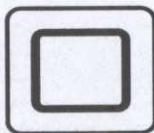


# TD ACCESS & SAFETY REPORT

INFORMATION FOR  
PROFESSIONALS ON  
ACCESS, SAFETY  
AND LIABILITY FOR  
TRANSPORTATION  
OF DISABLED  
PEOPLE AND THE  
TRANSPORTATION  
DISADVANTAGED



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## MTA Asks FTA for Permission to Remanufacture Lifts

The Metropolitan Transportation Authority (MTA) is on a roll. In one fell swoop June 16, MTA filed two equivalent facilitation petitions.

In one filing it asked FTA for permission to keep its tactile warning edge materials in two stations instead of replacing them with truncated domes. (See related article on Page 3 of this issue.)

The second petition asked if MTA could remanufacture the lifts of 150 buses purchased in 1981 instead of replacing them with ADA lifts, maintaining that little difference exists between these lifts.

The property asked: Why shouldn't MTA get a break?

After all, the property points out, FTA granted equivalent facilitation to Independent Mobility Systems for a ramp width of 29.2 inches, 0.8 inch narrower than the ADA specification. "Since FTA has deemed this departure from ADA specifications to constitute equivalent facilitation, NYCTA believes that the minimal departures from ADA specifications on the lifts...also meet equivalent facilitation standards."

NYCTA started buying lift-equipped buses in 1981 and its fleet is 100% accessible. It typically replaces buses after 12 years. Since ADA was passed, the property bought 719 buses which meet the new requirements — and more procurements are underway. But bus manufacturers have been "unable recently to meet NYCTA's new bus purchase requirements."

That's why MTA is proposing to have up to 150 of the oldest buses in its fleet remanufactured to make them last another seven years at the cost of \$175,000 per bus. In the invitations for bids that went out in May, NYCTA estimated that the cost

## Federal Judge Cuts SEPTA Slack on Stop-Calling Rule

A U.S. District Court judge has given Southeastern Pennsylvania Transportation Authority (SEPTA) 30 days to put in place a training program instructing operators to comply with the stop announcement requirements of an ADA settlement agreement and to institute a monitoring system. The court will review SEPTA's compliance record in six months or earlier.

"He didn't find them (SEPTA) in contempt," says Stephen Gold, an attorney for the plaintiffs. "He put the case in abeyance for six months to let them get their act together....Holding an entity in contempt is the severest sanction a court can impose. The judge is giving them another bite. Then he has invited us to reapply for sanctions."

Advocates asked the court to find SEPTA in contempt of violating the 1992 settlement agreement requiring operators to call out stops (TDR, April 1). Advocates also wanted the court to appoint a monitor to conduct monthly surveys of SEPTA's compliance and impose monthly fines.

The July 13 order directs SEPTA to implement within 30 days its training program for all operators in

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## **Deaf Rider, "Unlawfully Detained," Awaits Ruling**

The Federal Transit Administration is not exactly rushing to get complaints resolved, says Kendrick Kresse, legal director of the California Center for Law and the Deaf, the group representing a deaf client who was dragged out of a BART station by police and placed in a psychiatric ward overnight.

Kresse did get a response from FTA's Office of Civil Rights on August 4, 1994 — eight months after the complaint was filed — and after he requested an update. FTA said that it was awaiting documentation from BART. It also said that the complaint had been reassigned to someone else on staff. But nothing has happened since then, says Kresse.

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*According to the complaint, Richard A. Learn, who is deaf and has a chronic vertigo condition, was stopped by a BART police officer because of reports that Learn was smoking on the BART train. The police couldn't communicate with Learn and called for an ambulance because Learn was having problems walking and negotiating the stairs at the station.*

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Learn, states the complaint, tried to indicate his condition to the officer by showing his medical ID. "The officer ignored these efforts and failed to accommodate the communication needs of Mr. Learn by, for example, arranging for or providing a sign language interpreter," states the complaint.

Learn was "unlawfully detained and sent by ambulance" to a medical center, then transferred to a hospital and released the next day.

Learn sought reimbursement for medical costs and for losing a day's pay. He also asks FTA "to order improved policies" at BART for providing reasonable accommodations to deaf BART patrons including improved training for BART police.

Kresse thinks the misunderstanding could have been avoided if the BART police provided an interpreter.

"They didn't get interpreters before they loaded him on an ambulance and told (the medical facility) to put him on a psych hold. The police were well intentioned but I don't think they really had sufficient training to deal with these situations."

But was BART required to provide an interpreter?

Kresse: "They are required to accommodate patrons on the train; although there is no specific guideline that says you should have an interpreter under these circumstances... there are some guidelines regarding police conduct that delineate use of interpreters for victims, witnesses. But these don't intend to go beyond what ADA would require."

But an FTA source says the law doesn't require that transit agencies provide interpreters. "That's subject to interpretation," he says. "It's debatable whether ADA requires that."

So what's FTA going to do? He says nobody knows yet. But one question FTA will ask BART is what the property is doing to make transportation accessible to the deaf. ■

## **Having a Meeting?**

Copies of *TD Access & Safety Report* are available for you to distribute at your next meeting. ■

Just call the publisher, Roseann Schwaderer, several weeks in advance and let her know you'd like your colleagues to see this fine newsletter. We'll be pleased to ship them to you, free for the asking! ■

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***The complaint was filed with FTA January 7, 1994. The status: "DOT says it's pending," says an attorney for the complaint.***

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