

MBTA/BCIL Joint Initial Assessment

June 9, 2010

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Executive Summary

Purpose

The following is an overview of the Joint Assessment Document (“the Assessment”). The Assessment briefly outlines the major subject matter areas within the Settlement Agreement (“Agreement”) reached by Massachusetts Bay Transportation Authority Boston (“MBTA”, “the Authority”) and the Boston Center for Independent Living (“BCIL”) resulting from the suit Daniels-Finegold et al. v. MBTA. Further, the Assessment serves as an opportunity for both the plaintiffs and the MBTA (“the parties”) to collectively evaluate the MBTA’s progress towards compliance in each of these areas.

Structure of Assessment

Each topic is broken into three sections: “Introduction,” which briefly explains the requirements of the Agreement for a particular topic; “Progress to Date,” which outlines the MBTA’s accomplishments; and “Challenges Remaining,” which identifies the next steps and potential hurdles towards achieving compliance.

Findings

All parties agree that significant progress towards achieving compliance has been made on a number of topics. However, some areas warrant renewed focus and vigilance to attain compliance.

Key Settlement Commitments

Bus Purchase and Rehabilitation and Elevator Availability. To date, all parties agree that the MBTA has exceeded expectations and fully complied with all terms related to these subjects.

Bus Operations. All parties recognize significant progress has been made due to new procedures and training. The parties agree that a long term training strategy must be developed and that formal benchmarks must be established to evaluate future compliance efforts.

Bus Maintenance. The parties acknowledge that bus maintenance has noticeably improved, but plaintiffs express continued concern regarding upkeep of particular accessibility features.

Emergencies. The parties agree that the MBTA’s purchase of emergency evacuation chairs and carts is a positive step forward. However, all parties recognize that significant work remains to be done on this topic by the MBTA. Future efforts include the drafting and implementation of emergency policies and procedures and training of personnel.

Performance Monitoring by the MBTA. The parties are pleased with the restructuring and expansion of the MBTA's internal monitoring program, as well as the implementation of procedures to investigate egregious violations encountered by monitors. All parties recognize, however, that the MBTA must submit quarterly reports to the plaintiffs summarizing monitoring data.

Bus Service Planning. All parties recognize that, due to the significant improvement in accessibility of the MBTA's bus fleet, the requirements of this commitment have substantially changed since the signing of the Agreement. Plaintiffs nonetheless believe there are more opportunities for the MBTA to improve outreach to customers with disabilities. Plaintiffs also stress the need to increase MBTA personnel awareness of the location of stops and routes frequently utilized by people with disabilities.

Gaps. Parties agree that the track and platform adjustments undertaken by the MBTA is a positive step forward, and may be part of a long-term solution. The MBTA will be undertaking an initiative to extend the platform edging, or nosing, to reduce excessive platform to vehicle gaps. The bridgeplate program was developed as a short-term solution. All parties acknowledge that improvements can be made to the current bridgeplate program and a long-term strategy to fully address this problem is yet to be fully developed.

Rail Vehicle Engineering. The MBTA is currently investigating the next generation rail vehicle design which may include a feature that reduces excessive platform gaps. The Authority is working towards securing funds for this project.

Green Line/Mobile Lifts. All parties recognize the realized benefit of running Type 8 cars on all branches of the Green Line. However, the plaintiffs are concerned that mobile lifts are not being properly maintained.

AFC. To address accessibility issues posed by the introduction of AFC, the MBTA has allowed all gate access to reduced fare card holders and is investigating the addition of a tactile orientation cue on paper CharlieTickets. All parties see these as positive steps forward. The plaintiffs request that the MBTA establish an ad hoc committee to develop design requirements for the next generation of fare gates and modifications to existing systems.

Stop Announcements. All parties recognize progress has been made regarding the stop announcement commitments within the Agreement. However plaintiffs remain dissatisfied with the reliability of manual stop announcements and timing of the automated system.

Wayfinding. An ad-hoc committee has developed new design guidelines which will be applied at several stations in the near future. Further, an initial survey of all rail stations is currently under way to analyze current signage and

architectural features. The purpose of this survey is to create a system-wide design standard. Despite the obstacle of limited funding, all parties are committed to working towards the implementation of the updated designs.

PA/VMS. All parties agree the MBTA is in compliance with terms relating to the installation of new PA/VMS boards. The parties agree that the use of the systems should be limited to providing passengers with vital transportation information and public safety announcements.

Station Platforms. The MBTA has completed platform work on four stations identified in the Agreement. After delays caused by funding problems, work at North Quincy Station will commence in June 2010.

Elevators. As mentioned above, the parties believe the MBTA is in compliance with all terms related to elevator availability. The parties also recognize that meaningful progress has been made with respect to the design of replacement elevators and redundant elevators. Plaintiffs state that they would like the MBTA to continue to work on improving out-of-service notifications and alternative service.

Access to Vehicles and Facilities. The parties acknowledge the improvement in bus stop accessibility due to the recently-passed Bus Stop Law which increased fines for parking in bus stops. Regarding the issue of snow removal from bus stops, all parties understand that while some steps have been taken to increase accountability, substantial work remains to be done regarding this issue.

Customer Assistance. All parties see the recent Customer Service Agents (CSAs) training as a tangible step towards ensuring that appropriate customer service for persons with disabilities is provided. Plaintiffs are concerned with gaps in coverage, and all parties realize that any cuts to the workforce may exacerbate this concern.

Alternative Transportation. The parties see the alternative service plan developed during the long-term elevator outage at Porter Square as an excellent model for addressing future system-wide power failures. Both the parties understand that a formal policy regarding alternate service must be developed by the MBTA as soon as possible.

Complaints. The parties see the recent restructuring and expansion of the MBTA's Customer Support Services Center as a significant improvement to the manner in which accessibility complaints are processed. However, policies must be developed to oversee that customers' calls are returned when appropriate.

Personnel Training. All parties see the training programs developed for Bus Operators and CSAs as critical steps towards achieving compliance in this area. The MBTA must next review and update training programs for staff on the Heavy and Light Rail, as well as for project managers in Design & Construction.

