

**RACE**

Accessibility lawsuits are bringing slow but steady wins for disabled city residents

Lawsuits over inaccessible sidewalks, transit, libraries, and other public infrastructure are costing cities millions. But for disabled people of color, they may be the only route to equity



by Bianca Gonzalez
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1/3/04--Boston, MA. Uneven sidewalks, bricks, and grates restrict access for handicapped in the Symphony Hall area. Eileen Brewster (in wheelchair) with her friend Barbara Bowie, often travels on Huntington Ave. itself because the sidewalks are so difficult to travel. (Staff

Photo by Renee DeKona (Photo by Mike Adaskaveg/MediaNews Group/Boston Herald via Getty Images)

Prism and Next City's disability justice series, "Disability justice for all," covers how people of color are leading a disability justice movement in American cities, making strides toward equity in housing, mobility, labor, health care, and beyond.

In 2019, just months after New York City opened the new, eye-catching Queens library to much fanfare from the design world, local library patron Tanya Jackson [filed a lawsuit](#) against the library and the city. As architecturally interesting as the library was, her lawsuit claimed, it was inaccessible to her and other patrons who use mobility devices.

In May 2023, city officials filed [another lawsuit](#)—this time against the architectural firm, for “professional malpractice” in developing inaccessible designs.

“It’s really a shame,” says Sharon McLennon-Wier, the executive director of the Center for Independence of the Disabled of New York and a blind Black woman, in an interview with [The New York Times](#). “This library was built in 2019. You would not think—ADA was passed in 1990—that we would have such a new structure that has so many problems.”

More than 30 years ago, the Americans with Disabilities Act was signed into law, mandating reasonable accommodations and accessibility features for people with disabilities. Yet to this day, ADA noncompliant sidewalks, crosswalks, and public transportation stops permeate U.S. cities from coast to coast.

From Philadelphia to Los Angeles, disability rights groups have opened suits with city governments and public transportation agencies for discriminating against folks with disabilities by consistently failing to meet ADA requirements.

As cities settle for billions of dollars worth of upgrades, how will these changes impact the lives of disabled people of color?

Poor sidewalk infrastructure hurts disabled people of color

In 2015, police in Shreveport, Louisiana, [pulled over and ticketed](#) then-58-year-old Black wheelchair user Cedric Murphy for illegally “walking” in a street when there was a sidewalk “available.” The sidewalk, Murphy says, was in too poor of a condition to navigate with his mobility aid.

“I feel scared because he was able to give me a ticket,” Murphy said [in an interview](#) with the *Shreveport Times*. The case speaks to the disproportionate rate of policing among Black pedestrians: A [2017 study of Jacksonville](#) found that Black pedestrians were three times more likely to be ticketed than their non-Black counterparts. More than three-quarters of all tickets for “walking in the roadway where sidewalks are provided” were issued to Black pedestrians.

The instance also reveals barriers that disabled Black pedestrians face as a result of poor sidewalk infrastructure. “I fear for my safety because if my chair turns or falls, it will be a hard time for me to get back up,” Murphy said. “I just get weary of the Americans with Disabilities Act we signed ... Has anything changed?”

ADA-noncompliant pedestrian infrastructure is more than a frustrating part of life for people with disabilities: It’s one that can have deadly consequences. Wheelchair users are about 36% [more likely to die in car-pedestrian crashes](#) than other pedestrians.

Disabled people of color like Murphy often face additional risk.

Black pedestrians are generally [twice as likely to be fatally hit](#) compared to their white counterparts, while Native pedestrians are three times as likely. The Black and Native demographics are also more likely to have a disability. While 12.7% of the general population have a disability, 14% of African Americans and 16.9% of American Indians have a disability, according to the [2020 Census](#).

The pedestrian death rate is also higher in low-income neighborhoods, where people of color, as well as people with disabilities, are more likely to live. [In 2015](#), the poverty rate among nondisabled people was 12%, while 27% of people with disabilities lived in poverty. The Black disabled population had a poverty rate of 37%—higher than all other groups.

Sidewalk infrastructure is often referred to as a [social determinant of health](#). The school of thought in public health refers to how city planning can contribute to racial health disparities.

