

MBTA ACCESSIBILITY LAWSUIT UPDATE

GREATER BOSTON RESIDENTS WORKING TOGETHER FOR ADA COMPLIANCE BY THE MBTA

DANIELS-FINEGOLD ET AL. V. MBTA

SUMMER 2006

FEDERAL COURT: CIVIL ACTION NO. 02 CV 11504 MEL

ISSUE IX

Case Update

The Fairness Hearing: Judge Gives the OK!

On June 15, 2006, *Joanne Daniels-Finegold, et al. v. Massachusetts Bay Transportation Authority*, United States District Court (Mass.), No. 02-CV-11504 MEL received judicial approval for the Settlement Agreement between the parties! The final Fairness Hearing for the case took place at 9:30 a.m. in front of US District Judge Morris E. Lasker, in Courtroom 8 of the US District Court, John J. Moakley US Courthouse. All of the named plaintiffs were in attendance, as well as GBLS attorneys representing the plaintiffs and attorneys representing the MBTA.

Dan Manning, attorney for the plaintiffs, made the opening statement at the Fairness Hearing. He discussed the fairness of the Settlement, whether its value outweighed any possible negative outcomes, whether the Settlement was fairly negotiated, and whether the Settlement was fair in the eyes of the parties involved. To address whether the Settlement was fair to the plaintiffs, Mr. Manning called on Joanne Daniels-Finegold, Rob Park, Reggie Clark, and Rogera Robinson to answer some questions and make brief statements regarding the Settlement Agreement. Each plaintiff spoke about the merits of the Settlement Agreement and asked Judge Lasker to approve the Settlement. A lawyer representing the MBTA also spoke briefly, commending all the parties involved and reiterating the MBTA's commitment to the Settlement. No objections were noted, so Judge Lasker signed the order, giving his official stamp of approval to the Settlement Agreement.

The plaintiffs, their attorneys, and the MBTA are all very excited about the Settlement Agreement and the opportunities it provides for future improvement to the MBTA transportation system. Judge Lasker's final approval has made the Settlement Agreement official. However, all the parties involved recognize that this is not the end of the process, but the beginning. The real work of enforcement will now start, and real changes will take place. Through the

continued efforts and dedication of the parties involved.



Plaintiffs and their attorneys after Judge Lasker approved their settlement agreement.

Plaintiff Spotlight

Reginald Clark & Thomas Gilbert

Reginald Clark and Thomas Gilbert are both named plaintiffs in the lawsuit *Joanne Daniels-Finegold et al. v. MBTA*. They, along with other named plaintiffs in the case, represent the visually impaired community – Reggie is blind and Tom is visually impaired. These two best friends have been actively involved in this lawsuit from the beginning. Both of them participated in the formation of the final Settlement Agreement, and both take every opportunity to speak out on behalf of people with visual impairments.

Reggie and Tom both feel that the problems with the MBTA system arise from a combination of technological and worker-related issues. In terms of technological issues, Reggie cites poor bus maintenance as the biggest problem. Often the buses he rides are so poorly maintained that they barely make it from stop to stop. Equipment is often broken, public announcement systems rarely work, and the buses are generally filthy. As Reggie noted, poor bus maintenance makes public transportation

not only unpleasant but dangerous for everyone. When talking about worker-related problems, Tom said that “most employees try to do their jobs, but a few bad apples can ruin everything.” Rude drivers, drivers who refuse to kneel the buses to allow disabled passengers to get on and off, and drivers who fail to announce bus stops for passengers with visual impairments rank at the top of Reggie’s and Tom’s list of problems that need to be addressed by the MBTA.

Now that the final Settlement Agreement for the case has been approved, Reggie and Tom feel hopeful for the future. However, they both want more action and more accountability from the MBTA. As Reggie exclaimed, “when they say they’re going to do something, do it!” Tom expressed a lot of faith in the current General Manager of the MBTA, Dan Grabauskas, but fears that Grabauskas has an uphill battle ahead of him. Enforcement of the Settlement will not be an easy or quick process, but both Reggie and Tom are very pleased with all the parties involved and their hard work and effort.

Reggie and Tom both feel that this Settlement represents a major step forward not just for passengers with disabilities, but for everyone who uses the MBTA system. The problems they cite affect everyone, and the solutions laid out in the Settlement will benefit all commuters. As Tom noted, it’s not just the *contents* of the Settlement, but the fact that there *is* a Settlement, that demonstrates the possibilities for change within the MBTA system. “They need to listen to their employees and passengers more,” says Tom, in order to identify problems and find workable solutions. This Settlement demonstrates that the MBTA is ready to listen.

The Role of the Independent Monitor

Miles have been traversed and headway has been gained in the struggle to make the services provided by the MBTA accessible to people with disabilities. The settlement agreement is a major victory, but there is still a long way to go before the problem is

fully resolved. In order to assist in this process, an independent monitor will have the duty to assess the compliance of the MBTA and to serve as a resource to the MBTA.

The independent monitor will be appointed through a consensus between all parties involved and approved by the court. If no agreement can be reached, then the court is responsible for choosing the monitor from groups of candidates chosen by the MBTA and the plaintiffs. The independent monitor will be accountable to the court and the independent monitor will serve as long as the court holds jurisdiction on this case.

As a resource to the MBTA, the monitor will have three specific realms of duty. First, the monitor will aid in the improvement of accessibility and customer service. Second, the monitor will be responsible for commenting on problems and recommending possible solutions. Third, the monitor will inform the MBTA of existing access problems or harsh conditions that harm all travelers, both disabled and non-disabled. The MBTA is responsible to pay for all expenses related to monitoring as well as supplying the independent monitor with all necessary information. This enables the monitor to discharge the duties outlined in the settlement agreement.

In order to test compliance, the monitor will employ anonymous testers/observers from a group of people with disabilities. These individuals will use the MBTA’s services and report their finding to the monitor. The scope and method of the tests will be developed through a collaboration between the monitor, the MBTA and the plaintiffs. Every six months, the monitor will conduct a public meeting in order to report on activities and progress as well as issue quarterly reports (the first to be released within six months of the effective date of the agreement).

We still need to hear about your access problems!!!

Please direct them to the
Boston Center for Independent Living
617-338-6665
TTY# 617-338-6662