

**Exhibit A: COMPLAINT IN INTERVENTION OF THE UNITED STATES OF  
AMERICA**

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

AMERICAN COUNCIL OF THE BLIND OF METROPOLITAN CHICAGO,  
ANN BRASH, MAUREEN HENEGHAN, and RAY CAMPBELL, on behalf of  
themselves and all others similarly situated,

Plaintiffs,

v.

CITY OF CHICAGO,

Defendant.

No. 19 C 6322

Judge Bucklo

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UNITED STATES OF AMERICA,

Plaintiff-Intervenor,

v.

CITY OF CHICAGO,

Defendant.

**COMPLAINT IN INTERVENTION OF THE UNITED STATES OF AMERICA**

The United States of America, having moved to intervene in this action and that  
motion having been granted, alleges as follows:

**Introduction**

1. This is a disability rights enforcement action by the United States of America against the City of Chicago, seeking to remedy the city's failure to provide people who are blind, including those who are deaf-blind or have low vision, equal access to pedestrian safety information at intersection crossings, which the city provides almost exclusively through visual-only pedestrian signals. The United States seeks declaratory, injunctive, and compensatory relief for this violation of Title II of the Americans with Disabilities Act of 1990 (the "ADA"), 42 U.S.C. §§ 12131-12165, and its implementing regulations, 28 C.F.R. Part 35, and Section 504 of the Rehabilitation Act of 1973 ("Section 504"), 29 U.S.C. § 794, and its implementing regulations for recipients of federal funding from the U.S. Department of Transportation, 49 C.F.R. Part 27.

2. This complaint uses the term "blind" to encompass individuals who are entirely without sight, those who are legally blind or have low vision, and those who are "deaf-blind," meaning that they have both little to no vision and little to no hearing.

3. Chicago has installed visual-only pedestrian signals that provide safe-crossing information at approximately 2,689 city intersections. Chicago has equipped only 15 of those intersections with signals that are accessible to people who are blind. Thus, over 99 percent of the street intersections where Chicago deems it necessary to provide pedestrians with safe-crossing information are inaccessible to people who are blind.

4. Accessible pedestrian signals ("APs") convey safety information at intersections to people who are blind through sounds, audible speech, and vibrating tactile buttons, in much the same way that a visual signal reading "walk" or "don't walk" conveys safety information to sighted pedestrians.

5. Chicago's failure to install APs at signalized intersections in the city endangers people who are blind by depriving them equal access to the same safe-crossing information that Chicago provides to sighted pedestrians. This is unlawful discrimination under the ADA and Section 504.

### **Jurisdiction and Venue**

6. This Court has subject matter jurisdiction over this ADA and Section 504 action under 28 U.S.C. §§ 1331 and 1345.

7. The Court may grant the relief sought in this action pursuant to 42 U.S.C. § 12133, 29 U.S.C. § 794a, and 28 U.S.C. §§ 2201 and 2202.

8. Venue lies in this district pursuant to 28 U.S.C. § 1391(b), because the defendant resides in this district, and the acts or omissions set out herein occurred in this district.

### **Parties**

9. Plaintiff-intervenor is the United States of America. The United States, through the Department of Justice, is authorized to enforce the ADA and Section 504.

10. Defendant City of Chicago is the largest municipality in the state of Illinois and the third largest city, by population, in the United States. It is a “public entity” within the meaning of Title II of the ADA, and a recipient of federal funds, including funds from the United States Department of Transportation, making it subject to the accessibility requirements of Section 504.

### **Facts**

#### **I. Statutory and Regulatory Background**

##### **A. The Americans with Disabilities Act**

11. Congress enacted the ADA in 1990 to provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities. 42 U.S.C. § 12101(b)(1). In enacting the ADA, Congress found that “discrimination against individuals with disabilities persists in such critical areas as ... transportation, communication, recreation ... and access to public services[,]” and that the forms of discrimination encountered by individuals with disabilities include “the discriminatory effects of architectural ... and communication barriers,” “failure to make modifications to existing facilities and practices,” and “relegation to lesser services, programs, activities, benefits, jobs, or other opportunities[.]” *Id.* § 12101(a)(3), (5).