Management. The parties view the development of the Department of System-Wide Accessibility (SWA) as a meaningful step towards compliance, and a study of MBTA's management structure is underway.

Marketing, Outreach & Public Relations. With the MBTA's issuance of an access-focused newsletter and calendar, along with improvements to its website, all parties recognize the marketing efforts made by the MBTA. The plaintiffs request that the MBTA consider launching marketing campaigns on specific topics.

Independent Monitoring. All parties see the selection of Judge King for the position of Independent Monitor as a positive outcome of the Agreement. All parties understand they must finalize reporting deadlines for future external bus studies and assessment reports.

Communication Between Parties. Although overall communication has been adequate, all parties agree there is room for improvement. Specifically, MBTA reports must be submitted to the plaintiffs on a regular basis and a meeting schedule should be established to facilitate greater levels of plaintiffs' input on certain issues.

Revision of Rules. All parties are pleased that all relevant rules have been revised, but agree that the MBTA must take steps to formally adopting new rule books.

Conclusion

The Assessment reveals that the parties agree that the MBTA has demonstrated sustained progress and improvement within the four years since the signing of the Agreement. Specific highlights include improvements to elevator reliability, bus service, internal monitoring, and the establishment of the System-Wide Accessibility Department.

All parties acknowledge that additional work remains to be accomplished, including issues related to Emergencies, Gaps, Access to Vehicles and Stations, and Wayfinding. Despite the realities of fiscal constraints, the parties are dedicated to cooperating in good faith and to the best of their abilities in achieving compliance with the terms of the Agreement.

MBTA/BCIL Joint Initial Assessment

Background

Just over four years ago, the MBTA and the plaintiffs concluded a landmark Settlement Agreement (the Agreement) founded upon a shared vision to make the MBTA the model transit system accessible to all members of the public. Well into the implementation phase of the Agreement, the plaintiffs and the MBTA have currently engaged in a comprehensive review of the Agreement to jointly assess the MBTA's progress towards compliance. Overall, the parties believe that the MBTA has made steady, substantial progress towards compliance. Indeed, considering the ambitious shared goals set by the Agreement, the parties believe that the MBTA's performance up to the present time has exceeded expectations in certain areas. Three noteworthy areas are elevator maintenance and availability, ongoing bus operations training and the new internal monitoring program. In these areas, the MBTA has achieved excellent results and its performance illustrates the Authority's ability to realize the complete vision of the parties during the lifetime of the Agreement. The parties also recognize the significance of the newly-created Department of System-Wide Accessibility (SWA) by the MBTA and the recruitment of a top caliber staff. Along with the appointment of former Superior Court Judge, Patrick King, as Independent Monitor, the parties believe that the MBTA has taken notable steps to establish the long-term staffing structure necessary to accomplish the goals of the Agreement.

While significant progress has taken place, all parties acknowledge that considerable work remains to be done in order to achieve full compliance and fulfillment of the entire Agreement. The parties recognize that they are still in the early stage of a multi-year process. This document serves to briefly outline the major subject matter areas of the Agreement and to highlight the MBTA's progress towards compliance under each topic.

Assessment of Settlement Commitments

1) BUS OPERATIONS

- a) Introduction: Providing ready and safe access onto buses for people with disabilities is one of the core issues of the Agreement. Compliance with this section of the Agreement, as well as sections relating to subway access, is the ultimate measure of success. Among other duties, the Agreement requires MBTA personnel to follow procedures in areas such as assisting passengers with disabilities upon request, proper operation of lifts and ramps, and providing securement devices for passengers using wheeled mobility devices.
- b) Progress to Date. In the Fall of 2007, SWA and the Bus Operations' training school developed step-by-step procedures for providing optimal customer service to passengers with disabilities on both low-floor and high-floor buses. These procedures were used as the basis for a full-day

accessibility training for all MBTA Bus Operators. The program incorporates significant hands-on experience securing a variety of wheeled mobility devices and operating on-board accessibility features. Both the procedures and training represent a major accomplishment for the MBTA. The training has been met with considerable acclaim by all parties and the plaintiffs appreciate the MBTA's invitation to participate in the training process. All parties agree that compliance by the MBTA with its own bus operations rules will be effectively measured by the testing program administered by the Independent Monitor, Judge King. Results from the independent testing conducted in Fall 2008 indicate that the MBTA has made significant progress on key measures. These include Operators properly pulling up to the curb to ensure correct lift deployment and Operators properly securing wheeled mobility devices. Ongoing monitoring activities will continue to assess the MBTA's compliance.

- c) **Challenges Remaining.** The MBTA's Bus Operations' training school has taken preliminary steps in developing the second phase of training. The current training module will require further update and modification. The plaintiffs encourage the MBTA to place even greater emphasis on the training of operators generally, and specifically on the provision of services to customers with hidden disabilities. Most fundamentally, the parties must work together to develop a long-term plan for training to ensure that steady and consistent progress can be tracked as the MBTA moves forward. Additionally, the parties must work towards defining performance benchmarks for Bus Operations as a means of assessing future compliance. Finally, the plaintiffs note that bus drivers' badge numbers are not being consistently displayed on VMS signs aboard buses.

2) BUS MAINTENANCE

- a) **Introduction.** The Agreement states that all accessibility equipment on buses shall be cleaned and serviced on a regular basis to ensure proper functioning. To improve accountability, the MBTA agreed to create a system of record-keeping to document the maintenance and servicing process.
- b) **Progress to Date.** All parties believe that bus maintenance has noticeably improved. Results from the internal and external monitoring programs have echoed this observation. One focal point of the lawsuit was the quality of lift maintenance on high-floor buses. However, with the MBTA's purchase of numerous low-floor buses over the past few years, the severity of this problem has been significantly reduced. The MBTA has recently fulfilled plaintiffs' request for additional bus maintenance records from the MBTA. The plaintiffs believe this information will facilitate a more complete determination of bus maintenance compliance and its impact on accessibility for customers with disabilities.

