



CID-NY

Center for Independence of the Disabled, NY

TWO LAWSUITS TO PROTECT THE RIGHTS OF NEW YORKERS WITH DISABILITIES:

VOTING & EMERGENCY PREPAREDNESS



The Right To Vote Like Everyone Else

- Since the late 1990's CIDNY began tracking barriers to voting in New York City.
- In 2002, we joined the Manhattan Borough President in testing new accessible voting machines;
- In 2002 CIDNY along with others celebrated the Help America Vote Act which provided funding for localities to make poll site accessible;
- In 2003, CIDNY began to survey polling sites for ADA accessibility;
- After a decade of surveying, CIDNY found that an average of 75% of poll sites had significant barriers;
- In 2010 after years of working to get the New York City Board of Elections to remedy barriers, United Spinal Association and Disabled in Action worked with Disability Rights Advocates to sue the Board for not providing access to polling sites for voters with disabilities. CIDNY surveys and reports were integral to the law suit.



The Right To Vote Like Everyone Else

The Court decides:

- Plaintiffs have produced ample evidence of misplaced equipment and inadequate signage by poll workers that have reportedly been trained on accessibility issues, along with numerous reports from AD Monitors indicating that poll sites were not visited on election days;
- The only conclusion that may be drawn from the evidence submitted in the Parties' respective Motions for Summary Judgment is that the Defendants have failed to accommodate reasonably voters with disabilities.



The Right To Vote Like Everyone Else

The Appeals Court decides:

- “BOE does not offer evidence to create a genuine issue of material fact as to whether barriers to access exist. To the contrary, its own call incident logs and reports confirm the existence of these barriers.”
- “...plaintiffs’ evidence and the BOE’s own records confirm that BOE’s ad hoc policy of remedying barriers to access as they occur is inadequate...”
- “Plaintiffs’ evidence shows that barriers to access are pervasive...BOE’s evidence and arguments in turn reveal that although it has some procedures and policies in place to accommodate individuals with disabilities, these accommodations consistently fall short...”
- “We conclude that the district court correctly held that BOE has failed to grant voters with disabilities meaningful access to its voting program. WE also find that the remedial order is a proper exercise of the district court’s authority to grant equitable relief.”



The Right To Vote Like Everyone Else

Since the decision:

- The New York City Public Advocate Letitia James and her staff worked with CIDNY during the September primary to survey a small sample of poll sites.
- We found some of the same problems – ramps that were not ADA compliant, confusing or missing signage, and improper positioning of voting equipment so that the BMDs and some voting booths were inaccessible.
- The Public Advocate has issued a report, “Improving Voting Access for New Yorkers with Disabilities.”
- Recommendations from the report include:
 - The NYC BOE should develop MOUs with NYC DOE schools used as polling sites to ensure accessibility.
 - The NYC BOE should increase numbers of inspectors surveying polling sites on election day.
 - Increased training for poll workers.
 - Outreach programs on voting rights.
 - Clear and Accurate Schematics.
 - Exit and Poll Surveys to Ensure Accountability.



Equal Opportunities to Survive an Emergency/Disaster for New Yorkers with Disabilities

Since 9/11/2001 CIDNY has been involved in emergency preparedness issues:

- CIDNY was the lead service agency for people with disabilities after 9/11;
- CIDNY joined NYC OEM's committees and VOAD to ensure that the voice of people with disabilities would be heard during planning for future disasters.
- Our experiences during the 2003 blackout, the 2010 blizzard, 2011's hurricane Irene and 2012's hurricane Sandy proved that we weren't listened to.
- In 2011, CIDNY, Brooklyn Center for Independence of the Disabled (BCID), Tania Morales and Gregory Bell sued the city for their lack of planning for people with disabilities.



In 2011 During Hurricane Irene

- CIDNY surveyed shelters and evacuation centers and found that many were not accessible;
- People with disabilities did not know where to go or how to get there;
- At least one CIDNY consumer was turned away from a shelter as the rain and wind began to rise because no one had the key to the accessible entrance;
- Others were confused about how to get transportation or whether the shelters in their areas were accessible.



