



COMMUNIQUE

INACCESSIBLE SUBWAYS

29 Years After Americans With Disabilities Act, City Subways are Still “Transit Deserts”

By Edward M. Yood

Chair, Local 1180 Committee on People with Disabilities

Pat Jacobs has been a CWA Local 1180 member and a Coordinating Manager Level B in H+H in the Chronic Diseases division for the past 18 years. She also has been Chair of Local 1180’s Manhattan Borough Community Coordinating Committee for the past four years. She is active at work, active in her union, and active in her community.

Last year, Jacobs had knee replacement surgery, which was followed by several medical complications. While she did eventually return to work, her knee replacement disability allowed her to only walk with the assistance of a cane. Subway navigation proved to be quite difficult as she can only access them via elevators that bring her to and from street level, or to connecting lines and platforms. This, of course, is if they are even present at her station of choice at all. Subway station stairs? Impossible.

Herein lies the problem, not only for Jacobs, but thousands of New Yorkers with impaired mobility.

New York City’s mass transit system is far from accessible. A January 29, 2016, Wall Street Journal article entitled “MTA Under Pressure to Add Elevators to More Subway Stations” includes data from the U.S. Federal Transit Administration and a report card on the accessibility of subway stations in major U.S. cities. New York City was dead last at only 22 percent, falling far below leaders San Francisco, Atlanta, Los Angeles, and Miami at 100 percent. Even the New Jersey PATH trains were at 54 percent accessibility. While the data is from 2014, five years later not much has changed in the Big Apple.

Just ask Jacobs. Since her return to work, the monthly commuting cost from her Washington Heights residence to her Harlem Hospital job site has increased from \$127 for a monthly unlimited MetroCard to a whopping \$800 (\$20 per cab ride to and from work) — an increase of 530 percent, or five times as much. That’s because the 155th Street and 157th Street subway stations nearest her home do not have elevators. Jacobs could have reduced her taxi fees by taking a cab to the closest subway station with an elevator at 168th Street, but that elevator to the train, which could get her to and from work, has been out of service since

January 2019. The MTA announced that this elevator is not expected to return to service any earlier than the end of the year.

Jacobs has missed most of the union’s membership meetings and other activities since her surgery because attending would increase her already-high cab expenses. She cannot access her transit check benefit because the shortage of subway elevators prevents her access to the subways. Transit check is a benefit for public and private sector workers in which their subway fare is deducted pretax from their paycheck, thereby reducing their annual taxable income and leading to a significant tax benefit.

Jacobs is taking a financial hit from all angles. “Our taxes pay for the subways. No taxation without utilization. The subways should be a service,” she said.

Local 1180 member Principal Administrative Associate Dana Holland couldn’t agree more.

Holland recently retired after 40 years with the Fire Department. She is an extremely active union member, serving on the Community Services, Legislative and Political Action, Civil Rights and Equity, People with Disabilities, and the Brooklyn Borough Community Coordinating committees. She, too, recently had knee replacement surgery and cannot walk without the assistance of a cane, making subway station stair navigation an impossibility.

Her activities since she retired have been more limited because the Kingston/Throop subway station near her home does not have an elevator. Holland has to take a bus to Utica Avenue to reach a station with an elevator. This has delayed and hampered her ability to visit her sick husband who recently suffered a stroke at his rehabilitation center or to provide home care for her aunt every Sunday. She said that the City should put elevators in every station so disabled people like herself, seniors, and parents with baby carriages, can exercise their right to ride all the subways, the major form of transportation for City residents.

The current state of the subway stations leaves New York City in violation of the Americans with Disabilities Act (ADA), a federal civil rights law passed in 1990 that requires many public spaces, including mass transit, to be accessible for people with mobility and other disabilities.

Manhattan Borough President Gale Brewer, in a February 6, 2019, report conducted by her office on the current state of the MTA's accessible stations, surveyed 42 Manhattan subway stations that the MTA has deemed accessible.