- c) Challenges Remaining. The plaintiffs are concerned about the maintenance of some accessibility features on buses, including broken hand straps and loose handrails.

3) BUS PURCHASE AND REHABILITATION

- a) Introduction. The Agreement sets out a schedule for the MBTA's phasing out of its inaccessible bus fleet and the purchase of new low-floor buses.
- b) Progress to Date. The parties believe that the MBTA has fully complied with all components of this topic in the Agreement. All buses identified for retirement within the settlement are no longer in service. Lift-equipped buses still in service have been outfitted with an upgraded lift as required. The MBTA has also purchased a number of additional low-floor buses in recent years, such that 90% of today's fleet is comprised of low-floor buses and 10% of high-floor buses. Further, as called for by the Agreement, the MBTA intends to seek the plaintiffs' participation in future discussions regarding the design of newly-procured buses.

4) EMERGENCIES

- a) Introduction. Under the Agreement, the MBTA agreed to develop bus and rail procedures for the evacuation of persons with disabilities in the event of an emergency.
- b) Progress to Date. SWA is working with the Safety Department and Operations Control Center to develop evacuation policies and procedures. The plaintiffs view this effort as a key priority for the MBTA. The MBTA has also purchased 367 evacuation chairs and is in the process of procuring 6 electric carts designed to be deployed within subway tunnels in the event of an emergency. The parties agree that the purchase is an important equipment upgrade for the subway and commuter rail. The MBTA has also committed to including individuals with disabilities in its emergency drills.
- c) Challenges Remaining. All parties agree that this area requires further action to fulfill the intent of the Agreement. The plaintiffs continue to emphasize the necessity of involving individuals with disabilities in emergency drills and appreciate the MBTA's current commitment to that policy. In order to avoid confusion during emergencies, the plaintiffs strongly urge the MBTA to develop emergency response plans that clearly delegate responsibilities to all relevant MBTA employees. The plaintiffs further stress that MBTA employees must be properly trained on their responsibilities during emergency situations, as well as on the proper usage of new evacuation equipment. In addition, the plaintiffs are

concerned about customers with disabilities being dropped off by shuttles at stations which are not accessible during an emergency rerouting of service. The plaintiffs also believe that emergency response requires coordination with other responding agencies and encourage any MBTA attempts to foster relationships with these entities. The MBTA concurs that emergency responses must necessarily involve the efforts of multiple parties and agrees to work with response agencies to develop procedures for cooperation and coordination of responsibilities.

5) PERFORMANCE MONITORING BY THE MBTA

- a) Introduction. The Agreement calls for the MBTA to devise a monitoring system to ensure its employees' compliance with internal procedures, regulations or special orders regarding passenger service. The system would allow for implementation of changes based on new observations made by internal monitors and complaints from customers.
- b) Progress to Date. SWA has established a new and expanded internal monitoring program that is reinforced by improved disciplinary procedures for accessibility-related violations. The parties are optimistic about the implementation of this program and believe that it will be a critical element of the MBTA's efforts to reach full compliance with the Agreement. The MBTA has committed significant personnel and resources to systematically monitor the accessibility of bus, subway and commuter rail services. The new procedure for the immediate investigation of serious violations reported by monitors is a clear improvement in how the MBTA addresses and ultimately prevents accessibility violations. The MBTA has also purchased Scantron hardware and software to greatly facilitate input and analysis of monitoring data. Draft reports are underway.
- c) Challenges Remaining. To address the plaintiffs' interest in receiving more information concerning bus operations, the MBTA will provide the plaintiffs with copies of its internal monitoring reports on a quarterly basis. The plaintiffs request that the MBTA analyze bus monitoring results on the basis of individual service areas to ensure consistent bus service quality across all routes. Additionally, the plaintiffs are concerned about a lack of enforcement of disciplinary measures for identified violations. The MBTA must cooperate with its Labor Relations Department to ensure that disciplinary action is properly enforced against employees through arbitration proceedings.

6) BUS SERVICE PLANNING

- a) Introduction. The Agreement requires that the MBTA proactively address the transportation needs of passengers with disabilities through outreach efforts. Additionally, the settlement requires the MBTA to measure the

ridership patterns of customers with disabilities and take this information into account when developing service plans.

- b) **Progress to Date.** As the MBTA now owns a more accessible bus fleet, this issue has become fundamentally different in nature. The plaintiffs recognize the MBTA's current efforts to focus on accessibility in the bus service planning process.
- c) **Challenges Remaining.** The plaintiffs stress the need to identify currently inaccessible bus stops and to evaluate them for potential improvement or elimination from the system. The plaintiffs also believe that further outreach efforts would be beneficial, particularly regarding the issue of choosing the best locations for stops and changes in routes. The plaintiffs welcome the opportunity to cooperate with the MBTA in developing an effective and comprehensive outreach plan.

7) TRAIN OPERATIONS

Prior to the lawsuit, and for much of the duration of the lawsuit, the problems associated with MBTA elevators at stations presented a severe obstacle to use of the entire subway system. However, because the elevators have been performing exceptionally well and customers are better able to access the subway system, the priorities regarding this issue have shifted. In particular, this area of the Agreement is now principally focused only on the key issues: Gaps; Vehicle Engineering; Green Line/Mobile Lifts; Automatic Fare Gates (AFC) and Alternate Service.

