

# MBTA ACCESSIBILITY LAWSUIT UPDATE

GREATER BOSTON RESIDENTS WORKING TOGETHER FOR ADA COMPLIANCE BY THE MBTA

DANIELS-FINEGOLD ET AL. V. MBTA

SUMMER 2004

FEDERAL COURT: CIVIL ACTION No. 02 CV 11504 MEL

ISSUE II

## Accessible Transportation is a Civil Right

**M**any people rely on the MBTA to carry out essential activities such as shopping, attending school, working, attending medical appointments, engaging in community activities, social events and other undertakings. Federal law mandates that the MBTA provide readily accessible, usable and safe transportation for people with disabilities. The MBTA's failure to comply with federal law, in essence, denies basic civil rights to people with disabilities.

**Accesibilidad para el servicio de tren/bus es un derecho civil.** Ha tenido usted algún problema de accesibilidad con el tren/bus que le gustaría compartir? Por favor pongas en contacto con Helen Hendrickson al Boston Center for Independent Living (BCIL), (617)338-6665, x233. Nosotros tenemos información en Español para ustedes.

## We Need Your Help!

In order to carefully record the accessibility problems that this lawsuit addresses, we are currently conducting a study that allows riders to document accessibility problems. We encourage you to write down your own experiences in the "ride log," available at:

<http://www.gbils.org/health/ridelog.htm>.

Please contact Helen Hendrickson at BCIL if you need additional ride logs.

## Case Update

**T**he lawsuit is in the discovery stage as both sides gather evidence to best present their cases. The date for completion of fact discovery has been set for December 31st of 2004. A plaintiff meeting, in collaboration with BCIL and Northeastern University, is set for July 16<sup>th</sup> at the Curry Student Center at 7

p.m. The event is a celebration of the efforts that have been made around the Boston community in the fight for full accessibility to the MBTA.

## Understanding Section 504 of the Rehabilitation Act

**T**his lawsuit was filed against the MBTA, in part, for failing to comply with the Section 504 of the Rehabilitation Act.

This particular federal law dictates that, "No otherwise qualified individual with a disability in the United States...shall by sole reason of her or his disability, be excluded from the participation, denied the benefits of, or subject to discrimination under any program or activity receiving Federal financial assistance..."

In this case, an individual with a disability means a person with a physical or mental impairment which substantially limits one or more life activities such as walking, seeing and hearing. Because the MBTA receives federal funding it must comply with federally mandated law.

## Why We are taking Action:

### Joanne Daniels-Finegold's Story

**J**oanne Daniels-Finegold is the namesake of our case. A person with a mobility disability, Ms. Daniels-Finegold has had many difficulties accessing the MBTA. Ms. Daniels-Finegold cites two major problem areas in trying to access "T" services: the facilities and the information. According to Ms. Daniels-Finegold, the poor facilities are an obvious problem.

The buses that service Ms. Finegold are most often from the Quincy MBTA garage and are some of the oldest in their fleet. Not only

are the lifts unreliable, but there are often mechanical failures. In addition, holes in floorboards sometimes allow exhaust fumes in the buses. And nearly all buses leak when it rains. This combination of equipment problems can lead to some unbearable trips.

Ms. Daniels-Finegold also believes that there is a great need for accurate information about what equipment is working properly and is in use. She recognizes that since most people use more than one fixed route systems in their travels, that if one of these systems is out of order, the result is a failed trip.

## Disabled Man Refuses to Crawl: The Tennessee v. Lane Decision

**F**ourteen years ago, Congress passed a piece of landmark legislation called the Americans with Disabilities Act (ADA). This law is important because it called for all government agencies to cease discrimination against people with disabilities. Unfortunately, there has not been 100% compliance with this law. However, thanks to the recent *Tennessee v. Lane* Supreme Court decision, the government is closer to full compliance than ever before.

On May 17<sup>th</sup>, in a 5-4 decision, The Supreme Court ruled that states that fail to make their courthouses accessible to people with disabilities can be sued for damages under the ADA. The case arose when a Tennessee man refused to **crawl** up a staircase to appear at a court hearing about a criminal traffic complaint. The state charged the man with failing to appear at his hearing. In return, he sued the state for not providing accessibility to its courthouses for people with disabilities. The crucial fifth and deciding vote came from Justice Sandra Day O'Connor, who rejected the principle that state government could be immune to a federal law.

This Supreme Court decision is an

important step forward toward full ADA compliance. It opens the door for other disability discrimination cases by setting the precedent that state-run facilities must comply with federal regulations. The case serves as an affirmation of the ideal behind the Americans with Disabilities Act, which was to level the playing field for people with disabilities.

In the nearly decade and a half history of the ADA, there have been many lawsuits including suits against transit systems. However, our case is unique because it is the most comprehensive transit lawsuit to date.

Also, since our case is fighting for systematic relief rather than monetary damages, it stands out from most other ADA cases. *Daniels-Finegold v. MBTA* is a milestone case and it will hopefully result in full accessibility for our state transit system as well as set a national precedent that the government-run transit systems must comply with the ADA.

### Contact Information

#### **Boston Center for Independent Living (BCIL)**

##### **Helen Hendrickson, Community Organizer**

BCIL works to promote the civil rights of all people with disabilities and to respond to the needs of persons with many different disabilities.

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#### **Greater Boston Legal Services**

GBLS is the primary provider of free, civil legal services to low-income residents of the 32 cities and towns of greater Boston.

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