12. Title II of the ADA requires that “no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.” 42 U.S.C. § 12132; *see also* 28 C.F.R. § 35.130(a).

13. Chicago's installation and maintenance of pedestrian signals that provide safe-crossing information at street intersections throughout the city constitute a service, program, or activity under the ADA. *See* 42 U.S.C. § 12132; 28 C.F.R. § 35.130(a).

14. People who are blind and who travel or seek to travel through Chicago's signalized street intersections are qualified individuals with disabilities under the ADA. *See* 42 U.S.C. § 12131(2); 28 C.F.R. §§ 35.104, 35.108.

**B. Section 504 and Chicago's Receipt of Federal Funds**

11. Section 504 of the Rehabilitation Act prohibits a "qualified individual with a disability," solely by reason of her or his disability, from being "denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." 29 U.S.C. § 794(a).

12. Chicago's Department of Transportation ("CDOT") is the agency within the City of Chicago that oversees installation, alteration, and maintenance of signalized intersections within Chicago, including pedestrian signals at those intersections. It is a recipient of federal funds from the U.S. Department of Transportation.

**II. Chicago's Widespread Lack of APSs Unlawfully Discriminates Against People Who Are Blind.**

17. More than 2.7 million people reside in the City of Chicago. According to a U.S. Census 2018 Community Survey cited by the Chicago Mayor's Office for People with Disabilities, more than 111,000 Cook County, Illinois residents have a visual disability. Beyond residents, many millions of commuters and visitors come to Chicago every year, including individuals who have visual disabilities.

**Q. Chicago Provides Safe Crossing Information at 2,689 Intersections Through Visual Signals.**

18. Chicago has determined that it is necessary to provide safe-crossing information by installing pedestrian signal devices at 2,689 street intersections (hereinafter referred to as "signalized intersections," *i.e.*, intersections with electronic equipment to

direct the flow of traffic and to signal safe-crossing information to pedestrians).

19. All of those 2,689 intersections are equipped with visual pedestrian signals that employ textual or pictorial walk/don't walk and/or countdown signals to communicate safe-crossing information to sighted pedestrians.

**R. Chicago Fails to Provide Accessible Safe-Crossing Information to People Who Are Blind at Over 99 Percent of the Intersections Where It Has Installed Pedestrian Signals.**

18. People who are blind cannot read the walk/don't walk and/or countdown signals on visual-only pedestrian signals.
19. Accessible pedestrian signals ("APSs") are devices that provide people who are blind with safe-crossing information by communicating information about pedestrian signal timing in a non-visual format, such as audible tones, speech messages, and vibrotactile surfaces. An APS device is commonly attached to the pole and includes a tactile pushbutton with a three-dimensional arrow directing pedestrians to the adjacent crosswalk. The APS device emits a soft "locator tone" every second, which allows blind pedestrians to locate it as they approach the intersection. When pressed, the APS button responds with an audible message telling the pedestrian to "walk" or "wait," which corresponds to the visual signals provided to sighted pedestrians. The push button itself also vibrates to alert pedestrians who are deaf-blind that it is safe to walk.
20. Although Chicago protects sighted pedestrians by providing visual signals for crossing 2,689 intersections, it has installed APSs at only 15 of those intersections.
21. At over 99 percent of Chicago's signalized intersections, people who are blind do not have access to safe-street-crossing information that Chicago provides to sighted pedestrians, and they must use less safe and less reliable methods than sighted pedestrians to cross intersections.
22. Such methods include listening for the sound of vehicular traffic moving parallel to their direction of travel to indicate that it may be safe to cross the street. This method can be unreliable for

many reasons, including inconsistent traffic patterns and the many competing noises in an urban setting.