a) GAPS

- i) **Introduction.** In many transit systems, the gaps between train cars and the station platform can be a substantial deterrent to use of the subway system by persons with disabilities, especially those who use wheeled mobility devices. While the significant improvement in elevator operations at the MBTA has made the subways more accessible, until the gap problem is solved a number of people will not be able to use the system. The gap problems most frequently occur on the Orange and Red Lines. Under the Agreement, the MBTA agreed to conduct quarterly inspections at stations to identify whether any repairs or adjustments need to be made to address excessive gaps. The Agreement further calls for the MBTA to address excessive gaps by any other necessary means.
- ii) **Progress to Date.** The MBTA has assembled a team of engineers to systematically analyze the factors creating gaps and develop a long-term remedy to the problem. The work initiated in Summer 2008 at certain Blue Line Stations represents a substantial step forward in the MBTA's efforts to close gaps. In particular, while performing work at

certain Blue Line Stations to replace or improve the platforms, the MBTA also modified the adjacent track in order to reduce the gap. This represented a more comprehensive approach than previously undertaken. Additionally, the Authority will be undertaking an initiative to extend the platform edging, or nosing, to reduce excessive platform to vehicle gaps at the MBTA's Red, Orange, and Blue Line stations. The MBTA's FY11-FY15 Capital Investment Program (CIP) includes funding to complete this project. The parties further believe that the inclusion of a gap compliance test as part of routine track maintenance would be beneficial, and that a sustained collaborative approach to the gap problem will lead to a workable solution. As an interim measure, the MBTA has created a bridgeplate program to enable people using wheeled mobility devices to safely board the cars, despite the existence of a platform gap. This technology consists of a portable platform which spans the gap and allows direct access onto the car floor by wheeled mobility device users. While bridgeplates are available at all Blue, Red and Orange Line stations, the overall program can be made more effective. Specifically, customer service agents and all appropriate MBTA personnel must be more frequently available to deploy the plates and should be further trained in how to use the equipment. For this reason, the new CSA training includes instruction on proper bridgeplate use. The parties agree, however, that the bridgeplate program does not represent a long-term solution to the gap issue.

- iii) Challenges Remaining. Plaintiffs are concerned that many passengers with disabilities are not aware of the availability of bridgeplates, a problem that could be addressed through more outreach. Additionally, as discussed later, potential budget considerations may affect the availability of CSAs on a system-wide level. Therefore, the MBTA must consider revising its procedures for the deployment of bridgeplates. An example includes designing "preferred boarding locations" on each platform located within clear sight of the train operator who would be responsible for operation of the equipment. Solving the gap problem is a long-term project that will take several years and considerable funding to complete. The plaintiffs acknowledge the difficulty in implementing a comprehensive solution. However, while in the short-term the MBTA must focus on significantly reducing the gap problem, the plaintiffs believe the long-term goal should be to fully eliminate it. (See below for information on rail vehicle engineering).

b) RAIL VEHICLE ENGINEERING

- i) Introduction. The MBTA has elected to examine the design and engineering of future rail vehicles as a means of reducing excessive

platform gaps. The MBTA is investigating a next generation rail vehicle design, which may include a feature to reduce excessive platform gaps that is either automatically deployed at all doors or on demand by passenger intervention. Ultimately, the feature will facilitate boarding and exiting for passengers who have difficulty maneuvering over platform gaps, especially those using wheeled mobility devices

- ii) Progress to Date. MBTA Vehicle Engineering and Subway Operations, in consultation with the Rail Vehicle Ad Hoc Committee, are determining the design details.
- iii) Challenges Remaining. The MBTA is working towards securing the funds necessary for procuring new rail vehicles, which may include a feature that reduces excessive platform gaps.

c) GREEN LINE/MOBILE LIFTS

- i) Introduction. Prior to the settlement, train cars on the Green Line, Type 7 cars, were inaccessible and therefore mobile lifts and mini-high platforms were needed to enable passengers with disabilities to board. The Agreement requires the MBTA to implement a regular maintenance program of all lifts to ensure their operation as well as mandatory usage training for all responsible personnel. A monitoring system was to be created by the MBTA to track any difficulties encountered with the lifts. Further, to directly address this issue, within the settlement the MBTA agreed to include a low-floor car ("Type 8 Breda") in each train set on the Green Line when such cars were available.
- ii) Progress to Date. The MBTA has created new videos for its Customer Service Agents (CSAs) as well as Train Operator training which demonstrate proper use of all mobile lifts. All parties believe that it is an important step forward. In addition, the parties are pleased that the MBTA has developed new step-by-step procedures to be used in training and that will also be attached to each mobile lift in the field. All parties believe that the MBTA has made impressive progress to deploy the Type 8 Breda cars into service in dramatically greater numbers. Furthermore, the MBTA has completed significant work to begin running the cars along the C Line, E Line and, after considerable effort and investment in 2007, the D Line. A special order was written and released by the MBTA (#09-65, Type 7/Type 8 Cars running Tandem) requiring at least one Type 8 vehicle in each train set, and if a one-car train is run it must be a Type 8 car. The MBTA's internal monitors currently oversee this new requirement as well as the proper functioning of mobile lifts and accessibility on Type 7 cars.

Additionally, the MBTA has invited plaintiff participation in the planning process for the next generation of Green Line cars ("Type 9"). This cooperative effort will be a critical component of the long-term plan to make the Green Line fully-accessible. The plaintiffs appreciate and welcome the decision to make Symphony and Science Park stations fully-accessible.

- iii) Challenges Remaining. From an accessibility standpoint, the Green Line remains a challenging component of the MBTA system. The plaintiffs remain concerned that the mobile lifts are not being properly maintained and utilized and that Green Line personnel may require further training on proper usage. The plaintiffs request that the MBTA ensure that at least one Type 8 Breda car is included in each train set as required by the Agreement and special order #09-65. The MBTA agrees that future training modules must be developed to better train all responsible personnel on mobile lift usage. Further, increased internal monitoring will ensure compliance, document areas of concern and identify opportunities for improvement. However, it is important to note that the increased deployment of Type 8 cars on all Green Line branches has significantly reduced the urgency of the mobile lifts issue.

d) AUTOMATED FARE COLLECTION (AFC)

- i) Introduction. The Agreement requires that MBTA fare collection procedures are readily accessible and usable by people with disabilities. All parties recognize that access through fare gates is an important new area of interest that has arisen during the implementation period. More specifically, at the time of the settlement the automated fare collection system had not yet been fully installed. While the AFC system, consisting of fare gates and ticket vending machines, has brought significant improvements in many respects, it has created some new concerns as well. For example, as fare gates require tapping of cards and insertion of tickets, they present difficulties for persons with limited use of their arms and hands. Further, the location and slant of screens at ticket machines present visibility problems for people in wheeled mobility devices.
- ii) Progress to Date. The parties have discussed and the MBTA is considering several improvements to the AFC system to improve accessibility. The plaintiffs appreciate the MBTA's recent decision to make Transportation Access Pass (TAP), Blind Access, THE RIDE and Senior CharlieCards usable at all fare gates. This constitutes a welcome improvement, especially for passengers with visual impairments. Additionally, all parties recognize that the MBTA's

decision to redesign its CharlieTickets to include an orientation cue (a small hole in the bottom left-hand corner) is an essential step towards ensuring all fare media is accessible.