The report states: "First and foremost, it must be acknowledged that, intentionally or otherwise, the MTA's assertion that they currently operate 114 accessible stations, an already low number, has itself been inflated as some stations that are not fully accessible are listed as accessible on the MTA's website."

Mayor Bill de Blasio's Office on People with Disabilities also used the MTA's inflated accessibility statistics in its 2019 Accessible-NYC Report in which 11 "accessible" stations were counted at least twice.

If you consider elevator breakdowns, New York City subway station accessibility is actually less than 20 percent, even worse than the aforementioned U.S. Federal Transit Administration number of 22 percent. Either way, the percentage of fully accessible subway stations in New York City is abominable.

Jean Ryan, President of Disabled in Action, told the *Communique*: "The MTA takes longer and spends more to put in elevators than other old cities and systems like Chicago and Boston. Even the 2nd Avenue subway was hugely costly per mile. The media says there is much waste and inefficiency in the MTA. The main problem is ... the lack of political will and commitment to making the subways accessible in money allotted, a schedule, and a firm commitment to making the whole system accessible. That is why Disabled In Action and other groups are suing the MTA for access. Successful lawsuits are the only reason that Chicago and Boston are making their systems accessible. It isn't out of the goodness of their hearts."

It is estimated that the cost for one NYC elevator is \$10 million, with the average cost to install elevators per station at \$39 million in New York, according to pedestrianobservations.com. It's reported that only a quarter of New York City's 472 subway stations are accessible, and with an approximate 550,000 residents who have difficulty walking, inaccessibility is a definite problem. According to a *New York Times* February 11, 2019 article, two-thirds of this population lives far from one of the accessible subway stations. Most people with disabilities have to rely on either a bus system or the Access-A-Ride program, a paratransit service run by the city and the Metropolitan Transportation Authority that many critics say is unreliable.

Mary Kaessinger, a mobility disabled activist from the Peoples MTA, the Disability Pride Parade Committee, and a founding member of the Coalition of Labor Union Women who has joined CWA Local 1180 on Equal Pay Day to support the fight for gender pay equity, shared with the *Communique* a letter she wrote the Mayor.

"I read your recent pamphlet AccessibleNYC and was really angry. If you think all is well, as the pamphlet proposes, then you just don't understand what people with disabilities are fighting for. We want an

end to the segregated options for the disabled. We need elevators or ramps at every station to get on the subway," she wrote.

Kaessinger said that she personally has to take the B41 bus to Prospect Park, which is a half hour trip. Then she has to take another bus to get to her destination, which is another half hour trip. "This can and does get exhausting, not to mention waiting for buses in the rain or extreme heat," while her roommate walks to the Q, which is one block away. "I would like to do that, too," she said.

While the MTA plans to install 50 new elevators in the next five years, that still leaves hundreds of stations inaccessible. Lack of elevators is not the only hurdle, however. Once in the subway station, it's a matter of being able to access a train. Most of the time platforms are not level with the floors of subway cars. Riders with large-sized wheels on their wheelchairs have to manipulate them to get on over the rise. If a wheelchair or scooter has smaller wheels, they will need to be lifted into the subway. When a scooter or wheelchair weighs 350 pounds, this is not an easy task.

As if these problems aren't bad enough, getting out of a subway car actually can be dangerous. Kaessinger said that if a train stops in front of a pillar, there is not enough room to maneuver; if the floor of the subway car is below the platform, mobility challenged riders have difficulty departing; and subway station signage is a nightmare.

So what about New York's accessible buses? The Mayor's 2019 Accessible-NYC Report only provides one paragraph: "Every city bus is wheelchair accessible, with either a lift or, on newer models, an easier-to-use ramp. Currently, DOT is conducting a citywide survey of all bus stops to identify those with physical accessibility challenges. The survey will help prioritize upgrades to bus stops in future years."

Yet, on August 16, 2019, Jean Ryan, President of the U.S. disability civil rights organization, Disabled in Action, testified at an MTA hearing about the accessibility problems on City buses.

