

Transit Agency Not Liable for ADA Violations When It Complies with DOT ADA Regulations

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Sheron George, et al. v. Bay Area Rapid Transit District and the United States of America (U.S. Court of Appeal for the Ninth Circuit, Nos. 07-15661, 07-15896, August 13, 2009).

Transit agencies should breathe a little easier when it comes to relying upon accessibility guidelines and standards promulgated by the federal government. The Ninth Circuit has issued its long awaited decision clarifying that BART satisfied its obligations under the Americans with Disabilities Act (ADA) when it designed its stations in accordance with the ADA Accessibility Guidelines (ADAAG) and Department of Transportation (DOT) regulations.

BELOW IS A BRIEF SUMMARY OF THE DECISION:

Two BART passengers who were visually impaired brought suit claiming that BART had discriminated against them for failing to make accommodations they needed to navigate the BART Station. BART had complied in all respects with the DOT regulations concerning the design of public transit facilities, including accessibility requirements. The Court found that the DOT regulatory scheme was not arbitrary and capricious, and did not violate the ADA. The Court determined that the DOT regulations addressed the need to make key stations readily accessible to those with visual impairments, although perhaps not to the level that the plaintiffs preferred. The Court refused to substitute its judgment for determinations about appropriate wayfinding measures made by the Architectural and Transportation Barriers Compliance Board in developing the ADAAG, or the DOT in developing its regulations consistent with ADAAG.

The Court agreed with BART's position that transit entities following DOT regulations are entitled to a safe harbor from liability under the ADA, and that the plaintiffs cannot use the courts to impose requirements that the Architectural and Transportation Barriers Compliance Board and the DOT did not adopt when enacting the ADAAG guidelines and DOT regulations.

The Court vacated the district court's ruling that BART was liable due to noncompliance with the ADA under California Civil Code Section 54.1. As it was unclear whether the district court's finding was based upon some higher standard for access under California law, the court remanded to the district court consideration of claims that are not based on the ADA, if any.

The American Public Transportation Association, along with several transit agencies in California, participated as amicus in support of BART. APTA stressed the importance of setting standards for the design of accessible public transit facilities through the give and take of the public rulemaking process, whereby technical, architectural, transportation and policy issues for accommodating those with disabilities may be evaluated, rather than through the courts. Consistent with this view, the Ninth Circuit decision upholds the regulatory process as the appropriate forum to address accessibility standards for transportation facilities.

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