- iii) Challenges Remaining. The plaintiffs request that the MBTA form a committee composed of passengers with disabilities and appropriate MBTA personnel to develop accessibility design requirements for future AFC equipment modifications and purchases. These requirements must incorporate any state and federal accessibility guidelines for this type of equipment.

8) STOP ANNOUNCEMENTS

- a) Introduction. The Agreement states that buses and trains must either include a functional automated stop announcement device, or the bus driver or train operator is required to make manual stop announcements using the installed PA system. The MBTA is required to ensure that automated devices and PA systems are fully operational and to discipline operators who fail to comply with stop announcement policy.
- b) Progress to Date. The plaintiffs consider effective stop announcements a critical element of compliance. The MBTA has made an impressive commitment to this issue by effectuating stop announcements for not only stops mandated by the Americans With Disabilities Act (ADA), but for all stops. The parties recognize that the MBTA's efforts on this issue surpass the requirements of the Agreement. Notably, a new mechanism is currently being installed on each bus that will enable the driver to prompt a computerized announcement of each stop by pressing a button. This system will be utilized in the event that the automated system is not properly working. Stop announcements are monitored internally by SWA on all modes of transportation. All parties are pleased with the new bus procedures and the Bus Operator Recertification Training Program and the parties are optimistic about the potential of these initiatives to improve this area.
- c) Challenges Remaining. The plaintiffs have expressed continuing concern regarding timing problems of automated announcements and the reliability of manual stop announcements by drivers when the automated system is out of service. Additionally, plaintiffs note that a problem arises when a passenger requests a particular stop and the operator fails to announce the destination when the stop is made. In these instances, persons with disabilities, and particularly with vision impairments, often miss the stop which they requested. Even though most effort on stop announcements has focused on the buses, improvement in this area is also critical on the subways. The plaintiffs observe that destination announcements are not

consistently performed on subway lines. For this reason, plaintiffs urge the MBTA to emphasize the importance of destination and stop announcements in future subway trainings, as well as to ensure staff are held accountable for this responsibility.

9) STATION MANAGEMENT/COMMUNICATION WITH PASSANGERS

a) WAYFINDING

- i) Introduction. The Agreement requires the MBTA to develop and implement an improved and consistent system of signage and architectural design in MBTA stations to enable passengers to effectively navigate the system. This concept of “wayfinding” is crucial in ensuring accessibility for customers with disabilities.
- ii) Progress to Date. Since 2008, the MBTA’s Design and Construction Department has assembled an internal Wayfinding ad-hoc committee. The purpose of this committee has been to review the MBTA’s original wayfinding manual and identify areas that needed to be updated. The committee has worked together to draft guidelines for MBTA signage and has addressed issues such as color contrast, character size, brush thickness, etc. The committee has also worked towards developing tactile and Braille signage, including Braille “you are here” maps. Signs developed by the committee were installed at Alewife station for review by the plaintiffs in early 2009. Lessons learned from this initiative are now being applied to signage projects underway (e.g. Science Park station, South Station Silver Line, etc.). Parallel to this effort, the MBTA has contracted with Chris Iwerks, of the architectural firm Bertaux and Iwerks, to update the wayfinding manual. The wayfinding manual will be used by internal and external staff as a system-wide guide for the development and placement of wayfinding signage. Mr. Iwerks is currently tasked with identifying existing signage within the MBTA system, as well as analyzing key features at each station (e.g. elevators, entrances, etc.) As part of this initial phase, Iwerks has been asked to identify future phases and forecast their cost and timing. The first phase of this initiative is due to be completed in Spring 2010.
- iii) Challenges Remaining. The unique design and complexity of each station represents an ongoing challenge for the wayfinding initiative. Additionally, the MBTA must continue its efforts to secure funding to ensure proper execution of all aspects of the project.

b) PA/VMS

- i) Introduction. Under the Agreement, the MBTA agreed to install a new public address (PA) system to allow for simultaneous display of

announcements on variable message sign (VMS) systems in stations. When feasible, these "PA/VMS" boards are to be installed in a perpendicular direction in relation to the station platforms to ensure that signs are not obscured by incoming trains.

- ii) Progress to Date. The MBTA has recently installed approximately 225 PA/VMS boards throughout 45 stations along the Red, Orange, Blue and Green lines. These boards supply useful information to customers at MBTA stations, including updates regarding approach and arrival of trains (on the Red, Orange and Blue lines).
- iii) Challenges Remaining. Since the MBTA's integration into the umbrella of the Massachusetts Department of Transportation (MassDOT), the plaintiffs have noted that the PA/VMS system has been used for broadcasting various messages unrelated to transportation issues. The plaintiff's urge the MBTA to ensure that use of the displays be restricted purely for the intended purpose of providing vital information to passengers. Realizing that the PA/VMS is a valuable tool for communicating with its passengers, the MBTA will make every effort possible to limit the use of PA/VMS to vital travel information and matters of public safety.

c) STATION PLATFORMS

- i) Introduction: The Agreement requires all platform edges with detectable warnings to be maintained in safe condition. It further specifies the stations at which platform repairs are to be made.
- ii) Progress to Date. The MBTA completed significant platform work, including the installation of new tactile warnings strips at Wood Island, Beachmont, Revere and Wonderland stations (all specifically identified within the settlement) in Summer 2008.
- iii) Challenges Remaining. North Quincy station's platform has not been repaired according to the deadline set out in the Agreement and the situation has further deteriorated. In consideration of the resulting safety risk posed to all passengers at this location, the plaintiffs have called for immediate action on this repair work. However, the MBTA has encountered funding obstacles that have precluded the project from entering the bidding process. On account of this unexpected delay, the work will likely begin in June of 2010 and be completed in Summer 2010.

