

RESOLUTION NO. 5-2006

Offered by All of Council

A RESOLUTION AUTHORIZING THE LAW DIRECTOR TO ENTER INTO A RELEASE AND SETTLEMENT AGREEMENT IN THE CASE OF KING V. VILLAGE OF RICHFIELD, SUMMIT COUNTY COMMON PLEAS COURT CASE NO. CV-2005-04-2040 AND DECLARING AN EMERGENCY.

WHEREAS, Jennifer King, a former volunteer firefighter with the Village of Richfield, filed a lawsuit against the Village of Richfield, entitled *King v. Village of Richfield*, Summit County Common Pleas Court Case No. CV-2005-04-2040; and

WHEREAS, the Village and all Defendants denied any acts of wrongdoing whatsoever in the lawsuit; and

WHEREAS, after Early Neutral Evaluation in the Summit County Common Pleas Court, the Plaintiff and the Village Defendants agreed to settle the lawsuit.

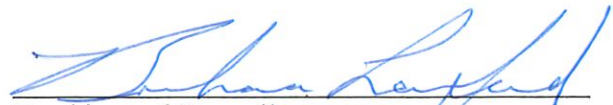
NOW, THEREFORE, BE IT RESOLVED by the Council of the Village of Richfield, Summit County State of Ohio:

SECTION 1. That the Law Director be, and hereby is, authorized and directed to enter into a Release and Settlement Agreement in the case of *King v. Village of Richfield*, Case No. CV-2005-04-2040, a copy of which Release and Settlement Agreement is attached hereto as Exhibit "A" and incorporated herein fully as if by reference.


SECTION 2. That the Finance Director be, and hereby is, authorized and directed to make the payments as set forth in the Release and Settlement Agreement.

SECTION 3. This Resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public health, safety and welfare and for the further reason that it is immediately necessary in order to be effective to avoid the expense of protracted litigation; wherefore, provided this Resolution receives the affirmative vote of two-thirds of the members of Council elected or appointed, it shall take effect immediately upon its passage and execution by the Mayor; otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

PASSED: 1/17/06



President of Council

ATTEST:


Clerk of Council



Mayor

Dated: 1/17/06

Carolyn

RELEASE AND SETTLEMENT AGREEMENT

This Release and Settlement Agreement ("Agreement") is made at Cleveland, Ohio on this _____ day of December, 2005, by and between the VILLAGE OF RICHFIELD and CHIEF JOSEPH STOPAK (collectively referred to as "Richfield") and JENNIFER KING, her heirs, executors and assigns (collectively referred to as "King").

1. King was a volunteer firefighter with the Village of Richfield.
2. King applied for a position as a full-time fire medic with the Village of Richfield and she, along with three other applicants, was not selected for the position.
3. King filed a lawsuit in the Summit County Court of Common Pleas, Case No. CV 2005-04-2040, *King v. The Village of Richfield, et al.*, alleging discrimination and retaliation relating to the Village's decision not to hire her for the full-time fire medic position (the "Lawsuit").
4. It is the desire of King and Richfield to settle and forever dismiss the claims asserted or which could have been asserted by King against Richfield and Chief Joseph Stopak arising out of her employment with Richfield and failure to hire by Richfield.

NOW, THEREFORE, and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and in consideration of the mutual promises and covenants set forth below, Richfield and King agree as follows.

Section 1. Consideration. In consideration of the execution by King, and delivery to Richfield of this Agreement and the performance of the terms and conditions contained herein by King, Richfield agrees to pay to King the total gross amount of Thirty-Two Thousand Dollars (\$32,000.00) which shall be paid as follows:

a. One Thousand Two Hundred Dollars (\$1,200.00) shall be paid to King, less any withholding, as full and final settlement of any and all back pay, front pay and any other alleged economic damages.

b. Eighteen Thousand Dollars (\$18,000.00) shall be paid to King as full and final settlement of any and all claims of King for the purpose of settling and compromising her claims of non-economic, non-punitive personal injuries including, but not limited to, any physical injuries and mental distress, arising out of her employment relationship with, and the failure to hire by, Richfield and separation of her employment thereof.

c. Twelve Thousand Eight Hundred Dollars (\$12,800.00) shall be paid to Gregory Gordillo, counsel for King, as full and final settlement of all of King's claims for attorneys' fees which she incurred arising out of his representation of King in Case No. CV 2005-04-2040 filed in the Summit County Court of Common Pleas.

d. The payments to King, set forth in Section 1 (a), (b) and (c) shall be delivered to King's attorney after the expiration of the revocation period set forth in Section 6 of this Release and Settlement Agreement and not before approval of this Release and Settlement Agreement by Village Council.

Section 2. King's Dismissal of Litigation. Upon receipt of the payments set forth in Section 1, King shall dismiss the Lawsuit pending in Summit County Court of Common Pleas, Case No. CV 2005-04-2040, and any other litigation or administrative action, known or unknown to Richfield, with prejudice.

Section 3. Waiver of Right to Reinstatement and Future Employment. King hereby waives any right she may have to reinstatement as a volunteer firefighter at Richfield and King hereby agrees that she will not seek employment with Richfield at any time in the future.

Section 4. Statements to Third Parties and Letter of Reference. Richfield shall provide King, upon request, with a neutral letter of reference. Notwithstanding this Section or any other requirements of this Agreement, Richfield reserves the right to truthfully furnish information requested by any governmental agency, or any of its officers, directors or employees or required by law to furnish such information or such information that may be necessary to bring an action on behalf of or provide a defense to any action brought against Richfield, whether involving King or any third party.