Low-income people of color face the negative impact of a number of social determinants of health, like exposure to pollution or access to nutritious foods, or lack thereof. “What does it mean to just treat one person’s asthma if the whole reason why they have asthma is because they live in a neighborhood where there’s a factory?” asks Aimi Hamraie, an associate professor of medicine, health, and society at Vanderbilt University.

Walkability in a neighborhood is associated with lower obesity rates, diabetes, and cardiovascular diseases, all of which increase the development of disabling conditions. Walking is one of the most common forms of exercise. So when someone can't go for a walk down a busy street because there is no sidewalk to walk on, "they are becoming debilitated by their environment," explains Hamraie.

Advocacy groups and individuals have recently settled lawsuits in cities across the U.S. by agreeing to widespread ADA compliant upgrades to sidewalk infrastructure. "It creates just enough leverage that there can be a dialogue," says civil rights lawyer Maia Goodell.

These lawsuits have shown promising results. In 2018, [Portland settled with local wheelchair users](#) and agreed to complete \$113 million worth of upgrades to more than 16,000 sidewalk ramps over the next 12 years. In 2015, Los Angeles resolved a lawsuit filed under the Americans with Disabilities Act by agreeing to upgrade broken sidewalks [to the tune of \\$1.4 billion](#) over the next 30 years. These settlements could affect the lives of disabled people of color the most.

New renovations further marginalize disabled people of color

While it doesn't change ADA requirements, cities may use [budgetary constraints](#) as an excuse for their neglected sidewalks. This at least explains how Portland and L.A.'s crumbling sidewalks came to be. But other lawsuits focus on recent renovations that either fail to address current noncompliance issues or create new barriers altogether.

In late April, the Metropolitan Transportation Authority (MTA) settled with a coalition of disability rights advocates to [create a stair-free path of travel](#) in at least 95% of currently inaccessible New York subway stations by 2055. Since the passage of the ADA, the MTA consistently completed renovation projects to improve the station for nondisabled riders while "systematically failing to install elevators or other stair-free routes," according to a [complaint involved in the settlement](#).

"People with disabilities are disproportionately people of color and disproportionately live in areas that are poorly served by infrastructure," says Goodell, who was involved in complaints in the settlement. "The borough with the fewest accessible stops was the Bronx, and that's also the poorest borough."

In Washington, D.C., people with mobility issues filed a [class-action lawsuit](#) in 2022 after newly constructed bicycle lanes obstructed access to curb ramps and pedestrian crossings for those who face mobility disabilities. "The placement of tire stops and posts prevent wheelchair users and other people who need curb ramps from accessing them," the complaint says. The lanes also disrupt accessible on-street parking and bus pick-up and drop off areas.

“In the complaint, we did point out that the vast majority of bikers tend to be white, wealthy, and male, and the people who are commuting to work by bus, driving, or paratransit are people of color,” says Goodell. “They’re less wealthy. They’re coming from places that are farther out, and that needs to be taken into account in designing the bike lanes.”

Almost 12% of residents in the district have disabilities, but about three-fourths of the disabled population in D.C. is African American, according to a [2015 Census report](#).

The complaint also pointed out that the District Department of Transportation “failed to hold public meetings and refused to work with community members on the design of the bicycle lanes,” further isolating the Black disabled community by shutting out their input altogether. “Bike lanes or just other louder interests ... are drowning out the civil rights aspect of it,” Goodell says.

Incomplete transition plans

How is it that 30 years after the ADA, cities are still so far behind in pedestrian accessibility? One factor is poor documentation of the issue itself. The [Department of Justice requires](#) that cities maintain and update ADA Transition Plans that include a self-evaluation of all city-owned facilities, programs, services, and activities.

But [lack of a comprehensive ADA transition plan](#) is still a widespread issue in communities across the country. Barrier removal plans reveal the extent of ADA compliance issues in cities and address noncompliant areas.

A study on the quality of barrier removal plans from 401 local government entities in the U.S. found that only 54 of these entities—or 13%—had ADA transition plans readily available, and only seven out of these 54 plans actually met the minimum ADA requirements.

Unlike sidewalks, Goodell says, cities cannot be sued for a poorly constructed ADA transition plan. Despite transition plans being required, a number of courts have ruled that “private citizens can’t sue to enforce the ADA requirements for transition planning,” explains Goodell.

