



Elevator Action Group Joint Transportation Committee Hearing January 26, 2021

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We are a coalition of concerned New Yorkers and advocacy organizations pushing subway accessibility to the top of the MTA's agenda on behalf of people with disabilities and their caretakers, young children and their parents, and older people who have mobility difficulties. Our coalition has successfully built public and political support for this goal over the past several years, winning an unprecedented \$5.2 billion commitment to accessibility upgrades in the 2020-2024 MTA capital plan.

As with so much else, COVID has put a brake on these plans. With congestion pricing still months away and other funding uncertainties, it's unclear whether the state will be able to fully fund the \$51.5 billion program. We ask for oversight to ensure that the MTA maintains its stated commitment to accessibility at the same level, **ensuring that 10% of all capital funds go to accessibility improvements**. While the MTA would like us to take them at their word that their commitment to accessibility is real, their track record doesn't merit such trust:

- At the January MTA board meeting, the chief development officer touted the record number of 11 stations that were made accessible in 2020. All but one (1st Avenue on the L) were key stations agreed to due to in a different lawsuit settlement before the Americans with Disabilities Act (ADA),¹ and a state amendment in 1994, which increased the number of key stations from 54 to 100.²
- July 26, 2020 was the federal deadline and December 31, 2020 was the state deadline to finish key stations. These deadlines explain the dramatic increase in accessibility work, while MTA leadership has claimed these improvements illustrate their newfound commitment to accessibility. Three key stations are still incomplete.
- It's true that in 2020 the MTA retrofitted accessibility at the most stations in one year. But, those 11 stations make up just 2.2% of subway and Staten Island Railroad (SIR) stations. It will take 33 years to reach full accessibility if that rate is maintained, which is unlikely to happen.
- The year after the announcement of Cuomo's enhanced station initiative,³ to upgrade as many as 33 stations without accessibility improvements in direct violation of the ADA⁴, plaintiffs filed a class action lawsuit against the MTA and the City of New York, calling for a legally binding agreement for 100% subway accessibility. The lawsuit is nearing its fourth anniversary from the initial filing in April 2017.

¹ [EPVA MTA Settlement Agreement](#) (PDF). United States District Court for the Southern District of New York. September 24, 1984.

² [New York Consolidated Laws. Transportation Law - TRA §15-B](#)

³ [An ambitious station modernisation program for New York's subway system](#), Arup, 2016.

⁴ [Bronx Independent Living Services \(BILS\) v. Metropolitan Transportation Authority \(MTA\)](#) (PDF)

- The City and the MTA have tried unsuccessfully to dismiss the suit altogether.⁵
- The MTA has hired outside (expensive) counsel to continue dragging out the case.⁶

Settlement agreements in other major cities happened decades ago and have led to greater percentages of accessible stations and better reliability of elevators in their systems.⁷

Governor Cuomo controls the MTA and chooses to take the lawsuit to trial rather than agreeing to a long-term plan for full accessibility. **We strongly believe that a settlement agreement is the only way to ensure that the Governor will set the right priorities** for our recovery and elevate accessibility within that list of priorities.

This is why:

- During his most recent State of the State address, Governor Cuomo announced his **\$306 billion** vision for infrastructure projects throughout the state over an unspecified period of time.⁸
- As part of this vision, he mentioned the unfunded commitment for "dozens of ADA stations" included in the 2020-2024 MTA capital plan.
- The MTA's refrain is to make sure that passengers are **"no more than two stops away from an accessible station"** rather than committing to a fully accessible system. It is illogical to think that anyone would travel a distance of two stations away to use the subway, much less people who are more likely to have difficulty walking.
- After the next 70 stations are complete, **285 stations will remain inaccessible**. Rosier figures provided by MTA do not include 16 inaccessible SIR stations, but do include 5 accessible SIR stations. They also count 8 stations which are only halfway-accessible now, and count 3 of them again on a list of stations to receive accessibility upgrades.⁹
- The MTA has a long history of insisting that elevators are too expensive.¹⁰ Initial estimates of accessibility upgrades in the recent capital plan were exorbitant at more than \$5 billion for 66 stations (4 stations were moved to the 2015-2019 plan), averaging around \$78 million per station.¹¹ To the MTA's credit, a recent procurement

⁵ [Center for Independence of the Disabled New York \(CIDNY\) v. Metropolitan Transportation Authority \(MTA\) \(N.Y. State Supreme Court\)](https://www.dralegal.org), dralegal.org

⁶ Blair-Goldensohn, Sasha. July 25, 2020. "My ADA: What the Landmark Law Means to Me." *New York Daily News*. Retrieved from <https://www.nydailynews.com/opinion/ny-oped-my-ada-20200725-uwelqyw6djhy7jiiuwnkbtbxsmi-story.html>.