10)ELEVATORS

a) AVAILABILITY

- i) Introduction. Prior to the settlement, the issue of out-of-service, or “unavailable”, elevators was one of the largest areas of concern to the plaintiffs. Under the Agreement, the MBTA committed to implement a new elevator management plan to provide continuous, uninterrupted service during service hours.

- ii) Progress to Date. With at least 18 consecutive months of over 99% availability, all parties believe that the MBTA’s performance on elevator availability rates has been excellent,. This success is particularly noteworthy during the winter months. Furthermore, it is important to acknowledge that in 2005 the MBTA secured a new elevator maintenance contractor which has led to considerably improved performance of elevators. The issue of out-of-service elevators was one of the largest areas of concern prior to the settlement, and the progress has been outstanding.

b) REPLACEMENT & REDUNDANT ELEVATORS

- i) Introduction. In the event that elevators go out-of-service, it is important that back-up, or “redundant,” elevators are available to ensure uninterrupted access. Under the Agreement the MBTA agreed to install redundant elevators and to replace several old elevators at a number of stations.

- ii) Progress to Date. Recently the MBTA began construction of the new elevator at the State Street station, and work is scheduled to be completed in Fall 2010. As this is the first of many new and renovated elevators planned under the Agreement, the event marked an important milestone. Further, the parties’ cooperation in developing a state-of-the-art design standard for the new elevators is a significant achievement. It is likely that in the future the standard will serve as a model to be considered by other transit systems confronted with similar issues. From the plaintiffs’ perspective, the efforts to add new and replace old elevators are progressing very well. All parties recognize however that true success will be measured by the efficacy in which the new equipment is transitioned into full operation. The MBTA is taking steps to maintain the momentum and ensure the proper execution of this process. This initiative will involve the coordination of engineering, technical, architectural, legal and political activities, and all parties acknowledge the daunting challenges ahead.

- iii) Challenges Remaining. The parties must work towards identifying the next round of elevators for replacement.

c) OUT OF SERVICE NOTIFICATION

- i) Introduction. The Agreement sets out requirements for the MBTA to ensure that customers are properly notified of any elevator outages. Specifically, the MBTA agreed to create a system for distributing outage information to all train stations and to provide information on alternate routes. The new system would notify passengers at the street entrance as well as at each platform.

- ii) Progress to Date. The plaintiffs recognize that the dramatic improvement in availability rates has, to some extent, reduced the pressing need for out-of-service notices. However, the implementation of clearly visible notices is still necessary to ensure maximum accessibility. Since the time of the settlement, the MBTA has developed and launched a much-improved website which enables customers to easily access information regarding accessibility. Additionally, the MBTA launched T-Alerts, a system capable of sending accessibility information to customers' PDAs in the form of text messages. The plaintiffs note that the phone notices appear to be reasonably accurate and timely.

- iii) Challenges Remaining. The plaintiffs believe that there remains room for improvement of the web and phone notification systems. Further, the plaintiffs have emphasized their continuing interest in the improvement of the design and placement of signs at stations. Particularly, the use of signs on letter-sized paper with small type fonts is problematic. Additionally, the plaintiffs continue to emphasize the creation of a reliable system which can provide real-time notifications to customers at all station entrances.

11) ACCESS TO VEHICLES AND FACILITIES

- a) Introduction. The Agreement requires the MBTA to collaborate with local governments and private entities to address issues such as snow removal and illegal parking in bus stops, road repairs, signage on public roads, and sidewalk accessibility. The plaintiffs were particularly concerned about inadequate snow removal and illegal parking in bus stops.

- b) Progress to Date. All parties celebrated the recent enactment of the Bus Stop Law. This statewide legislation increased the fine for illegal parking in a bus stop and facilitates the MBTA Transit Police's ability to issue citations. MBTA Transit Police have increased enforcement efforts since the law went into effect. Between April and December of 2009, 1536 tickets were issued, as compared to the 290 tickets issued throughout all of 2008. Also, all MBTA Bus Operators are instructed to report obstructed bus stops and monthly reports are issued that identify the most frequently blocked stops. Additionally, during Winter 2007-08, the MBTA engaged in

discussions with municipalities to enhance coordination regarding snow removal. Lastly, the MBTA is developing a full listing of all bus shelters in its inventory to ensure better coordination regarding snow removal among the various responsible parties. Once complete, this list will be posted to the MBTA website.

- c) **Challenges Remaining.** The plaintiffs stress that illegal parking in bus stops remains a significant challenge. They urge the MBTA to exercise its expanded authority under the Bus Stop Law to identify and penalize violators. The plaintiffs believe that strong enforcement of the Bus Stop Law will act as an effective deterrence measure to this systematic problem. With respect to the issue of snow removal, the MBTA must work to identify which entity (whether it be the state, a city, municipality, an advertiser or the MBTA itself) is responsible for the maintenance of every bus stop and shelter within the MBTA system. To increase accountability, this information will then be made available to the public. The plaintiffs urge the MBTA to strongly encourage local governmental entities to make the issue of snow removal a priority. In summary, all parties recognize that most of these identified issues affecting accessibility remain within the jurisdiction of cities and towns. However, the parties will continue to persistently cooperate with these entities to develop lasting solutions.

