



Council of the District of Columbia  
Committee on Transportation and the Environment  
District Department of Transportation Oversight Hearing

Testimony of Peter Stephan, Staff Attorney  
Disability Rights DC at University Legal Services

February 27, 2023

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Thank you for the opportunity to testify about the performance of the District Department of Transportation (DDOT). Disability Rights DC (DRDC) is the designated protection and advocacy agency for the District. We advocate on behalf of DC residents with disabilities to promote their equal access to District government facilities open to the public, among other programs. My testimony focuses on DDOT's obligation to make the pedestrian right-of-way accessible to District residents with disabilities. Sidewalk accessibility is critical to ensuring that District residents with physical disabilities have full and equal access to government and non-governmental programs, services, and activities as required by the ADA and Section 504 of the Rehabilitation Act of 1973.<sup>1</sup> The District must also ensure people with disabilities have accessible sidewalks to be able to move freely outside of their homes and live in the community as required by the integration mandate under Title II of the ADA. *Olmstead v. L.C.*, 527 U.S. 581 (1999).<sup>2</sup>

### **DDOT Must Prioritize the Repair of the District's Sidewalks**

Maintaining the pedestrian right-of-way, which includes sidewalks, is a fundamental public transportation program, service, and activity that DDOT provides for the benefit of District residents and visitors. Title II of the ADA and Section 504 of the Rehabilitation Act require the District to ensure its sidewalks are accessible. *Barden v. City of Sacramento*, 292 F.3d 1073, 1076 (9th Cir. 2002). Accessible sidewalks, curb cuts, and ramps are necessary for people with mobility disabilities to access and navigate the pedestrian right-of-way, a core mode of transportation in the District for people with disabilities. Inaccessible sidewalks prevent District residents with

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<sup>1</sup> Title II of the Americans with Disabilities Act ("ADA"), 42 U.S.C. § 12131 *et seq.*, and Section 504 of the Rehabilitation Act of 1973 ("RA"), 29 U.S.C. § 794 *et seq.*

<sup>2</sup> In the District's 2021-2024 Olmstead plan, DDOT committed to repairing "160 to 320 blocks of sidewalk per year to ensure pedestrians have accessible routes to buildings." *Olmstead Community Integration Plan 2021-2024*, p. 45, (last accessed February 23, 2023) [https://odr.dc.gov/sites/default/files/dc/sites/odr/page\\_content/attachments/2021-2024%20District%20Olmstead%20Plan%204-29-22.pdf](https://odr.dc.gov/sites/default/files/dc/sites/odr/page_content/attachments/2021-2024%20District%20Olmstead%20Plan%204-29-22.pdf).

disabilities from independently, fully, and meaningfully participating in all aspects of society, including but not limited to employment, housing, education, transportation, public services, and recreation. Accordingly, failure to make the pedestrian right-of-way accessible constitutes discrimination against people with disabilities under federal law.<sup>3</sup>

Last year I testified before this Committee about two grassroots efforts that revealed systemic sidewalk inaccessibility, with estimates from 7,000 to over 10,000 individual sidewalk problems.<sup>4</sup> Since my last testimony, DDOT provided an update on its ADA transition plan that, after ten years, does not reflect meaningful progress to address sidewalk accessibility in the District.<sup>5</sup> As of FY21, DDOT found the majority (54 percent) of its sidewalks still are not ADA-compliant,<sup>6</sup> 71 percent (25,954 out of 36,353) of its curb ramps are not ADA-compliant, and there are only 493 Audible Pedestrian Signals (APS) at District intersections, nine percent of the 5,404 total.<sup>7</sup> These numbers highlight the systemic inaccessibility of the District's sidewalks.

