transitional housing program location or, alternatively, to Plaintiffs' counsel, so they can inform residents of the scheduled visits and make provision for adequate parking for the bookmobile. In the event that the bookmobile is unable to stop at any particular shelter or transitional housing program because of inadequate parking or any other deficiencies at the property of the shelter, the Library may satisfy its obligations under this paragraph by securing a reasonably nearby location and giving notice of said location as provided above.

7. Upon execution of this Consent Order by the Plaintiffs and the Defendants, the parties will execute the mutual releases that are attached as Exhibit C to this Consent Order and

incorporated by reference herein.

8. This Consent Order shall continue in force from the date on which it is approved by the Court until twenty-four (24) months thereafter. The Court shall retain jurisdiction of this action for the duration of this Consent Order. The Consent Order shall extend beyond the twenty-four month duration to the extent necessary to correct any noncompliance or violation of its terms, when such violations or noncompliance has occurred prior to the expiration of this Consent Order.

9. This Consent Order may be amended by agreement of the parties, or by order of the Court upon application of either party for good cause shown. Nothing herein shall prevent or impair the Board of Library Directors in the exercise of its duty and obligation to manage the Free Public Library; to have care and custody of the buildings and grounds of the library and any branches thereof; to have sole custody of the books; to promulgate any and all needful and suitable regulations concerning the Free Public Library and the use thereof; and, to manage all trust funds given or bequeathed for the benefit of the Free Public Library; provided however, that the Board of Library Directors shall obtain the consent of the Plaintiffs, through their counsel of record, prior to adopting any regulation, policy or rule, or implementing any practice: A) which concerns the methods for identifying individuals and/or their residential addresses in connection with the issuance, ongoing maintenance (including any re-verification procedures) or revocation of library cards; or, (B) which involves the number of books or items allowed for check-out (unless such change in number is required to conform to any change of general applicability imposed by the C/W MARS system); or, (C) which otherwise seeks to deviate from or amend the portions of the policy in bold print and attached as Exhibit B to this Consent Order.

10. The Defendants shall file a compliance report with the Plaintiffs' counsel that enumerates the steps they have taken to implement the terms of this Consent Order, including any actions required by paragraphs 1 through 6. The report shall also contain a list of all bookmobile visits, including the dates and locations visited. The report shall be due on or about eighteen (18) months after the Court's approval of this Consent Order or the parties' execution of the Consent Order, whichever occurs later.

11. If the Court declines to execute this Consent Order and/or to accept continuing jurisdiction, the terms and conditions of this Consent Order and Settlement Agreement shall nevertheless be fully binding upon the parties as an agreement in settlement of litigation. In such a situation, the parties shall jointly prepare and file a stipulation of dismissal pursuant to Rule 41(a)(1) of the Federal Rules of Civil Procedure.

ORDERED this _____ day of _____, 2006.

U.S. DISTRICT COURT JUDGE

The undersigned apply for and consent to the entry of this Agreement:

12-13-06

DATE

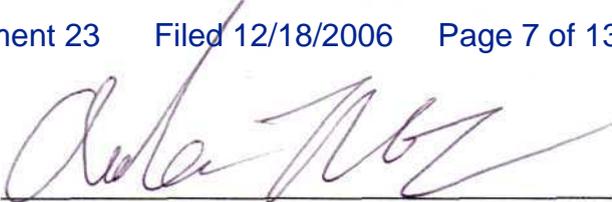
Jane Doe
JANE DOE

12-11-06

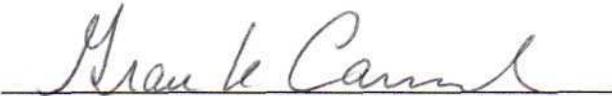
DATE

Suzette Lindgren
SUZETTE LINDGREN

11-DEC-2006
DATE


ANDREW MOYER

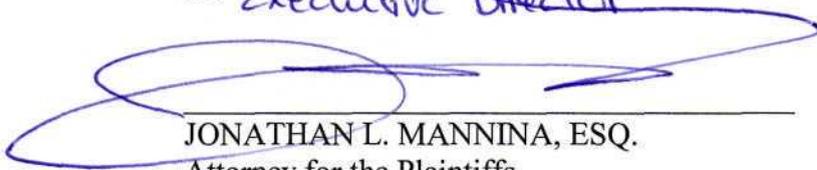
12/13/06
DATE


CENTRAL MASS. HOUSING ALLIANCE
By: Grace K Carmark
Its: Executive Director

12/15/06
DATE


MASS. COALITION FOR THE HOMELESS
By: Robyn D. Frost
Its: Executive Director

12-15-06
DATE


JONATHAN L. MANNINA, ESQ.
Attorney for the Plaintiffs

12/06/2006
DATE


CITY OF WORCESTER
By:
Its:

11.30.06
DATE


WORCESTER PUBLIC LIBRARY
By:
Its:

11-29-06
DATE


WORCESTER PUBLIC LIBRARY
BOARD OF DIRECTORS
By:
Its:

12/06/2006
DATE

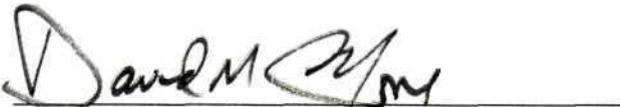

DAVID M. MOORE, ESQ.
Attorney for the Defendants

EXHIBIT A

Borrowing Criteria for Homeless Shelter and Transitional Housing Residents

The first level of criteria applies to residents of **Homeless Shelters**. These residents are transient with no permanent address. The Worcester Public Library limits those residents of shelters that have been contacted by the library to 2 items per checkout. Residents of shelters in the first level will be given a handout explaining their borrowing privileges and encouraging them to let us know when they have found permanent housing so their card can be updated for unrestricted borrowing.

The second level of criteria is for residents of **Transitional Housing Programs**. While in a **Transitional Housing Program**, residents are limited to two items per checkout, unless the resident presents a letter signed by the director of their program allowing the patron full borrowing privileges and accepting full responsibility for the safe return of all materials, including lost book payments. The directors of **Transitional Housing Programs** may also opt to sign up for a **Firm Card** that transfers the responsibility for the safe return of materials from the resident to the agency.

The third level of criteria applies to **Teen/Children's Programs** that serve children less than 18 years of age. These agencies will be strongly encouraged by letter with a follow-up phone call to have a **Firm Card** in place. WPL provides **Firm Cards** to agencies willing to accept financial responsibility for their borrowing by their residents.

Library volunteers are granted full borrowing privileges, regardless of housing status.

Transitional Housing Programs

305 Belmont St	Worcester State Hospital
142 Burncoat St	Faith House
510 Cambridge St	The Village - Housing Alliance
21 Catherine St	Channing House
9 Chadwick St	Oasis House
16-18 Cottage St	Frances Perkins Home
23 Crown St	Abby's House
	Daybreak
87 Elm St	Friendly House Shelter
12 George St	Florence House
10 Hammond St	Crozier House
52 High St	St. Joseph Residence
19 King St	Tides
107 Lincoln St	AdCare
114 Main St	Interfaith Hospitality
660 Main St	Aurora Project (PIP)
77 Mulberry St, Leicester	Nazareth Home
15 Northampton	Linda Fay Griffin House
100 Pine St	Grafton Job Corps
54 Queen St	Shepherd's House
30 Richards St	Dismas House
2 Sigourney St	Sigourney House

Teen/Children's Programs

21 Ives St	Starting Point - Price Memorial House
104 Lincoln St	Key Program
60 Miles Rd	Devereux School
27 Vernon St	Starting Point

Firm Cards - alpha by agency

41 Randolph Rd	Bridge of Central Mass - School House Program
2 Sigourney St	Community Health Link - Grace House
2-4 Norton St	Key Program
414 Cambridge St	Lutheran Community Services
133 Paine St	Santram House
125 Hartwell St	Seven Hills Work Options
Box 1380 Westboro	Westboro Secure Treatment
35 Fruit St	West Side House
1601 Main Leicester	Willis Center - Fresh Start
25 Catherine St	Willis Center - Starting Point
350 Plantation ST	Worc Day Rehab
979 Millbury St	You, Inc. - Bridge Home
979 Millbury St	You, Inc - Carol Schmidt Village
979 Millbury St	You, Inc - Teen-Parent Program
2 Granite St	You, Inc - Wentzell Center