A Lawsuit to Protect People with Disabilities

CIDNY, Brooklyn Center for Independence of the Disabled (BCID), Tania Morales and Gregory Bell sued New York City for neglecting to prepare for people with disabilities during emergencies and disasters, with Disability Rights Advocates as our law firm.



In 2012 Hurricane Sandy Arrived

When Hurricane Sandy approached CIDNY:

- ✓ Contacted our 900 + consumers by phone to offer assistance;
- ✓ Surveyed Shelters/Evacuation Centers;
- ✓ We found the same issues we had seen with 9/11 and Hurricane Irene.
- ✓ After the storm, we testified in court about our experiences and our consumers' experiences.



What the U.S. Department of Justice said

The U.S. Department of Justice concluded in its report to the Court:

“Unfortunately, *despite the obvious importance* of accounting for the unique needs of individuals with disabilities in planning for emergencies, New York City’s emergency plans, *like many state and local emergency plans throughout the nation, fail to do so.*”



CIDNY's Reading of the Federal Court Decision in BCID v. Bloomberg

“Most significantly, the City’s plans are inadequate to ensure that people with disabilities are able to *evacuate* before or during an emergency; they fail to provide sufficiently *accessible shelters*; and they do not sufficiently *inform* people with disabilities of the availability and location of accessible emergency services.”



Decision: High Rise Evacuation

“There is substantial evidence that *people with disabilities were stuck* in high-rise buildings after the storm.”

“...the City’s *emergency plans fail almost entirely* to address the needs of people with disabilities during evacuation of a multistory building.”

“The City *does not require* most high-rise buildings to maintain emergency evacuation devices for people with *disabilities...Nor does the City have any plan for making these devices available during an emergency...*”



Decision: Transportation

“The record demonstrates that *some people with disabilities were unable to evacuate because of insufficient transportation...*”

“In fact, *the City has no meaningful plan whatsoever to ensure sufficient accessible transportation to evacuate people with disabilities during an emergency.*”

“There is *nothing in the City’s plans to ensure that people with disabilities can rely on paratransit in an emergency...*”

“There are *no surveys* to determine “whether sufficient accessible transportation would be available in the event of an emergency.”

“The *bus drivers were not instructed* to ensure that the buses did not get too full to allow wheelchair users to access them, and no wheelchair users were evacuated in this way.”



Decision: Canvassing

“...the City had *no plan for canvassing after a power outage or other emergency*...without such a plan, although the City was able to marshal substantial resources and reach a large number of people, its efforts were haphazard and belated...”

“the City’s emergency plans do not require that, where possible, the public — or least those who depend on electricity for health, safety, or mobility — be notified in advance of a power outage; ...the *plans do not provide sufficient evacuation assistance* to ensure that during a power outage, people with disabilities can exit their buildings; *nor do they call for canvassing after an emergency, to help ensure that the services provided to people without disabilities may reach those with disabilities who are unable to leave their buildings.*”



Decision: Shelter & Evacuation Center Physical Accessibility

“The evidence at trial demonstrated that many of the City’s shelters and evacuation centers are not fully accessible...”

“A core aspect of the City’s emergency plans is providing shelter...Because people with disabilities often require accessible housing or other accommodations, they may be less likely than those without disabilities to stay with friends, family, or neighbors during a disaster.”

“The City’s Sheltering Plan is silent as to the architectural accessibility of the shelter system.”

“Nor does it provide any guidance to ensure that there are accessible pathways between the shelter entrance, rooms used for sheltering, and the bathroom, or that the particular rooms set up for sheltering...dormitories, used for food service...are themselves accessible.”

“Instructions for shelter operators do not instruct them on how to determine whether there are shelter areas that are accessible...and does not give instructions for determining whether an entrance...is accessible...it is unclear whether shelter operators even use the checklist...”



Decision: Shelter & Evacuation Center Communications Accessibility

“The sheltering plans, however, *do not mention accessible communication*, let alone provide for accommodations, such as sign language interpreters, or common signage in Braille to ensure that people with disabilities are able to communicate and understand the information provided at shelters.”

