

NOTICE OF PROPOSED SETTLEMENT OF CLASS ACTION LAWSUIT

ATTENTION ALL INDIVIDUALS WITH MOBILITY DISABILITIES: If you have used, or attempted to use, the pedestrian right of way in the City of Boston and have encountered corners on sidewalks or other pedestrian walkways that were missing curb ramps, or curb ramps that were inaccessible because they were damaged, in need of repair, or otherwise in a condition not suitable or sufficient for use, you may be a member of the proposed Settlement Class affected by this lawsuit. This is a court-authorized notice.

A “Mobility Disability” means any impairment or medical condition that limits a person’s ability to walk, ambulate, maneuver around objects, or ascend or descend steps or slopes. A person with a Mobility Disability may or may not use a wheelchair, scooter, electric personal assisted mobility device, crutches, walker, cane, brace, orthopedic device, or similar equipment or device to assist their navigation along a pedestrian walkway, or may be semi-ambulatory.

PLEASE READ THIS NOTICE CAREFULLY. YOUR RIGHTS MAY BE AFFECTED.

NOTICE OF CLASS ACTION

The purpose of this notice is to inform you of a proposed settlement in a pending class action lawsuit brought on behalf of individuals with Mobility Disabilities against the City of Boston. The proposed class action settlement is set out in a document called a “proposed Consent Decree.” The proposed Consent Decree, which must be approved by the United States District Court before it goes into effect, was reached in the case entitled *Muehe et al. v. City of Boston*, Case No. 1:21-cv-11080-RGS, filed in the United States District Court for the District of Massachusetts.

BASIC INFORMATION

This lawsuit alleges that the City of Boston (the “City”) violates federal disability access laws by failing to install and maintain adequate curb ramps to ensure that people with Mobility Disabilities can access the pedestrian right of way. The City disputes these allegations and denies that it has violated the law.

This is a class action. In a class action, one or more “Class Representatives” sue on behalf of all people who have similar legal claims. In this case, the Class Representatives are Michael Muehe, Elaine Hamilton, Crystal Evans, and Colleen Flanagan, who are long-time Boston residents or visitors with Mobility Disabilities. In a class action, one court resolves the issues for all Class Members. United States District Judge Stearns is in charge of this class action. The Court has not decided in favor of either the Class Representatives or the City in this case. Instead, both sides agreed to a settlement.

THE SETTLEMENT CLASS

The Settlement Class includes all people with a Mobility Disability (including residents of and/or visitors to the City of Boston) who, at any time prior to court judgment granting final approval to the settlement, have been denied full and equal access to the City’s pedestrian right of way due to missing or inaccessible curb ramps.

SUMMARY OF THE PROPOSED CONSENT DECREE

The following is a summary of certain provisions of the proposed Consent Decree. To access a copy of the full Consent Decree, see the “Further Information” section below.

The proposed Consent Decree requires the City to install or upgrade an average of 1,630 curb ramps per year until a curb ramp that meets up-to-date federal disability access standards is present at every corner of the pedestrian right of way. Based on the Parties’ best estimates, this will occur by the end of 2030.

The City must install or upgrade curb ramps when it builds new sidewalks. Also, when the City resurfaces roadways, it must install or upgrade curb ramps that adjoin the roadway. The City must prioritize installing or upgrade curb ramps at corners that are near government facilities, schools, parks, transportation corridors, medical facilities, businesses, places of employment, and residential neighborhoods, in that order. It must create an “Implementation Plan” that takes these priorities into account and give the public an opportunity to comment on the Implementation Plan.

The proposed Consent Decree also commits the City to continue to maintain a system through which people with Mobility Disabilities may submit requests that the City install or upgrade curb ramps in specific locations. The City will use its best efforts to investigate each request within 30 days and to install or upgrade each requested curb ramp within one year of submission. Information about how to submit a curb ramp request will be publicly available on the City’s website (cityofboston.gov/311).

The City must maintain all curb ramps in good working order, except for temporary interruptions due to construction, maintenance, or repairs. When curb ramps are temporarily unavailable, the City will provide an alternative route that is accessible to people with Mobility Disabilities. In addition, the City must use best efforts to ensure timely removal of snow and other debris from curb ramps and sidewalks through continued enforcement of city ordinances and promptly respond to complaints concerning puddles of water that form at the bottom of curb ramps.

The proposed Consent Decree also requires the Class Representatives and the attorneys who represent the Settlement Class (“Class Counsel,” identified below) to monitor the City’s compliance with the terms of the proposed Consent Decree. The City must issue annual reports documenting the installation and upgrade of curb ramps.

RELEASE OF CLAIMS

The proposed Consent Decree resolves and releases, through the end of the Term of the proposed Consent Decree, all claims for injunctive, declaratory, or other non-monetary relief that were brought, could have been brought, or could be brought in the future relating to or arising from any of the City’s alleged actions, omissions, incidents, or conduct related to the installation, remediation, repair, or maintenance of curb ramps in the City’s pedestrian right of way. The proposed Consent Decree does not provide for any monetary relief to the Settlement Class. It does not release any monetary claims that Settlement Class Members may have, or any claims regarding components of the City’s pedestrian right of way other than curb ramps.

PAYMENTS TO CLASS REPRESENTATIVES

Subject to Court approval, the City will pay each of the Class Representatives \$5,000 in recognition of the work they performed on behalf of the Settlement Class.

REASONABLE ATTORNEYS' FEES, COSTS AND EXPENSES

Under the proposed Consent Decree, Class Counsel can apply to the Court for an award of attorneys' fees, costs, and expenses from the City to pay them for their work on the case and to reimburse them for the costs they put into the case. Class Counsel's application for attorneys' fees will be based on the "lodestar" method, which means that Class Counsel will calculate their fees by multiplying the time the attorneys and paralegals at their offices reasonably spent working on the case by their reasonable hourly rates.