12)CUSTOMER ASSISTANCE

- a) **Introduction.** Under the Agreement the MBTA agreed to establish a customer assistance system to be available to persons with disabilities at all stations and during all hours of operation. Customer assistance was to provide help in areas such as boarding and exiting trains and buses, using accessibility features and arranging for alternative transportation when necessary.
- b) **Progress to Date.** Critical customer service roles such as responding to elevator outages, facilitating accessibility of fare gates and administering the bridgeplate program are assigned to CSAs. The MBTA believes that its CSA training program will help to address the plaintiffs' accessibility concerns at stations. Furthermore, SWA's internal monitoring program will serve to provide the MBTA with better information regarding performance of the CSA system.
- c) **Challenges Remaining.** The plaintiffs are interested in an evaluation from the MBTA on the CSA system and how it is performing. The plaintiffs are concerned about the interruptions of customer service assistance by CSA. Further, the plaintiffs urge the MBTA to provide continuous training to CSA and other MBTA personnel responsible for covering CSA duties. Finally, although all parties are aware that potential budget considerations pose a challenge, the MBTA must strive to provide coverage for all hours of

operation. Such coverage must be provided either through on-site CSA's, call-boxes or customer service phones at all stations.

13)ALTERNATIVE TRANSPORTATION

- a) Introduction. In accordance with the ADA, the Agreement states that the MBTA must provide alternative transportation to persons with disabilities when the fixed route system is unavailable. The MBTA must provide suitable vehicles and provide alternate service in a timely manner.
- b) Progress to Date. All parties believe that when the Porter Square elevators were out of service for extensive maintenance in 2008, the alternative service was successful. This experience could serve as a good model for future alternative transportation situations. Additionally, SWA has drafted a policy regarding the provision of alternative service due to planned elevator outages (long-term or short-term). The policy addresses the need for adequate notification of passengers and appropriate training for MBTA personnel regarding accessible alternative routes. Further, the policy requires that all shuttles terminate at accessible stations. This policy is currently under review by Operations and will be shared with the plaintiffs once complete.
- c) Challenges Remaining. While the Porter Square experience provided guidance on addressing long-term disruptions of service, the plaintiffs' stress the need for improving the efficacy of responses to short-term interruptions. It is expected that over the next few years, the number of projects to replace existing elevators will increase. Accordingly, all parties recognize that provision of alternate transportation will become progressively more important for the MBTA.

14)COMPLAINTS

- a) Introduction. The Agreement calls for the MBTA to maintain a system for receiving complaints and provide effective remedies to persons with disabilities. The parties are to cooperate on the development of a satisfactory complaint system.
- b) Progress to Date. All parties believe that the MBTA has made significant progress through the creation of the new Customer Support Services Center and the development of new complaint management software. Additionally, the parties believe that this is a significant improvement in the MBTA's capacity to input, track, and report information regarding certain categories of complaints. The cooperation of SWA and the Office of Diversity and Civil Rights and Operations supervisors are critical steps to establishing a more comprehensive approach to complaint response.

- c) Challenges Remaining. All parties recognize that more work remains to be done to ensure that complaints regarding accessibility are properly categorized and that customers are always informed of the MBTA's response to their concerns. Additionally, all parties believe that SWA's goal to utilize the complaint data to identify trends and address future problems is a long-term effort. Accordingly a hard deadline for implementation of this plan is not feasible at this point. Finally, the plaintiffs would like to reiterate the need for cooperative efforts in this area.

15) PERSONNEL TRAINING

- a) Introduction. The training of MBTA staff is a vital component of ensuring a fully-accessible system. Under the Agreement the MBTA committed to reviewing its entire training program to ensure compliance with ADA requirements. Further, the MBTA agreed to cooperate and consult with the plaintiffs to ensure that accessibility issues for persons with disabilities are properly addressed. The Agreement also calls for a stronger system of disciplinary procedures to ensure accountability for violations of accessibility rules.
- b) Progress to Date. As discussed above, the Bus Operator Recertification Program is an excellent step forward in this regard. All parties are hopeful that the MBTA will achieve similar success in the years to come as it initiates similar training for subway officials as well as other MBTA employees. It is essential that individuals with disabilities play an active role in all future MBTA training pertaining to customer service.
- c) Challenges Remaining. Together, the plaintiffs and SWA must review and revise accessibility training modules for Light and Heavy rail staff, as well as for Design and Construction employees and execute a training module for senior managers.

16) MANAGEMENT

- a) Introduction. As a part of the Agreement the MBTA committed to designing management systems and to creating a budget to ensure compliance with all aspects of the settlement. Further, the MBTA agreed to establish the position of Assistant General Manager of SWA who would report directly to the General Manager of the MBTA.
- b) Progress to Date. All parties believe that the creation of SWA and the hiring of a new Assistant General Manager for the department were critical steps in implementing the Agreement. In contrast to past efforts to address problems with accessibility, the high-level status of this department is a significant improvement. The Independent Monitor, Judge King, has hired David Rishel of Delta Services, Inc, a transit

consulting firm specializing in service and management analysis and ADA compliance. Mr. Rishel is to examine the effectiveness of the MBTA's organizational structure and its impact on accessibility initiatives. Rishel's review began in December 2009, and will continue throughout 2010.

- c) Challenges Remaining. The plaintiffs note that the Agreement calls for the MBTA to produce a detailed management plan and budget for implementation of all plans, programs and activities necessary to comply with the Agreement. The parties are working together towards satisfying these provisions.

17) MARKETING, OUTREACH & PUBLIC RELATIONS

- a) Introduction. Under the Agreement the MBTA is required to conduct a marketing campaign to educate customers with disabilities about all existing MBTA accessibility services and to encourage greater use of the fixed route system. The MBTA would also develop a public relations effort to educate all customers about its plans for providing services to persons with disabilities.
- b) Progress to Date. In June 2009 the MBTA launched its enhanced accessibility webpage, [http://www.mbta.com/riding the t/accessible services/](http://www.mbta.com/riding_the_t/accessible_services/), the cornerstone of an extensive effort to promote the creation and sustained use of accessible fixed route services. During the years 2008 and 2009, two other marketing tools were launched: *Access in Motion* newsletters and an annual wall calendar, both designed to provide updates on various efforts underway with regards to the Agreement. The newsletters and calendar were distributed internally and to various local agencies and stakeholders committed to improving accessible services at the MBTA. Both were also posted on the MBTA accessibility webpage. Further, efforts are ongoing to publicize the implementation of the Bus Stop Law and to spread awareness of the consequences of violations. This process began with a press conference held in April of 2009 and the subsequent creation and installation of informational posters on a number of MBTA vehicles. The MBTA has also taken steps to develop an online Access Guide that will serve as an illustrated "how-to" manual for fixed route services by highlighting the accessibility features system-wide.
- c) Challenges Remaining. The plaintiffs believe that the time is right for focused marketing and public education projects regarding particular accessibility issues. The purpose of such an effort is to provide people with disabilities with information regarding new accessibility features and programs and thereby encourage their ridership. Some examples of topics include the availability of new elevators, the existence of the bridge plate program, low-floor buses, the location of customer services phones,

and other aspects of the system which have improved since the settlement.