"Many people with disabilities have mobility problems and walk with difficulty and pain. Many have back problems, respiratory problems, cardiac problems, or other health problems like cancer where their energy and walking ability is severely compromised. Some are temporarily disabled. We all probably know people like this and we see people on the street who are doing the best they can with great difficulty," she testified. "Well, it's just one block, you say. Let me tell you how that one block is actually more. You have to walk one more block to the stop, you take the bus, but on the other end, maybe you have to also walk one more block. Then you have to get to your real destination, do what you went for — work, school, a meeting, the doctor, a play, meet with a friend, shop for groceries — and then you repeat the process to get to the bus (because the subway elevators are scarce and you can't stand on the subway and keep your balance), do the one more block on each end and stagger home from exhaustion and pain and recuperate for days. I know because I lived like that for years."

Ryan also emailed the *Communique*: "Many [bus] drivers do not know how to use the finicky lifts so I have to teach them on the spot. I have been stuck on the lift trying to get into the buses and on the lift trying to get off the bus. For a wheelchair user, riding an express bus, like

riding the subway, takes guts, courage, knowledge, and luck that the accessible features will work."

City buses do not have sufficient accommodations for people with hearing and vision disabilities. Wheelchair lifts were installed only after many years of protests by New York City wheelchair users. Interstate bus companies like Greyhound are still not fully accessible, and the MTA recently announced that it wants to do away with both posted bus schedules and MetroCards. Ryan said the MTA does not consult with the disability community before implementing changes.

Disabled People Fight Back!

People with disabilities have not gotten anything without a fight.

On March 12, 1990, disability rights activists descended on the U.S. Capitol demanding the passage of the Americans with Disabilities Act (ADA), which would give equal rights to people with disabilities. After the day's rally and speeches, more than 60 activists abandoned their wheelchairs and mobility devices and began crawling the 83 stone steps up to the U.S. Capitol Building, during which people were loudly chanting "What do we want?" "ADA!" "When do we want it?" "NOW!" The ADA was passed soon thereafter. However, the disabled community was back again in Washington when President Trump tried to end the Affordable Care Act, which unlike the ADA, has a provision that prohibits discrimination against disabled people in health care, benefits, and insurance.

Wheelchair user and Attorney Kathleen Collins, also an active Disabled in Action member, provided Local 1180 with a summary of no less than seven pending access court cases in the Disability Community's fight for accessibility. These cases in New York State and Federal courts encompass Americans with Disabilities Act and other civil rights class action lawsuits demanding that the subways be fully accessible, elevators be installed when subway stations are renovated, elevators be maintained and fixed in a timely manner when they are broken, curb cuts be built on every city street and sidewalk, surveys distributed by the MTA to subway riders be made public, and the city's police precincts be made accessible.

The disability community has mobilized people with disabilities and their allies, including CWA Local 1180, for rallies prior to court hearings and to pack courtrooms with wheelchair users so that judges see who is mostly impacted in the fight for accessibility. The monthly meetings of the MTA are also a popular venue for testimony, protest, and disability pride. At one such meeting, the cousin of Malaysia Goodson testified. Goodson was an African American mother who died earlier this year when she fell down the stairs of a subway station that did not have an elevator while carrying her baby and baby carriage. She gave her life to shield her baby. No mother should have her child become an orphan because of the MTA's refusal to make all subway stations ADA-compliant.

A few elected officials are on the frontlines of speaking out on behalf of the disabled community. New York Council Member and civil and human rights activist Helen Rosenthal, who is an ally of people with disabilities, women, and the labor movement, said there needs to be clear goals and enforceable accountability in the fight for accessibility for people with disabilities.

She believes there should be accountability for all New York City funding to the MTA, including the assignment of funding to a separate budget line for construction, maintenance, repair, and installation of elevators in subway stations. She said another possibility is New York City Council resolutions calling for sufficient funding for full subway accessibility in a legally binding and enforceable agreement with a timetable acceptable to the disability community. She also suggested that all government resources and officials assist in establishing a much faster timetable and more identifiable and larger funding sources as soon as possible for the installation of elevators and ramps in every NYC subway station and on every subway line.

