

SETTLEMENT NOTICE
(April 2006)

**NOTICE TO ALL PERSONS WITH DISABILITIES DUE TO MOBILITY,
VISUAL, HEARING IMPAIRMENTS WHO USE THE BUS OR SUBWAY
SERVICES OPERATED BY THE MASSCHUSETTS BAY TRANSPORTATION
AUTHORITY**

I. Purpose of Notice

This notice is to inform you of a settlement agreement in the class action, Joanne Daniels-Finegold, et al. v. Massachusetts Bay Transportation Authority, United States District Court (Mass.), No. 02-CV-11504 MEL, concerning accessible MBTA bus and subway services to persons with disabilities. The Court has preliminarily approved the settlement agreement and has scheduled a hearing for June 15, 2006, to consider whether the settlement agreement is fair, reasonable and adequate. Class members are entitled to comment on or object to the settlement agreement using the procedures described at the end of this notice.

II. Background of the Case

On July 22, 2002, a group of individuals with disabilities filed a class action lawsuit in federal court in Boston alleging that the MBTA had discriminated against them because of their disabilities, by denying them equal access to public buses and subway trains, in violation of Title II of the Americans With Disabilities Act of 1990 and Section 504 of the Rehabilitation Act of 1973. The complaint alleged that the MBTA failed to maintain bus lifts, station elevators, and other accessibility equipment in good operating condition, failed to maintain subway stations and subway train platforms in safe and accessible condition, and failed to ensure that bus and train operators provided proper service to passengers with disabilities.

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IV. Terms of Settlement

In exchange for the release of the plaintiffs' and the class members' claims (as more fully described in the settlement agreement), the MBTA has agreed to the terms of a settlement agreement. Here is a brief summary of those terms:

Bus Operations: Buses must be operated in a way that makes them readily accessible to and usable by persons with disabilities. MBTA bus drivers are required to follow rules concerning services to passengers with disabilities; pulling to the curb; operating lifts, ramps and kneelers; making stop announcements; and otherwise providing accessible and usable service.

Bus Maintenance: Lifts, ramps and other accessibility equipment on buses must be maintained in operable condition. There must be regular and frequent maintenance checks of all accessibility features on all buses and defective equipment must be promptly replaced.

Bus Purchase and Rehabilitation: The MBTA is required to purchase new low-floor buses to replace the approximately 400 buses with lifts that are still in service. The lift buses will be replaced in stages over the next six years. New lifts will be installed on older buses that will remain in service pending replacement by low-floor buses.

Subway Operations: All subway lines must be operated in a manner that makes them readily accessible to and usable by persons with disabilities. Train operators are required to follow rules concerning services to passengers with disabilities, including rules about use of lifts and ramps for Green Line service. All accessibility equipment must be maintained in proper operating condition. The MBTA is required to make regular inspections to detect and correct gaps between subway cars and platforms. New “mini-high” ramps and platforms must be installed at certain above-ground Green Line stations.

Station Management: All new and “Key” stations must be managed and maintained so they are readily accessible and usable by persons with disabilities. Stations must be clean, well lighted and free of barriers or safety hazards for people with disabilities. Detectable warning strips at platform edges must be repaired and properly maintained. Appropriate personnel will be available to assist passengers with access problems.

Communications with Passengers: The MBTA is required to improved signage, “wayfinding” and navigation systems in stations, install new public address (PA) systems, new electronic signs and ensure that emergency call boxes are maintained in proper working order and are usable by people with disabilities.

Elevators: The MBTA must design, fund and implement an elevator management plan to ensure that there is continuous, uninterrupted elevator service during all passenger service hours. The MBTA will spend \$122 million dollars for elevator and escalator capital improvement in the next 5 years. The MBTA will install additional elevators at Porter Square, Harvard Square, Park Street and Downtown Crossing to ensure ready access to all train platforms and will replace elevators at Central Square, Porter Square, Park Street, Harvard Square and State Street. There will be a process for joint review by plaintiffs and the MBTA of all stations with elevators to determine which elevators need to be replaced or modified and which stations need additional elevators. Information about when elevators are out of service must be provided to passengers in a timely and accessible manner.

Customer Service: The MBTA will ensure that there is a timely and effective response to any access-related emergencies and develop procedures for evacuation of persons with disabilities in the event of an emergency. The MBTA will operate a system to provide assistance to customers with disabilities and a system for providing alternative transportation when buses and subways are not accessible.

Training: The MBTA is required to revise training programs, in consultation with the plaintiffs, to address issues for passengers with disabilities. The MBTA must provide proper supervision of personnel dealing directly with customers and, when necessary, use available disciplinary measures to ensure accountability for performance of job responsibilities related to accessibility and ADA compliance.

Management: The MBTA must establish a new position of Assistant General Manager for System Accessibility, reporting directly to the General Manager, to ensure compliance with the settlement agreement and to improve accessibility and develop an internal management and reporting system to ensure that ADA and accessibility performance and policy issues are brought to the attention of senior managers.

Independent Monitor: An independent monitor will be appointed by the Court to assess compliance with the settlement agreement. The monitor is allowed to employ undercover testers and observers to assess compliance with the provisions of the agreement. The MBTA will pay the expenses for monitoring, up to \$300,000 per year.

Attorneys' Fees and Litigation Expenses: The MBTA will pay plaintiffs' attorneys' fees, litigation expenses and costs in the amount of \$2,500,000.00 for work done in litigating the case and negotiating the settlement agreement. The plaintiffs intend to file a motion for those attorneys' fees, litigation expenses and costs in accordance with Rule 23 (h) of the Federal Rules of Civil Procedure.

Duration: The settlement will go into effect after final Court approval and **will remain in effect for five years plus the length of time that it takes for the Independent Monitor to issue three consecutive quarterly reports showing substantial compliance with the settlement agreement. The court will retain jurisdiction as long as the agreement is in effect and will have the power to enforce the terms of the agreement.**

V. Additional Information: If you want to obtain a full copy of the settlement agreement, or have any questions about the agreement, please contact **Taramattie Doucette, one of plaintiffs' attorneys, at Greater Boston Legal Services, 197 Friend Street, Boston, MA 02114; (617) 371-1234, TTY (617) 371-1228; email address: TDoucette@GBLS.Org. The settlement agreement is also posted on the GBLS website: www.gbls.org.**