DDOT's Paving Plan also fails to describe any meaningful plan to remedy the inaccessibility of the District's pedestrian right-of-way. In FY21 DDOT completed repairs on only 33<sup>8</sup> of 1,445 miles of non-compliant sidewalk,<sup>9</sup> meaning at the current pace it will take DDOT 44 years to fix all the sidewalk accessibility problems in the District, by which time new accessibility barriers will likely have developed. Similarly, at DDOT's current rate,<sup>10</sup> it is on track to fix all non-compliant curb ramps in 25 years, and fit all intersections with APS devices in 29 years.<sup>11</sup> In FY21 the District cut \$11 million from DDOT's Sidewalk Plan without explanation,<sup>12</sup> leaving \$17.2 million for sidewalk repairs, which DDOT stated enabled it to repair 33 miles of sidewalk.<sup>13</sup> DDOT noted it planned to increase that budget by \$2 million in FY22. However, this increase would not make up for previous cuts. Given the FY23 budget, it is unclear how DDOT

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<sup>3</sup> *Barden v. City of Sacramento*, 292 F.3d 1073, 1076 (9th Cir. 2002).

<sup>4</sup> DC Council Committee on Transportation and the Environment's Oversight Hearing on the DC Department of Transportation (February 18, 2022) (Testimony of Peter Stephan, Staff Attorney, Disability Rights DC at University Legal Services); Nick Sementelli and Erin Palmer. *Community leaders documented over 375 sidewalk repair requests during "Sidewalk Palooza." Here's what we learned*, Greater Greater Washington (July 2, 2021) <https://gwwash.org/view/81822/community-leaders-documented-over-375-sidewalk-repair-requests-heres-what-we-learned>.

<sup>5</sup> DDOT, *2022 ADA Transition Plan Update* (last accessed February 23, 2023) <https://ddot.dc.gov/sites/default/files/dc/sites/ddot/publication/attachments/DDOT%20FY%202022%20ADA%20Transition%20Plan%20Update.pdf>.

<sup>6</sup> *Id.* at 9. DDOT states it evaluated 2,687.27 sidewalk miles in its inventory, and found more than half, 1,445.02 miles, non-compliant with ADA standards for accessibility. This number contrasts with DDOT's Paving Plan and DDOT's FY22 Oversight Hearing Responses that cite 1,495 miles of sidewalk are in its inventory that it must maintain. <https://opendata.dc.gov/apps/DCGIS::ddot-paving-plan/explore>

<sup>7</sup> *Id.* at 8.

<sup>8</sup> DDOT, *DDOT Performance Oversight Responses FY22*, pp. 53-54 (February 10, 2022) [https://dccouncil.gov/wp-content/uploads/2022/02/FY21\\_PreHearingQuestionResponses\\_DDOTOversight\\_021022\\_FORCOUNCIL.pdf](https://dccouncil.gov/wp-content/uploads/2022/02/FY21_PreHearingQuestionResponses_DDOTOversight_021022_FORCOUNCIL.pdf) (This number contrasts with DDOT's 2022 ADA Transition Plan Update that states it completed 30.88 miles of sidewalk repairs in FY22.)

<sup>9</sup> DDOT, *2022 ADA Transition Plan Update*, p. 8.

<sup>10</sup> *Id.* (1,054 curb ramps in FY21 and 25,954 still needed).

<sup>11</sup> *Id.* (169 APS devices installed in FY21 and 4,911 still needed).

<sup>12</sup> *Id.* at 9 (citing cuts to DDOT's Sidewalk Plan in FY20 and FY21 by \$11 million, cuts to the Federal Aid Pavement Restoration Project in FY21 by \$4 million); *Id.* at 10 (citing cuts to the FY21 Local Sidewalk Restoration Citywide Project budget by \$8.7 million).

<sup>13</sup> DDOT, *DDOT Performance Oversight Responses FY22*, p. 54.

plans to realize its goal to fix 50 miles, and five months into this year DDOT has completed only three miles of sidewalk repairs.<sup>14</sup> In the same timeframe DDOT has repaved 87 miles of roads.<sup>15</sup>

