

Testimony before the City of Milwaukee
Public Works Committee
Attorney Shirin Cabraal
March 5, 2008

Thank you for this opportunity to comment on the DPW Report on Bus Stop and Pedestrian Ramp Snow Clearing. My name is Shirin Cabraal. I am a managing attorney at Disability Rights Wisconsin, the Protection and Advocacy agency for people with disabilities in the State of Wisconsin.

DRW testified before your committee previously about the hardship faced by people with disabilities and those who are elderly, due to the City of Milwaukee's failure to keep the sidewalks, curb cuts, ramps and bus stops clear of snow and ice. In response to that and other testimony presented at the previous hearing, your committee passed a resolution, File No.071235, requiring the DPW to prepare a plan to the Common Council within 30 days specifying how it will clear all snow and ice from curb cuts and Milwaukee county bus stops by hand shoveling or other methods within 24 hours after the snow and ice has ceased to fall.

I have reviewed the DPW report and the letter from the City Attorney. I have also reviewed the statutes and ordinances referred to in the letter submitted by the City Attorney, and done some additional research on the subject. I now wish to present the following testimony in support of the proposition that the city is indeed primarily responsible for clearing snow and ice from city bus stops, sidewalks, curb cuts, ramps and crosswalks.

I would first like to say that it is disappointing to me and to other people with disabilities that the city has not chosen to obtain any input from us prior to issuing this report. Consumer input is vital to the success of a plan such as this and to its implementation, where the measure of success depends on consumer satisfaction.

In addressing the city's plan, I will separately address who is responsible for clearing snow and ice from various locations: 1. sidewalks, curb cuts and ramps; 2. mounds of snow blocking curb cuts; 3. bus shelters, sidewalks, curbs and curb cuts surrounding bus shelters

1. Sidewalks:

City ordinance 116-8 requires property owners or occupants abutting a paved public sidewalk or crosswalk to remove and clear away snow and ice on the entire paved surface within 24 hours after the snow has ceased falling. The ordinance does not specify curb cuts and ramps but since they are part of the "crosswalk", it may be to be included within the responsibility of the property owner or occupant.

However, common law, and state statutes, at § 66.0907 (5) Wis. Stats., **place primary responsibility for keeping the sidewalks clear, on the city.** "[T]he board of public works shall keep the sidewalks of the city clear of snow and ice in all cases where the owners or occupants of abutting lots fail to do..." The city is authorized to charge the property owner or occupant for the cost. See also, *Kobelinski v. Milwaukee and Suburban Transport Corporation*, 56 Wis. 2d 504, 202 N.W. 2d 415 (1972), where the Wisconsin Supreme Court stated that, "[a] city cannot delegate its primary responsibility to maintain its sidewalks, nor delegate or limit its primary liability by ordinance. Thus, the city must either enforce the snow removal ordinance in a timely manner, or have the snow removed and charge the property owner or occupant.

2. Mounds of snow blocking curb cuts and ramps.

The city attorney acknowledges that under the ordinance, the city has an obligation to remove **barriers to curb cuts and ramps it affirmatively creates due to snow plowing operations.**

This is very significant. The major obstacle for people with mobility impairments are these mounds of snow resulting from the mechanical plowing of the streets. Even if a property owner or occupant shovels the sidewalk, if the curb cut and ramp are blocked by mounds of snow, access is denied to the person with the mobility impairment.

The question then arises, when is it a "reasonable" time for the city to remove these mounds of snow, so pedestrians can walk or wheel themselves across the streets. The answer seems to be obvious. If the city requires property owners to clear their sidewalks within 24 hours of the end of a snowfall, then the city must consider that to be a "reasonable" length of time. The city must then also be held to that same standard. The city's current practice of using all its resources to clear the streets in the first 48 hours after a snowfall, without clearing the bus stops and curb cuts, unfairly discriminate against pedestrians in general and people with disabilities in particular.

3. Bus shelters and surrounding areas

As for the bus shelters, the city's agreement with the county essentially says that the county is responsible for keeping the "bus shelters free of debris and snow". Thus, the surrounding bus loading areas still remain the responsibility of the city. Mass transit is a benefit to city residents, so the city must share in the responsibility of maintaining these areas, so city pedestrians can safely access the buses.

In closing I would like to say that, making public walkways accessible for all pedestrians, including people with disabilities, by clearing snow and ice, is the right thing to do. I urge the committee to appropriate the funds necessary to enable the city to do so.