The City must also pay Class Counsel their reasonable attorneys' fees, costs, and expenses for monitoring the City's compliance with the proposed Consent Decree over the years that the Decree is in effect. Plaintiff's fees, expenses, and costs for monitoring will be capped at \$70,000 per year for the first five years of the agreement and \$60,000 per year thereafter.

THE COURT'S FINAL APPROVAL/FAIRNESS HEARING

The Court has preliminarily approved the proposed Consent Decree, and has scheduled a "Final Approval" or "Fairness" hearing for **October 19, 2021 at 10:00 a.m.** at 1 Courthouse Way, Boston, Massachusetts 02210, Courtroom 21, to decide whether the proposed settlement is fair, reasonable, and adequate, and should be finally approved, as well as whether and how much to award to Class Counsel in reasonable attorneys' fees, costs, and expenses. At the hearing, the Court will consider any objections to the settlement and listen to individuals who wish to speak. As a Settlement Class Member, you have the right to be heard at this hearing, but you are not required to attend.

This hearing date is subject to change without further notice. If you wish to be informed of any changes to the schedule, please notify Class Counsel at the addresses listed below. You may also check www.gbdhlegal.com/cases/muehe-et-al-v-city-of-boston, www.CREEClaw.org/BostonCurbRamps, or the public court records on file in this action at <https://www.pacer.gov/> for any updates.

OBJECTIONS TO THE SETTLEMENT

If you do not want the proposed Consent Decree to be approved, you can ask the Court to deny approval by filing an objection. You cannot ask the Court to order a different settlement or change the settlement; the Court can only approve or reject the settlement. If the Court denies approval, the City will not be required to install and upgrade curb ramps as set out in the proposed Consent Decree. Instead, the lawsuit will continue. If that is what you want to happen, you must object. Any objection to the proposed Consent Decree must be in writing.

All written objections and supporting papers must (a) clearly identify the case name and number (*Muehe et al. v. City of Boston*, Case No. 1:21-cv-11080), (b) be submitted to the Court either by mailing them to the Clerk's Office, United States District Court for the District of Massachusetts, 1

Courthouse Way, Suite 2300, Boston, Massachusetts 02210, or by filing them in person at any location of the United States District Court for the District of Massachusetts, and (c) be filed or postmarked on or before September 20, 2021.

If you submit an objection, it should include the following information: (a) your name, address, and, if available, your telephone number and e-mail address; (b) if you are being represented by counsel, the name, address, telephone number and e-mail address of your attorney; (c) a statement identifying the specific grounds for your objections; and (d) a statement of whether your objection applies only to you, to a specific subset of the class, or to the entire class.

All objections must be submitted or postmarked on or before September 20, 2021.

All objections should also be sent to Class Counsel at the following address:

Thomas P. Murphy
DISABILITY LAW CENTER, INC.
32 Industrial Drive East
Northampton, MA 01060
(413) 584-6524
www.dlc-ma.org

You may, but are not required to, appear at the Final Approval Hearing scheduled for **October 19, 2021 at 10:00 a.m.** at 1 Courthouse Way, Boston, Massachusetts, 02210, Courtroom 21, to have your objection heard by the Court, either for yourself or through your own attorney. If you appear through your own attorney, you are responsible for hiring and paying that attorney.

Any Class Member who does not object at or before the Final Approval Hearing will be deemed to have approved the settlement and to have waived such objections and shall not be able to make any objections (by appeal or otherwise) to the settlement.

**IF YOU DO NOT OPPOSE THIS SETTLEMENT, YOU NEED NOT
APPEAR OR FILE ANYTHING IN WRITING.**

BINDING EFFECT

The proposed Consent Decree, if given final approval by the Court, will bind all members of the Settlement Class. This will bar any person who is a member of the Settlement Class from prosecuting or maintaining any claim or action released under the terms of the proposed Consent Decree.

FURTHER INFORMATION

This notice summarizes the proposed Consent Decree. For the precise and full terms and conditions of the settlement, please see the proposed Consent Decree available at www.gbdhlegal.com/cases/muehe-et-al-v-city-of-boston or www.CREEClaw.org/BostonCurbRamps, by contacting Class Counsel at the contact information below, by accessing the Court docket on this case through the Court's Public Access to Electronic Records (PACER) system at <https://ecf.cand.uscourts.gov>, or by visiting the office of the Clerk of the Court for the United States District Court for the District of Massachusetts, 1 Courthouse Way, Boston, Massachusetts 02110, between 8:30 a.m. and 5:00 p.m., Monday through Friday, excluding Court holidays.

You can also obtain more detailed information about the settlement or a copy of the proposed Consent Decree from Class Counsel at any of the following addresses:

Thomas P. Murphy
DISABILITY LAW CENTER, INC.
11 Beacon Street, Suite 925
Boston, MA 02108
(617) 723-8455
www.dlc-ma.org

Linda M. Dardarian
Goldstein, Borgen, Dardarian & Ho
155 Grand Avenue, Suite 900
Oakland, CA 94612
(510) 763-9800
www.gbdhlegal.com

Timothy P. Fox
Civil Rights Education and Enforcement Center
1245 E. Colfax Avenue, Suite 400
Denver, CO 80218
(303) 757-7901
www.creeclaw.org

Class Members may also contact Class Counsel at the following toll-free number, 1-800-531-4446, to obtain further information about the settlement or settlement documents.

Please do not telephone the Court or the Court Clerk's Office to inquire about this settlement.

To obtain copies of this Notice or the proposed Consent Decree in alternative accessible formats, please contact Class Counsel listed above.