18)INDEPENDENT MONITOR

- a) Introduction. The Agreement mandates the appointment of an Independent Monitor to oversee and assess the MBTA's compliance with the terms of the settlement. The parties, together with the Independent Monitor, are to develop a reliable testing program that uses anonymous testers with disabilities to determine compliance. Based on this data the Independent Monitor is to recommend solutions to identified access problems. Further, the MBTA is to provide the Independent Monitor with reports gathered from the various monitoring programs under the Agreement and share the information with the plaintiffs. Finally, the Independent Monitor is to hold public meetings every 6 months to report on his or her activities and on the progress of implementation.
- b) Progress to Date. All parties supported the selection of Judge Patrick King, a former Massachusetts Superior Court judge, for the role of Independent Monitor. Judge King has focused his efforts on overseeing bus operations performance monitoring in collaboration with Delta Services Group. He has hosted a series of public meetings to gather feedback from passengers about their experiences with the MBTA and to provide an opportunity for SWA to report on their work. Through site visits to the MBTA's facilities and meetings with appropriate MBTA personnel, Judge King has examined the MBTA's progress in settlement implementation. He has done significant work in regards to bus operations, the oversight of management and wayfinding issues. The plaintiffs look forward to a formal assessment from the Independent Monitor about the overall progress of settlement implementation.
- c) Challenges Remaining. The parties need to finalize an amendment to the Agreement regarding the reporting deadlines to reflect the timing of the Delta reports and changes to the assessment schedule.

19)COMMUNICATION BETWEEN PARTIES

- a) Introduction. In the Agreement all parties agreed to maintain open communication regarding implementation of the settlement and to hold meetings on a regular basis. The MBTA agreed to provide the plaintiffs with information related to the Agreement after a reasonable request.
- b) Progress to Date. Overall, communications between the parties have been satisfactory. However, the pattern for communications is still evolving as all parties adjust to the current phase of the Agreement. The parties believe there is a need to establish a regular meeting schedule with the

Assistant General Manager of SWA, the Independent Monitor and the plaintiffs. The summit meeting held in April 2009 with the MBTA and named plaintiffs was an excellent model of how the MBTA can discuss accessibility improvements with passengers and gather feedback for future work.

- c) Challenges Remaining. The plaintiffs request that the MBTA establish a procedure to provide the plaintiffs with reports from its internal monitoring system on a regular basis, once they are issued. The MBTA is currently determining the most feasible method for converting raw data gathered from its monitoring activities into a user-friendly format for the plaintiffs. Further, the plaintiffs would like to offer their input with the development process of MBTA's emergency procedures, training for heavy and light rail employees and future outreach efforts.

20) REVISION OF RULES

- a) Introduction. The Agreement requires the MBTA to revise its Bus Operations Rules for Operators to comply with the ADA. Further, all parties were to cooperate in reviewing and updating rules for subway and heavy and light rail operations.
- b) Progress to Date. The plaintiffs believe that the initial requirements have been complied with. While revised, the new Bus Operations rulebook has not been finalized and implemented. The Light Rail rulebook was revised and implemented in July 2009. The Heavy Rail rulebook is currently under review.
- c) Challenges Remaining. SWA must ensure that there are appropriate Special Orders in place that reflect future changes to rulebooks. The plaintiffs feel strongly that cooperation with SWA on future rulebooks will result in a more comprehensive coverage of vital accessibility issues.

Glossary

1. Americans with Disabilities Act (ADA) – a civil rights law enacted in 1990 by the U.S. Congress which prohibits discrimination on the basis of disability in the following areas: Employment, Public Entities, Public Accommodations, and Telecommunications.
2. Customer Service Agents (CSAs) – employees placed throughout MBTA stations who are responsible for delivering high quality customer service and providing advice and assistance as necessary.
3. Bus Stop Law – a Massachusetts state law, effective April 7, 2009, which increased the fine to \$100 for vehicles that are illegally parked in public bus stops throughout the state, and enables one common ticket book to be used by all enforcing agencies throughout the Commonwealth (M.G.L. c. 90 § 20A, 20A1/2)
4. PA/VMS System - Public Address/Variable Message Sign Systems, installed throughout the MBTA system to provide transportation and safety-related information to passengers both audibly and visually.
5. Redundant Elevators – elevators with identical functions which facilitate access to a station in the event of an elevator outage.
6. Replacement elevator – a new elevator installed to upgrade an older or out-of-service elevator.
7. System-Wide Accessibility (SWA) – MBTA department established in 2007 that works with all other MBTA departments to execute the MBTA's goal of becoming the global benchmark for accessible public transportation.
8. Training Module – a segment of a training program
9. Type 7 car – Green Line trolley cars with high floors which comprise two fleets. 3600 series fleet numbers were manufactured between 1986-1988. 3700 series fleet numbers were manufactured in 1997.
10. Type 8 (Breda) car – 3800 series Green Line trolley cars built between 1999-2008 featuring low floors and deployable platforms that provide ready access for passengers using wheeled mobility devices.
11. Type 9 – next generation of Green Line cars which are currently in the design stage.
12. Wayfinding – the use of signage and architectural design cues to enable passengers to orient themselves and choose their desired path of travel within stations and the broader MBTA system

13. Scantron -- computer software and hardware that enables data from a paper survey to be scanned and automatically imported into a database application (e.g. Excel, Access, etc.), and reduces the time and error associated with manual data entry.

Signatures