23. In addition, Chicago's elevated or 'L' train travels above many of the city's street intersections, producing a loud, even thunderous, sound that can drown out the sound of vehicular traffic.
24. While 'L' trains are in transit above a non-APS signalized intersection, people who are blind must wait until the 'L' train has passed before crossing, often through multiple traffic cycles, as these pedestrians lack the same safe-crossing information that their sighted peers receive from Chicago's visual-only signals.
25. Chicago also has many complex, six-way intersections, at which it is difficult for pedestrians who are blind to discern the sound of parallel traffic and to orient themselves in the direction of an adjacent crosswalk.
26. Additionally, an increase in the presence of electric vehicles, which are much quieter than traditional vehicles, has made using the sound of vehicular traffic as a cue for safe-crossing a riskier practice.
27. In addition, Chicago has installed leading pedestrian intervals ("LPIs") at many intersections with visual-only signals, making crossing those intersections even more dangerous than before for people who are blind.
28. The LPI signal notifies pedestrians to begin crossing the street before parallel vehicular traffic receives a green light, giving those pedestrians a "head start" or extra time to enter the crosswalk before parallel vehicular traffic begins to move and turn right into the crosswalk. For those who can use an LPI, it improves safety because drivers can readily see pedestrians in the crosswalk before turning and thus more easily avoid hitting them.
29. For people who are blind, however, installing LPIs without APSs makes crossing even less safe because blind individuals will not know about the LPI, and will only begin to cross when they hear the parallel vehicular traffic begin. Consequently, people who are blind are deprived of extra seconds of crossing time provided to sighted pedestrians, and drivers may get a false sense

that no more pedestrians will cross when the traffic light turns green because sighted pedestrians will have already stepped into the crosswalk.

30. Similar to LPIs, Chicago has installed exclusive pedestrian phases (“EPPs”) but no APSs at various intersections. In an EPP intersection, vehicular traffic is stopped in all of the intersection’s directions while pedestrians in all directions are given safe-crossing signals. As with an LPI, if the pedestrian signals provide visual-only safe crossing information at an EPP intersection, people who are blind are denied the benefit of the EPP and will only know when it is safe to cross by relying on the sound of parallel vehicular traffic.

31. As a result of Chicago’s failure to provide APSs at signalized intersections, people who are blind are denied benefits and services provided to sighted pedestrians and face risks and burdens not experienced by sighted pedestrians, including:

a. Fear of injury or death, including fear of just leaving home to get to work or social or community engagements. Once out of the house and traversing Chicago, the lack of APSs increases risk of harm or death when crossing the street: one aggrieved individual, plaintiff Maureen Heneghan, was hit by a car while crossing at a Chicago intersection not equipped with APS, and another aggrieved individual, plaintiff Ann Brash, was nearly hit by a bus at a signalized crossing without APS but was pulled to safety by a stranger.

b. Having to use alternate and more circuitous routes than sighted pedestrians to avoid crossing at certain signalized intersections because of safety concerns.

c. Added delays and expenses not experienced by sighted pedestrians, because individuals who are blind may forgo travel by foot to avoid the danger of crossing signalized intersections without APSs, and use a hired ride service for even short distances.

d. Increased anxiety, frustration, and embarrassment, and decreased independence, when attempting to navigate the city’s signalized intersections.

**S. Chicago Has Attempted to Increase APS Installation Since at Least 2006, but Repeatedly Failed to Meet Its Own APS Goals and to Provide Equal Access to People Who Are Blind.**

18. Since at least 2006, Chicago officials have communicated internally regarding the need for APSs as a means to provide accessibility for and protect the safety of people who are blind.

19. A December 13, 2007 memorandum from the then-Commissioners of the Mayor's Office for People with Disabilities ("MOPD") and CDOT to Chicago's then-Mayor, with the subject "Accessible Pedestrian Signal Initiative Update," states:

In 2006, MOPD formed an APS Advisory Committee . . . In 2008, we intend to launch a pilot project that will begin the installation of APS at approximately *40 street corners throughout the City* . . . [to be] installed around blind service organizations, corners specifically requested by blind individuals, and at intersections that [] are difficult and dangerous to cross. . . . The APS initiative is a tremendous step forward for improving pedestrian safety and accessibility for our blind and visually impaired residents and visitors.

(Emphasis in original).