⁷ History and Impact of MBTA/BCIL Settlement Agreement. Retrieved from <https://www.mbta.com/accessibility/history>; What is the Access Living et al. v. Chicago Transit Authority class action Settlement Agreement. Retrieved from <https://www.equipforequality.org/issues/discrimination-ada-rights/transportation/efes-recent-work/access-living-et-al-v-chicago-transit-authority-class-action-settlement-agreement/>

⁸ "Andrew Cuomo's Public-Construction Plans Come at a Huge Price." January 14, 2021 <https://nypost.com/2021/01/14/andrew-cuomos-public-construction-plans-come-at-a-huge-price/>

⁹ [MTA Announces 20 Additional Subway Stations to Receive Accessibility Improvements Under Proposed 2020-2024 Capital Plan](https://www.mta.info/press-releases/2019/12/19/mta-announces-20-additional-subway-stations-to-receive-accessibility-improvements-under-proposed-2020-2024-capital-plan), December 19, 2019. *Stations with partial access: Dyckman St. (1), 86th St (4/5/6), Avenue H (Q)*

¹⁰ Goldman, Ari L. Sept. 15, 1983. "ISSUE AND DEBATE; WHEELCHAIRS IN CITY'S SUBWAYS AND THE COST OF REDOING STATIONS." *The New York Times*. <https://www.nytimes.com/1983/09/15/nyregion/issue-and-debate-wheelchairs-in-city-s-subways-and-the-cost-of-redoing-stations.html>.

¹¹ Fitzsimmons, Emma G. and Liebson, Rebecca. October 7, 2019. "M.T.A. Pledges \$5 Billion for Subway Elevators. Guess How Many." *The New York Times*. Retrieved from <https://www.nytimes.com/2019/10/07/nyregion/mta-nyc-subway-elevators.html>.

for accessibility upgrades lowered costs by \$50 million per station,¹² meaning that costs for 100% accessibility are not as prohibitive as they claim.

- Alex Elegudin, NYCT's first-ever chief accessibility officer left his position in September, 2020 to work in the Governor's Executive Chamber.¹³ His position was created as a compromise accompanying the Governor's 2019 veto of a bipartisan bill establishing an office of the advocate for people with disabilities.¹⁴ There has been no news or information about his position on the Governor's website, nor has a Chief Accessibility Officer been hired at the MTA as recommended by the Alix Partners' \$4 million reorganization plan.¹⁵

The sad state of subway accessibility is a stain on our great city. We need bold leadership to correct the injustice of having a subway that is inaccessible to so many of our city's residents more than three decades after the ADA, including:

- 1,200,000 people over the age of 65 (estimated to rise to 1,350,000 by 2030).¹⁶
- More than 500,000 people with ambulatory disabilities.
- More than 500,000 children under the age of five¹⁷
- More than 100,000 pregnant women every year.¹⁸

The inaccessibility of the subway also comes at a high price. Paratransit service cost the MTA \$614 million for 169,000 passengers in 2019 and costs are expected to keep rising.¹⁹ In their acknowledgement of the 30th Anniversary of ADA, MTA leadership took note of the 8.5 million paratransit trips it delivered in 2019 while bus ramps were deployed just 1.5 million times.²⁰ We need urgent action to make the accessibility of fixed-route transit a top priority in order to ensure that all NYC residents can get around safely and reliably via public transit, in the unencumbered and spontaneous way that many nondisabled New Yorkers take for granted.

We ask the committee to push the MTA to agree to a legally-binding settlement agreement with a timeline to reach 100% subway accessibility. We also ask the committee to exercise its oversight to ensure that previous commitments to fund accessibility improvements are maintained at a minimum of 10% of capital spending.

Thank you for your attention to these important issues.

¹² Martinez, Jose. December 15, 2020. "Some NYC Subway Stations Getting Elevators While Others Get the Shaft Amid Budget Crunch." *THE CITY*. <https://www.thecity.nyc/2020/12/15/22177397/nyc-subway-stations-getting-elevators-amid-pandemic-budget>

¹³ Guse, Clayton, September 14, 2020. "NYC Transit's Accessibility Chief Leaving MTA for Cuomo's Office." *New York Daily News* <https://www.nydailynews.com/new-york/ny-alex-elegudin-cuomo-accessibility-chief-20200914-exioendxyvf5bgoptchxiouri-story.html>

¹⁴ "Independent Living Community Reacts to Governor Cuomo Veto of Legislation to Create a State Office of the Advocate for Persons with Disabilities." December 17, 2019 <https://ilny.us/latest-news/16-newsroom/press-releases/359-independent-living-community-reacts-to-governor-cuomo-veto-of-legislation-to-create-a-state-office-of-the-advocate-for-persons-with-disabilities>.

¹⁵ [MTA Transformation Plan, Alix Partners, June 30, 2019](#) (PDF)

¹⁶ [New York City Population Projections by Age/Sex & Borough 2000–2030](#) (PDF)

¹⁷ Numbers for children under age 5 and people with ambulatory disabilities come from the American Community Survey (2019)

¹⁸ New York City Live Births, 2017. Retrieved from <https://data.cccnewyork.org/data/map/48/live-births#48/a/3/85/25/a/a>

¹⁹ Perlman, Claire. Feb. 6, 2020. "Paratransit Services in New York City Are Severely Limited and Unpredictable. They Still Cost \$614 Million a Year." ProPublica.

https://www.propublica.org/article/new-york-mta-paratransit-services?token=siaaBuUx_5-LH2f_432kxejHJI-dlxM

²⁰ MTA Celebrates the ADA at 30: Progress in Accessibility <https://www.youtube.com/watch?v=WqXYeU7B2sw>