

**MTA, ACLU
Reach
Agreement in
Suit
by Mobility-
Impaired
Patrons**



By BILL HEARD, Editor
(August 11) The MTA Board of Directors has approved a proposed settlement of a lawsuit brought against the agency by the ACLU on behalf of a class of mobility-impaired passengers.

The 33-month agreement includes specific provisions that were carefully crafted during months of negotiations. It is designed to improve service to mobility-impaired patrons, according to Alan Terakawa, Principal Deputy County Counsel.

The settlement, which still must be approved by a U.S. District Court judge, sets explicit performance standards. The standards will be enforced by fines the MTA must pay into a special fund to improve service to the mobility-impaired community.

Performance percentages set

The standards include minimum percentages the MTA must meet to ensure that buses go into revenue service with working lifts and lift-doors, ramps and securement devices. Similar standards and percentage minimums are included to ensure that operators board wheelchair passengers at each scheduled stop or explain why they cannot be boarded.

The proposed settlement will be presented to Judge Consuelo B. Marshall at a status conference set for Sept. 12. A "fairness hearing, " at which testimony from class members will be taken, is to be conducted before the settlement is approved by the judge.

The ACLU filed the suit in January, 1998, on behalf of Larry Beauchamp, a wheelchair patron, and 11 others. The suit alleged that the MTA and its contractor, ATE/Ryder, were violating the civil rights of mobility-impaired patrons by failing to comply with requirements in the Americans with Disabilities Act (ADA) and similar state laws to provide equal access to public transportation.

The suit alleged that many of the transit agencies' buses did not have working wheelchair lifts and other devices. It also claimed that disabled patrons too frequently were passed up

or were told by bus operators that their lifts were inoperative.

MTA denies allegations

The MTA maintained throughout negotiations that it has always been in full compliance with state and federal ADA laws. The agency continues to deny the lawsuit's allegations and has not admitted any wrongdoing or liability to the plaintiffs.

Based on the allegations, however, Judge Marshall issued a preliminary injunction in September, 1998, that imposed requirements more demanding than those in the ADA. When the MTA appealed to the 9th Circuit Court, the requirements were modified to be consistent with ADA regulations.

Since shortly after the lawsuit was filed, the MTA and ACLU had been attempting to forge an agreement which would be reasonable and would satisfy the plaintiffs that their needs would be met. Earlier this week, the 33-page settlement was presented at the Aug. 9 special MTA Board meeting, where it was approved by a 9 to 1 vote.

Fines could be levied

Under terms of the agreement, 96 percent of MTA and contract agency buses must roll out with working wheelchair lifts and other such equipment. If the transit agency fails to meet the performance standard, which is calculated on a quarterly basis, it must pay a fine of \$20,000. If performance drops below 89 percent, the fine triples to \$60,000.

Should operators fail to stop for wheelchair patrons waiting at scheduled stops 91.25 percent of the time in a three-month period, the MTA will be obligated to pay a \$10,000 fine. If operators fail to stop 86.25 percent of the time, the fine triples to \$30,000.

Lifts must work 92.5 percent of the time after a bus rolls out or a \$10,000 fine will be imposed. If lift performance falls below 87.5 percent, a \$30,000 fine will be levied. The same standards and fines apply to securement devices.

To ensure that the MTA meets the settlement terms for operator performance, the agreement calls for the agency to retain an independent monitoring contractor to conduct "a covert surveillance by means of wheelchair boardings to monitor the compliance of its operators with the terms of this order...."

Special fund for fines

Money collected from any fines will be paid into a special fund that will be used by the MTA solely for improving compliance with the agreement. Other provisions cover dispute resolution, a complaint procedure and additional ADA-related training for MTA and contractor bus operators and supervisors.

The MTA also is required to appoint an ADA compliance officer who is among the "circle of top administrators within the MTA making core decisions" about public transportation.

Although the settlement reached this week does not include any payments to the plaintiffs, three plaintiffs have reached separate agreements with the MTA. One was for less than \$100,000 and two were for less than \$50,000, according to the County Counsel's office.

The agreement includes a provision for the MTA to pay plaintiffs' attorney fees of \$562,843.44 for the period from the filing of the lawsuit to the date the settlement agreement is approved by the judge.

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