Section 5. King's Release of Claims. In consideration of the execution of this Agreement by Richfield and the performance of the terms and conditions contained herein by Richfield, King and King's agents, assigns, heirs, and executors hereby release and forever discharge Chief Joseph Stopak and Richfield and their present, future and former officials, elected or appointed, agents, employees, legal representatives, heirs and assigns from any and all claims, demands, liabilities, and causes of action of every nature, known or unknown, which have existed or exist now and which are in any way connected with, or arise out of, King's employment or application for employment with Richfield and the failure to hire and/or termination of that employment relationship. King understands that there are various state, federal and local laws that prohibit employment discrimination on the basis of, among other things, age, sex, race, color, national origin, religion and disability, and these laws are enforced by various government agencies. King intends to give up any and all rights she may have under these laws or any other federal or state statute or common law by executing this Agreement. King understands that her waiver of claims and her release and discharge as contained in this Agreement includes, but is not limited to, claims for breach of an implied or express employment contract, claims for wrongful discharge, claims for race, sex and age discrimination, claims for retaliation, claims under the Age Discrimination in Employment Act,

Americans with Disabilities Act, claims under Title VII of the Civil Rights Act of 1964, and any other claims pursuant to any other federal, state or local law regarding discrimination or employment. King hereby specifically releases, discharges, and waives, but not by way of limitation, any claim, demand, or cause of action based on the theories of wrongful or unjust termination, breach of contract (express or implied), promissory estoppel, negligent or intentional conduct, breach of any implied covenant of good faith and fair dealing, defamation, intentional or negligent infliction of emotional distress and any and all forms of employment discrimination, as well as claims for attorneys' fees, expenses, and costs related to any of the foregoing.

This Release specifically includes any and all claims, demands, obligations and/or causes of action for compensatory and/or exemplary damages and/or other relief relating to or in any way connected with King's employment, the terms and conditions and benefits of King's employment or failure to employ, including, without limitation, back pay, reinstatement, severance pay, emotional distress, disability and other health benefits, and other fringe benefits, whether or not specifically or particularly described herein. King expressly waives any right or claim of right to assert hereafter that any claim, demand, obligation and/or cause of action has, through ignorance, oversight or error, been omitted from the terms of this Agreement.

Section 6. Right to Representation, Time Limits and Revocation Period. King, in receiving a copy of this Agreement, acknowledges that she has been advised in writing to seek the advice of an attorney of her own choosing before signing this Agreement. King may consider this Agreement for at least twenty-one (21) days from the date she receives this Agreement. If King elects to sign this Agreement in less than twenty-one (21) days, then she is waiving her right to consider this Agreement for up to twenty-one (21) days. King shall also have the right to revoke this Agreement at any time within seven (7) days after the date she has

signed it. To revoke the Agreement, she must cause a signed copy of this Agreement, marked "Revoked", to be delivered to the Mayor of the Village of Richfield before the end of the seven day period. The date of signing, as indicated next to her signature, will mark the beginning of the seven-day revocation period. This Agreement will become effective on the 8th day after King signs it, provided that it has not been revoked before that day.

Section 7. No Admission of Wrongdoing. This Agreement shall not in any way be construed as an admission by King or Richfield of any acts of wrong-doing whatsoever against the other Party.

Section 8. Governing Law; Jurisdiction. This Agreement shall be governed by and shall be interpreted in accordance with the laws of the State of Ohio, and King and Richfield hereby confer exclusive jurisdiction upon the Summit County Court of Common Pleas to determine any dispute arising out of or related to this Agreement or the breach hereof.

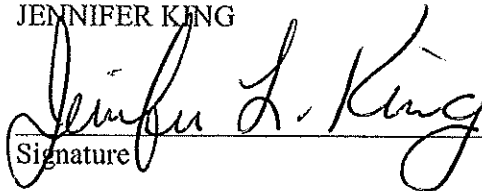
Section 9. Entire Agreement. This Agreement sets forth the entire agreement between King and Richfield and fully supersedes any and all prior agreements or understandings between the Parties pertaining to the subject matter contained herein.

Section 10. Binding Agreement. This Agreement shall be binding upon King and Richfield, their heirs, executors, personal representatives, successors, assigns, officers and agents.

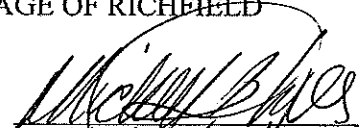
Section 11. Effect of Agreement. This Agreement may be pleaded as a full and complete defense to, and may be used as the basis for an injunction against, any action, suit or other proceeding which may be instituted, prosecuted or attempted in breach of this Agreement.

IN WITNESS WHEREOF, this Agreement has been executed by the parties on this _____ day of _____, in four identical counterparts, each of which shall constitute an original.

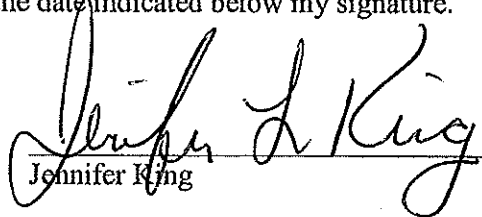
Dated: 1-2-06

JENNIFER KING

Signature

Dated: 1/23/06

VILLAGE OF RICHELIEU
By: 
Name: Michael K. Fyres
Title: Mayor

I have read and carefully considered this Release and Settlement Agreement and have had an opportunity to ask questions about it and have had my questions answered. Further, I have had the opportunity to discuss this Agreement with my family and/or attorney. I am signing this Agreement freely and voluntarily on the date indicated below my signature.


Jennifer King

1-2-06
Date