20. As of 2012, however, Chicago had installed APSs at only seven of its intersections.

21. In 2012, Chicago published a Pedestrian Plan, describing an APS as "a traffic signal that provides auditory and/or vibrotactile information to people who are blind or have low vision," that "should be installed where there is a need to provide additional crossing information," and "should be considered at locations with LPIs to provide information to people who are blind or have low vision." The plan included a goal statement to improve "pedestrian safety at signalized intersections." That safety goal included milestones to implement "accessible pedestrian signals at ten intersections by 2014" and include "accessible pedestrian signals with all new traffic signals by 2016."

22. Chicago did not meet either of the 2012 plan's APS milestones. Chicago installed only one APS in 2013 and then



none were installed for five more years, until the next APS was installed in 2018.

23. Between 2012 and 2018, Chicago installed dozens of visual-only pedestrian signals at intersections throughout the city.

24. In 2018, the city informed community members that it intended to install APSs at approximately 50 intersections, with potentially additional locations to follow, and would consider community input in selecting locations for APS installation.

25. On May 14, 2019, CDOT published a memorandum requiring APS installation at new signals and “full” but not “partial” modernizations, while requiring that other technological enhancements be installed or considered for installation at all partial modernizations.

26. Chicago newly installed at least nine signalized intersections without APS since publication of the 2019 CDOT memorandum.

27. In July 2019, the city held a press conference and issued a press release announcing its APS plans, including that “[u]p to 100 intersections will get new traffic signals that aid persons with blindness or low-vision in the next two years through efforts of CDOT and Mayor’s Office of People with Disabilities.”

28. Despite the promise of APSs at 100 intersections within two years, as of one year later, July 2020, Chicago had installed an APS at only one additional intersection.

29. As of October 8, 2020, Chicago asserts that it has installed APSs at 15 intersections.

30. In February 2020, Chicago produced a table of “Planned APS Locations,” listing 113 intersections where it plans to install APS, the last four of which have an “Anticipated Project End” date of “2024 Q4.”

31. Even if the city’s February 2020 plan were to come to fruition, Chicago would have APSs at fewer than four percent of its signalized intersections by the end of 2024.

**First Claim for Relief**  
**Violation of the Americans with Disabilities Act, 42 U.S.C. § 12132**

48. The United States respectfully incorporates the allegations of paragraphs 1 through 47 as if fully set forth herein.

49. Chicago's provision of visual pedestrian signals at thousands of intersections, while providing APS at less than one percent of those intersections, denies qualified people who are blind with equal access to safe-crossing information.

50. As a result, the City of Chicago is in violation of Title II of the ADA, 42 U.S.C. §§ 12131-34, and its implementing regulation, 28 C.F.R. Part 35.

**Second Claim for Relief**  
**Violation of Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794**

51. The United States respectfully incorporates the allegations of paragraphs 1 through 47 as if fully set forth herein.

52. The City of Chicago's traffic signal program is administered by the Chicago Department of Transportation ("CDOT"). CDOT receives federal grant funds for that program from the U.S. Department of Transportation. Chicago's provision of visual pedestrian signals at thousands of intersections, while providing APS at less than one percent of those intersections, denies qualified people who are blind solely on the basis of disability, with equal access to safe-crossing information.

53. As a result, the City of Chicago is in violation of Section 504 of the Rehabilitation Act, 29 U.S.C. § 794, and its implementing regulation for recipients of federal funding from the U.S. Department of Transportation, 49 C.F.R. Part 27.

**Prayer for Relief**

WHEREFORE, the United States of America prays that the Court grant the following relief:

A. Grant judgment in favor of the United States on its complaint and declare that the City of Chicago has violated Title II of the ADA, 42 U.S.C. §§ 12131-34, and its implementing regulations, 28 C.F.R. Part 35, and Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, and its relevant

implementing regulations, 49 C.F.R. Part 27, by denying individuals who are blind equal access to pedestrian signal safety information;

B. Enter an injunction requiring the defendant to provide individuals who are blind equal access to pedestrian signal safety information;

C. Award compensatory damages in an appropriate amount for injuries suffered as a result of Chicago's failure to comply with Title II and Section 504; and

D. Award such other additional relief as justice may require.

Dated: April 8, 2021

Respectfully submitted,

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Northern District of Illinois

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