DDOT must immediately triage reported sidewalk accessibility issues and then systematically repair the rest of the District's sidewalks. An analysis of the data we have on sidewalk accessibility issues reveal a majority (55.9 percent of sidewalk accessibility issues) should not take months or years to resolve because simple repairs like filling holes, replacing pavers, or grinding down moderate height differences between pavers do not require significant time, equipment or money to solve.<sup>16</sup> Yet DDOT inappropriately relies on 311 citizen-reports on sidewalk issues as a major source for prioritizing sidewalk repairs, which is problematic from a racial justice and equity perspective, as wealthier and whiter wards are consistently overrepresented in 311 sidewalk repair requests.<sup>17</sup> DDOT states publicly that they will *attempt* to resolve sidewalk repair requests in over one year (270 business days).<sup>18</sup> By comparison, DDOT's standard for pothole repairs is three business days.<sup>19</sup> Inaccessible sidewalks prevent people with disabilities from safely navigating the pedestrian right-of-way in violation of federal law, forcing them into dangerous streets or worse, preventing them from being in the community at all to do things like work, vote, shop, and recreate.

Pedestrian injuries related to inaccessible sidewalks and sidewalk crossings cost District residents not only their health and safety, but additional public funding in the form of legal settlements. In FY20 alone, DDOT paid about \$6.3 million in damages for inaccessible sidewalk and pedestrian crossing-related injuries.<sup>20</sup> And we were disappointed to see that sidewalk accessibility was an afterthought<sup>21</sup> in the Mayor's Build Back Better Taskforce report. Disconcertingly the taskforce was informed by little public outreach,<sup>22</sup> which would have alerted the taskforce to the importance of this issue. DDOT should set aside resources from the \$19 billion in federal infrastructure funding headed to the District, Maryland, and Virginia for sidewalk repairs.<sup>23</sup>

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<sup>14</sup> DDOT, *DDOT Paving Plan* (last accessed February 23, 2023)

<https://dcgis.maps.arcgis.com/apps/MapSeries/index.html?appid=76784c82ddcb4fb798769138f27c0ed3>.

<sup>15</sup> *Id.*

<sup>16</sup> Nick Sementelli and Erin Palmer. *Community leaders documented over 375 sidewalk repair requests during "Sidewalk Palooza." Here's what we learned*, Greater Greater Washington (July 2, 2021),

<https://ggwash.org/view/81822/community-leaders-documented-over-375-sidewalk-repair-requests-heres-what-we-learned>.

<sup>17</sup> DC 311 Service Request Map (last 30 days) (last accessed February 24, 2023),

<https://dcgis.maps.arcgis.com/apps/webappviewer/index.html?id=dca9e27c4c9d4c24a02cb2c5006beac2>.

<sup>18</sup> DDOT, *Sidewalk Repair* (last accessed February 23, 2023) <https://ddot.dc.gov/service/sidewalk-repair>.

<sup>19</sup> DDOT, *Pothole Repair* (last accessed February 23, 2023) <https://ddot.dc.gov/service/pothole-repair>.

<sup>20</sup> DDOT, *DDOT Performance Oversight Response Attachments FY21*, pp. 283-287 (February 10, 2022)

<https://dccouncil.gov/wp-content/uploads/2022/02/ddotatt.pdf>.

<sup>21</sup> Build Back Better Infrastructure Task Force, *Report to Mayor Muriel Bowser* (November 17, 2022)

<https://infrastructure.dc.gov/sites/default/files/dc/sites/infrastructure/DCBBBITF-MMB-Report-Master-11-17-22.pdf>.

<sup>22</sup> *Id.* at Appendix 4.

<sup>23</sup> Jordan Pascale, *At least \$19 billion from the infrastructure bill is heading to D.C., MD, VA. Here's what they hope to do with it*, DCist (November 18, 2021), <https://dcist.com/story/21/11/18/at-least-19-billion-from-the-infrastructure-bill-is-heading-to-d-c-md-va-heres-what-they-hope-to-do-with-it/>.

## **Conclusion**

The District prides itself on being an accessible city,<sup>24</sup> but these systemic sidewalk accessibility issues demonstrate that the District is not truly accessible. DRDC is calling on this Committee in its oversight and budgeting capacity to require DDOT to make a significant investment of resources and employees to remediate the District's broken and missing pedestrian infrastructure to ensure equal access for people with disabilities.

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<sup>24</sup> District of Columbia Government, *Accessibility Information in Washington, DC* (last accessed February 23, 2023) <https://washington.org/DC-information/accessibility>.