She hopes that the Mayor's Office on People with Disabilities 2019 Accessible-NYC Report will be widely read, scrutinized, and if necessary, audited to ensure fairness, accuracy, and sufficient consultation with all elements within New York's disability community and the entire City Council.

Rosenthal pledges to be part of the effort in New York to correct the inequity in the U.S. 1938 Fair Labor Standards Act that allows certain categories of workers, including disabled people, to be paid less than minimum wage. She concurs with CWA Local 1180 that this should be done in a manner protecting the jobs and benefits of people with disabilities.

Rosenthal has sponsored and achieved passage of several City Council bills advancing accessibility. She can be seen frequently at rallies, court hearings, and at inaccessible subway stations calling for subway elevators. When asked why she is so concerned about the struggle of people with disabilities for equal rights, Rosenthal responded, "Disability rights are human rights."

To the question, "How can the labor movement help the disability rights accessibility movement," Disability in Action President Ryan said, "The labor movement can help by providing meeting space for us and by providing people to come to our demonstrations and court dates. We welcome anyone who is interested to come to our meetings. After all, any progress that we can make in disability access will benefit everyone, including union members. We've gotten bus access, poll site access, improvements in evacuation planning for people with disabilities, accessible taxi access, and we are working on subway access as well as access to all police precincts."

CWA Local 1180 regularly hosts and provides space at no charge for meetings of disability rights organizations, including the Disability Pride NYC Parade Committee, the Fair Wages Task Force that is fighting for minimum wage equity for disabled people, and the Local 1180 Committee on People with Disabilities, which meets the first Wednesday night of every month, and for many decades has assisted the officers and members in promoting the rights, status, and careers of disabled persons in the workplace.

As the author of a memoir of her life in the disability civil rights movement, "Such a Pretty Girl," wheelchair user and Disability Pride Parade Grand Marshal Nadina LaSpina told July 14, 2019, Disability Pride Parade participants, including CWA Local 1180, "If we're happy to live our lives, it's in spite of all those who think disabled lives are not worth living! It's in spite of all the barriers. Did anybody check out the protest going on this morning against our inaccessible subway system? That's 29 years after the signing of the Americans with Disabilities Act...

We endure and we persist, and some of us even thrive in spite of the injustice! Join us in our fight. We don't need sympathy, but we can use allies."

ADA architect Justin Dart has said, "Disability is just a normal part of the human experience, a common characteristic of a normal lifespan. We all have this body, made of flesh and blood, with bones that break and organs that fail. Oh, yes, it can happen. When you least expect it. Ours is a minority anyone can join. Most of us, if we live long enough, will experience disability. But if our bodies or if our brains do not work the same as other peoples', that does not make us less valuable as human beings."

No truer words can be spoken. Every American at some point could very well find themselves in the "people with disabilities" category, either short term or long term, as aging is part of the normal life cycle process.

"Those who think that addressing accessibility issues is not important are probably too young to realize that they will most likely find themselves facing mobility obstacles at some point in their lives," said Local 1180 President Gloria Middleton. [g](#)

EDITOR'S NOTE: As this newsletter was going to press, the MTA announced a **\$51.5 billion plan** to fix New York City's transit woes. According to the *New York Daily News*, "New York City's transit network, neglected and underfunded for decades, is about to get an incredibly expensive shot in the arm."

"Metropolitan Transportation Authority officials laid out the broad strokes of a \$51.5 billion, five-year capital plan to quickly modernize the subway system, make 70 more subway stations accessible, and revolutionize the way people move throughout the region. The vast majority of the money, roughly \$40 billion, will go towards New York City Transit, including \$37.3 billion of which will be used to pay for subway projects.

"The next five-year plan will bring ramps or elevators to 66 new subway stations, and MTA leaders said they will begin work to make another four stations accessible by the end of 2019. Previous estimates only included 50 new accessible stations in the capital plan."

The disability community regards this MTA announcement as a victory in their struggle in the courts and in the streets. However, they are skeptical because of past broken promises by the MTA and NYC officials. They will continue their vigilant fight until every subway station and line has an elevator.