Homeless Shelters

72 Cambridge St
217 Cambridge St
69 Grove St
701 Main St
1059 Main St
52 Mason St

Salvation Army
Hope House
Central Mass Veteran's Shelter
PIP (People in Peril) Shelter
Jeremiah's Inn
St. Francis & St. Therese Catholic Worker

EXHIBIT B

How to Get a Worcester Public Library Card

You may sign up for a Library Card at any of the library's three locations. The application must be submitted in person. A library card gives borrowing and computer usage privileges at the Main Library and branches and provides remote access to the Library's online resources.

Residents of Massachusetts with identification may obtain a library card for free, although fees are charged to replace lost cards (\$.50 for children, young adults and seniors; \$1.00 for adults). Library cards, card numbers and Personal Identification Numbers (P.I.N.) are issued to individuals and should be used only by the person to whom they were issued, whether for borrowing library material or using library computers.

As a first-time borrower, you may borrow two items when you receive your Library Card. On subsequent visits, the Worcester Public Library, as part of the C/W MARS library network, allows a person to have up to 50 items checked out at one time.

A library card will be issued to you when one of the following is presented:

- Valid Massachusetts Driver's License, or
- Valid Massachusetts State Identification Card

OR, any one identification from EACH of the following two lists:

1. Current Picture Identification (I.D.): (must include name and photo)

- Passport
- Alien Registration Card
- Government issued cards, such as Military I.D. or D.O.C. I.D.
- University or school I.D.
- Out-of-state driver's license
- W.R.T.A. bus pass
- State issued photo I.D. including welfare, Medicaid or F.I.D. card

2. Address* Verification: (must include name and Massachusetts address)

- An imprinted bank check or deposit slip
- Rent receipt (confirming 30 day occupancy)
- Utility bill dated within the last 30 days
- Letter verifying residency and mailing address dated within the last 30 days from a social service provider, temporary employer that provides housing, or a short-term residence

* A Post Office box or business address is not acceptable.

OR, if you are unable to provide the above means of identification and address verification, the Library will mail you a post card. When you return that post card, you will receive your Library Card.

Most Library Cards are valid for two years unless otherwise noted. All Library Cards can be renewed easily at the check out desk by confirming orally that you still live at your current address. If you have moved, you are required to notify Library staff and will need to re-verify your address by presenting one of the noted address verifications.

If your address is verified by either a post card or a letter, every three months you will be required simply to confirm your current address orally. This confirmation can be done easily at the check out desk and does not require presenting additional address verification documents (unless you have moved, which, as described above, requires you to notify Library staff and to re-verify your address by presenting one of the noted address verifications).

TEENS

If you are between the ages of 13 and 17 and cannot meet the I.D. requirements, you will need your parent or guardian (with sufficient identification) to sign the application. Your Library Card is valid for two years or until you turn 18 years old.

CHILDREN

If you are under 13 year old, you will need to have your parent or guardian (with sufficient identification) to sign your Library Card application. Your Library Card is valid for two years or until you turn 13 years old.

OUT-OF-STATE RESIDENTS

If you are an out-of-state resident with sufficient identification, you are eligible for a Library Card for a \$10 annual fee. (The fee is waived if you own property in Worcester and present a tax bill or if you work in Worcester and show proof of Worcester employment.)

If you are an out-of-state resident with sufficient identification, who is visiting or working in the area for less than 3 months, you are eligible for a Library Card after paying a \$10 refundable deposit and providing verification of temporary address.

COLLEGE or PRIVATE STUDENTS

If you are a student at a Worcester college or private high school and have your school identification and photo identification with your home address, you will receive a Library Card. Student cards are valid until the end of the current semester.