“Those who are blind or low vision might require information to be written in Braille or read aloud; those who are deaf may require a sign language interpreter or written communications; people with cognitive disabilities may require that information be presented slowly or in simple language.”



Decision: Shelter & Evacuation Center Programmatic Accessibility

“In addition to ensuring that the shelter facilities are physically accessible, there are *several other accommodations* that may be required to ensure that people with disabilities are able to access sheltering.”

“emergency planning experts emphasize the importance of both *training shelter staff ...*”



Decision: Communications

“Personal preparedness is indisputably an important component of emergency planning. *The information provided by the City, however, fails in several respects to provide people with disabilities sufficient information to prepare for an emergency. For example, the Ready New York guides provide almost no information about the accessibility of the shelter system — and, to the extent they do, the information is incorrect.*”

“Similarly, although the City advises people with special needs to plan for transportation in an emergency, it *does not provide information* about whether accessible transportation will be available or how to access it.”

“As numerous class members testified, *without information* such as which shelters or evacuation centers, if any, are accessible or whether there will be accessible transportation available during an emergency, it is difficult for people with disabilities to develop a sufficient personal emergency plan.”

“Because people with disabilities have *diverse communication needs* — for example, those who are blind may require Braille or oral communication and those who are deaf may require visual communication or translation into American Sign Language — reaching people with special needs often requires the use of multiple modes of communication.”



General Planning: Our Recommended Remedies

- ✓ OEM should have a *highly placed individual* responsible for ADA compliance in emergency planning and disaster response.
- ✓ As the agency responsible for coordinating during emergencies and disasters, OEM should be work with each City agency that has a role in response on its plans.
- ✓ OEM should coordinate with critical non-City agencies, such as power companies and pharmacies, to ensure backup planning and response. For example, appropriate generators available in case of power outages; methods of getting prescription medications to people who are sheltering in place and cannot get to pharmacies.
- ✓ *All City agencies* must incorporate the needs of people with disabilities as they plan their response to emergencies/disasters.
- ✓ OEM must be directed to *review those plans and point out gaps and solutions*.



High Rise Evacuation: Our Recommended Remedies

- ✓ OEM must use *publicly available federal and City data* to locate people with disabilities in evacuation zones in order to plan for shelters, transportation, and evacuation.
- ✓ Residential *multi-story buildings must have evacuation chairs* and regular staff training, in particular for public housing personnel, for evacuation procedures.
- ✓ City agencies must have *protocols that provide for transportation* of wheelchairs, home health aides, and service animals.



Transportation: Our Recommended Remedies

- ✓ OEM must do a *survey to determine whether sufficient accessible transportation will be available in a disaster and should maintain an inventory of accessible transportation* available in the city and state to deploy when necessary.
- ✓ OEM must *develop agreements* with transportation companies with accessible vehicles, including but not limited to taxi, paratransit and ambulette companies, to ensure their availability during emergencies / disasters for people with disabilities living in the community.
- ✓ City must resume accessible transportation after an event as soon as public transportation is operating and all accessible transportation should remain active and deployed as long as public transportation is open.
- ✓ OEM must require that *all transportation services* deployed during disasters have dispatch plans that account for *multiple accessible evacuations* in affected areas.
- ✓ The City must publicize the fact that buses will be deployed as part of evacuation plans and that *accessible seats* will be available to people with disabilities.
- ✓ Bus drivers must be instructed to *ensure that is room* for passengers with wheelchairs.
- ✓ Emergency bus drivers must be *trained to operate the bus lift*.



Canvassing: Our Recommended Remedies

- ✓ The City *must have a canvassing plan* that deploys and coordinates canvassers immediately after an event.
- ✓ The City must have a *plan to notify people with disabilities who depend upon electricity* in advance of the power being turned off, with enough notice for them to evacuate and the means to do so, e.g. elevators, transportation.
- ✓ OEM must *develop and coordinate plans for canvassers* transferring needs information immediately to appropriate rescue/assistive agencies so that volunteer agencies can help in a timely and efficient way – OEM should coordinate this effort.
- ✓ The City must have a plan for *directing the provision* of prescription medication, dialysis, mental and behavioral health and other assistance to people with disabilities in the event of an emergency.



