

## **IMPORTANT NOTICE TO ALL PEOPLE WITH DISABILITIES WHO USE WHEELCHAIRS OR SCOOTERS IN DENVER**

Notice of Class Action: A class action lawsuit is currently pending involving a challenge to curb ramps within the City and County of Denver. The lawsuit is filed in state district court and is called *Denny v. City and County of Denver*, Case No. 2016CV030247, District Court, City and County of Denver, 1437 Bannock Street, Denver, CO 80202. The lawsuit alleges that Denver has violated Title II of the Americans with Disabilities Act (“ADA”) and Section 504 of the Rehabilitation Act of 1973 (“Section 504”) with regard to the installation, maintenance, and design of curb ramps that permit people who use wheelchairs or scooters to access and use the City’s pedestrian right of way.

The following class was certified by the Court on March 9, 2016:

All persons with disabilities who use wheelchairs or scooters for mobility who, through the date of preliminary approval of the Settlement Agreement, use or will use the pedestrian right of way in the City and County of Denver.

The Court has appointed Margaret Denny as the representative of this class.

The parties to the lawsuit have negotiated a proposed settlement that resolves claims relating to inaccessible curb ramps for individuals who use wheelchairs or scooters. In those negotiations, Plaintiff and the Plaintiff Class are represented by Timothy P. Fox and Sarah M. Morris of CREEC and Kevin W. Williams of the Colorado Cross-Disability Coalition (“Class Counsel”). The Defendant is represented by Robert G. Wheeler, Assistant City Attorney for the City and County of Denver.

Coverage of the Settlement: The proposed settlement covers all curb ramps within the City and County of Denver. It covers City street segments with sidewalks, and does not apply to (1) components of the City’s sidewalk system other than curb ramps, (2) street segments that do not contain sidewalks but do contain bus stops, and (3) curb ramps adjacent to roads that comprise the State Highway System as defined in Colo. Rev. Stat. § 43-2-101 and -102.

Proposed Class Action Settlement: The Class Action Settlement Agreement (“Settlement Agreement”) provides that the City will come into compliance with the ADA and Section 504’s curb ramp requirements. Primarily, the Settlement Agreement provides that the City will install or cause the installation of 1,500 curb ramps per calendar year until compliant curb ramps are in place at all locations within the City and County of Denver where street level pedestrian walkways cross curbs adjacent to City owed right of way. Of this 1,500, a minimum of 400 of the 1,500 ramps installed each year will be installed at locations (1) requested through the City’s existing request procedure, which it agrees to maintain and/or (2) where street level pedestrian walkways cross curbs and no curb ramp currently exists.

Your Rights as a Class Member: If you are a person with a disability who uses a wheelchair or scooter for mobility and who, through March 9, 2016 has experienced any problems with the

**Please read this Notice carefully. It affects your legal rights.**

pedestrian right of way in the City and County of Denver as a result of your disability, you are a member of the proposed Settlement Class.

The Court has granted Preliminary Approval of the Class Action Settlement Agreement. A hearing will be held on **July 25, 2016 at 9:00 a.m.** in Courtroom 203 of the Denver District Court, in Denver, Colorado to evaluate the fairness of the Settlement Agreement, and to decide whether to grant Final Approval. The date of this hearing may change without further notice to the class. If the Settlement Agreement is given Final Approval, all Class members will be bound by the provisions of the Settlement Agreement with respect to claims for injunctive relief and attorneys' fees and costs under the ADA and Section 504 relating to curb ramps.

Any and all such injunctive claims that curb ramps within the City and County of Denver are in violation of these statutes with respect to access for individuals who use wheelchairs or scooters will be barred while the Settlement Agreement is in effect. The Settlement Agreement, if approved, will not release claims for damages other than by the Named Plaintiff Margaret Denny, and any damages claims CREEC and CCDC may have brought on behalf of themselves only and not their members or members of the Class. Thus, you do not have to object in order to be able to assert claims for damages in your own lawsuit, although you may not recover damages through this class action. No Class member can "opt out" of the Settlement Agreement, but members of the Class may object to the Settlement Agreement as described below.

Class Counsel plans to seek up to \$122,000 in attorneys' fees and costs for negotiating and obtaining approval for this Settlement Agreement. Class Counsel will also be entitled to fees, which are capped at no more than \$100,000 per year, for any work performed in the implementation, enforcement, dispute resolution, or other monitoring of the settlement.

If you wish to object to the settlement or to speak at the hearing, you must send the Court a written objection to the settlement and/or notice of your intent to appear at the hearing on or before **May 23, 2016** at the following address: Honorable John William Madden, IV, District Court, City and County of Denver, Courtroom 203, 1437 Bannock Street, Denver, CO 80202, and to the following: (1) Timothy P. Fox, Co-Executive Director, Civil Rights Education and Enforcement Center, 104 Broadway, Suite 400, Denver, CO 80203, and (2) Denver City Attorney's Office, Attn: Robert G. Wheeler, Assistant City Attorney, 201 W. Colfax Ave., Dept. 1207, Denver, CO 80202.

How to Get Further Information: The Settlement Agreement is also available on the website of the Civil Rights Education and Enforcement Center, [www.creeclaw.org](http://www.creeclaw.org), and of the Colorado Cross-Disability Coalition, [www.ccdconline.org](http://www.ccdconline.org). If you have any questions, you may also contact CREEC at [info@creeclaw.org](mailto:info@creeclaw.org) or 1-888-461-9191.

**Please read this Notice carefully. It affects your legal rights.**