The result of poorly executed transition plans is that local governments simply do not have the data to get a clear picture of the problem. Only nine local governments in the study reported a number of inaccessible sidewalks. Out of this data, 48% of sidewalks were not accessible. Out of the 23 local governments that recorded curb ramp conditions, 65% of curb ramps were not accessible.

While these numbers may seem dramatic enough, the local governments that actually self-evaluate their sidewalks have stronger ADA transition plans than others, suggesting the issue is even more pervasive. A [2016 ADA self-evaluation](#) found that 64% of Baltimore sidewalks were inaccessible, while 93% of curb ramps were inaccessible.

Other studies draw on differences between neighborhood conditions, as well. One [study on Pontiac, Michigan](#), sidewalks searched 2016-18 data along 80 miles of sidewalk for tripping hazards, cracking, and obstructions, among other conditions. It found that “degraded sidewalk quality was associated with lower neighborhood socioeconomic status and a higher proportion of Black and Latinx residents.”

Another study on [socioeconomic progress for the Black population](#) in Buffalo, New York, focused on the East Side, where 73% of Black population in the city resides.

The study found that sidewalk infrastructure was poor, and curb ramps and pedestrian crossings, recommended by Title II of the ADA, “are practically non-existent” and impassable during Buffalo’s harsh winter seasons. Buffalo also does not have an ADA coordinator, which is also supposed to be mandatory.

Local governments are not doing enough to keep track of ADA noncompliant conditions, experts say. Studies on local scales, however, not only document noncompliance but demonstrate its disproportionate impact on minority populations.

Imagining equitable design

When development plans actually intend to implement widespread compliance, there are a variety of approaches planners can take. “Something like a curb cut or an improved sidewalk infrastructure could look a lot of different ways,” says Hamraie.

The “curb-cut” effect, for example, describes how improving accessibility can improve the environment for all participants—not just those in need of the basic access they would otherwise lack.

Hamraie says this decenters disability. “It sets us up to say, ‘Well, if something has additional benefits, then we should do it for the sake of people who aren’t harmed by the environment, or who don’t face structural inequality in the environment.’”

Pontiac, Michigan’s study proposes the implementation of [“complete streets,”](#) a universal design trend, as a solution to deteriorating sidewalks. These streets are designed to “enable safe use and support mobility for all

users,” including people of all ages, abilities, and transportation methods. They are designed to be ADA compliant while also presenting a wide variety of transportation options to users.

“In the examples that I have seen of complete streets, they’re not usually equitable,” says Hamraie. Complete streets also show the potential to gentrify neighborhoods and push out communities that are most marginalized.

They also may feature certain hostile design trends—designs made specifically to exclude certain groups. “They’ll have the sidewalk, but not benches,” Hamraie says. “Many cities are doing anti-homeless designs that are built-in at the same time that they’re trying to do complete street renovations.” These features of certain “universal” design trends demonstrate shortcomings when it comes to who will ultimately be able to access the finished product.

By incorporating anti-homeless design, these streets would be shutting out those who are chronically homeless. Chronic homelessness describes people who have experienced homelessness for at least a year or repeatedly while dealing with disabling conditions like mental illness, substance use, or physical disability. In January 2022, the chronically homeless constituted 30% of the U.S. homeless population.

“If the design is categorically trying to exclude a whole group of people from being in public or being on the street, and that group is composed of these intersections,” Hamraie asks, “then how can we say that it promotes racial justice? Or how can we say that it promotes disability justice?”

Hamraie instead proposes a different design principle: design for solidarity. “If there’s a type of environmental structure that is harming one group of people but benefiting another, I wouldn’t say that it is fostering solidarity between those two groups of people.”

Rather than looking from a universal perspective, city planners need to look at the needs of those most marginalized by a lack of sidewalk infrastructure. “It’s not that my clients are against bike lanes. Instead, they need to be designed in a way that doesn’t create problems with pedestrian crossing and that [has] sufficient parking for people with disabilities,” says Goodell.

Litigation has proven successful at forcing cities to commit to the ADA. But when it comes to redesigning street corridors to meet ADA requirements, advocates say we need to prioritize the needs of those most marginalized.

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