Shelter & Evacuation Center Programmatic Accessibility: Our Recommended Remedies

- ✓ There must be a plan for Shelter/Evacuation Center Accessibility that includes physical sites, communications access, programmatic access and training.
- ✓ Shelter/Evacuation Centers must be accessible.
- ✓ Formal surveys of Shelter/Evacuation Centers must be completed, including all aspects of shelter sites and operations.
- ✓ Shelter/Evacuation Centers must have accessible communications including signage.
- ✓ Shelter/Evacuation Centers should have back-up power and recharging sites for people who need to recharge durable medical equipment.
- ✓ A schematic should be done for each shelter that includes where people with disabilities can power their equipment, where food, accessible bathrooms, refrigeration, etc., are located.
- ✓ Shelter/Evacuation Centers must have checklists for operation.
- ✓ Shelter/Evacuation Center staff must be trained.



Communications: Our Recommended Remedies

- ✓ There must be a plan for accessible communications.
- ✓ Communications must be in accessible formats.
- ✓ ASL interpretation must be available.
- ✓ Web-based emergency information must be accessible.
- ✓ Information must be available about shelter accessibility, access to transportation and other necessary topics, including “how tos.”
- ✓ Helpline operators must be trained to communicate with people with disabilities.
- ✓ Captioning must be available.
- ✓ Interpreters must be used for announcements.



Does Emergency Planning Matter for People with Disabilities?

“Disasters are always inclusive. Response and recovery are not, ---unless we plan for it.” (i)

(i) June Isaacson Kailes, MSW, Harris Family Center for Disability and Health Policy at Western University of the Health Sciences.



CIDNY

For More Information www.cidny.org or contact us at:

CIDNY-Manhattan

841 Broadway, Suite 301

New York, NY 10003

212-674-2300 (phone)

646-350-2681 (VP)

CIDNY-Queens

80-02 Kew Gardens Road, Suite 107

Kew Gardens, NY 11415

646-442-1520 (phone)

347-905-5088 (VP)

Accessible Taxis in NYC

James Weisman
SVP & General Counsel

American with Disabilities Act (ADA) Exempts Sedan Style Taxis

Vans that seat less than 8 passengers, including the driver, must be accessible (unless equivalent service is offered)

NYC Transportation Options for People with Disabilities

- Bus System – completely accessible
 - 100,000+ wheelchair riders per month
- 82 of 466 subway stations are accessible
- Access-a-Ride
 - Annual budget approximately \$575 million
 - 1600 vehicles

NYC Transportation Options for People with Disabilities

- Benefits-related travel
 - In 2010, Medicaid spent \$200 million on ambulettes
- Taxis
 - Yellow
 - 13,000 yellow medallion taxis, 230 accessible
 - Operate in Manhattan south of 96th St
 - Livery
 - 30,000 vehicles, 20 accessible
 - Northern Manhattan, Bronx, Brooklyn & Staten Island

Lawsuit

Department of Justice (DOJ) Statement of Interest

DOJ wants all taxis to be accessible
Plaintiffs sought meaningful access

Taxi of Tomorrow

- The Competition
- Nissan NV200
- Other vehicles – MV-1
- Retrofits

2012 – Governor Cuomo/NYS Legislature Create Street Hail Program

- 2000 new yellow medallions to be sold (could raise \$2 billion)
 - 100% to be accessible
 - Access equipment paid for by money from new medallion sales (\$15,000 per vehicle)
- New service created – “green” vehicles
- Green cabs have street hail privileges
 - At least 20% to be accessible

Settlement

- Mayor Bloomberg's change of heart
 - 50% of yellow taxis to be accessible
- Affirmed by Mayor de Blasio
- Settlement Terms
 - 50% of yellow taxis to be accessible by 2020
 - 50% of green taxis to be accessible by 2024
 - 30 cent surcharge pays for access equipment & maintenance

New Issues

- Transportation Network Companies (TNC)/Dispatch

Additional Materials

Available at
www.spinalcord.org/webinar-archive