



## CALIF V. CITY OF LOS ANGELES (2011) Legal Brief

# Communities Actively Living Independent and Free (CALIF) v. City of Los Angeles

Case #: CV 09-0287 CBM (RZx) U.S. Dist Ct., Central Dist of CA (2011)

*In this recent decision of the U.S. District Court (California), the City of Los Angeles emergency preparedness plan was challenged for its alleged failure to accommodate persons with disabilities under the federal Americans with Disabilities Act (ADA) and other state-based claims. Facts, issues and specific rationales related to the court's decision are summarized below.*

## Facts

As the lead plaintiff, CALIF represents over 800,000 individuals with disabilities living within the City of Los Angeles (LA or the city). It alleges that LA's 200+ page emergency operations plan fails to address how the city will meet the unique needs of individuals with disabilities in the event of an emergency. For example, noted the court, LA's plan refers to over 200 shelter sites, but only a few of these sites were known to be compliant with the ADA. Most of the proposed sites had not even been assessed for their ADA compliance. In 2008, LA's Department on Disability reported that the city was not in compliance with the ADA, and made a number of recommendations. Except for conducting limited site assessments, the city had not acted on these recommendations suggesting alternatively that the American Red Cross (ARC) was responsible for shelter and care of individuals with disabilities in the event of an emergency despite no record of any agreement between ARC and the city to provide such care.

## Issues

The primary issue is whether LA violated federal and state disability discrimination laws by failing to make appropriate provision for individuals with disabilities in its emergency preparedness plan. Specifically, CALIF alleges that the city violated: (1) ADA Title II; (2) Section 504 of the federal Rehabilitation Act of 1973; and (3) the California Disabled Persons Act (CDPA), among other claims.



## Holding

Granting CALIF's motion for summary judgment, the court held that LA violated federal and state disability laws because individuals with disabilities are disproportionately burdened by the city's failure to consider their unique needs in the administration of its emergency preparedness plans.

## Reasoning/Rationale/Rule

CALIF argued that it was entitled to summary judgment on all legal claims because the city admitted, as part of their emergency preparation plans, that it had not included any provisions to notify, evacuate, transport or shelter individuals with disabilities. Such failures allegedly placed persons with disabilities at higher risk in the event of an emergency.

The city countered that it had not engaged in any affirmatively discriminatory actions, and that there was no evidence that anyone with a disability had requested or was refused reasonable accommodation from the city.

Following a brief discussion of the reasoning for the enactment of the ADA and Rehab Act Section 504, the court found that although the city's actions were facially neutral, the emergency plan placed additional burdens on individuals with disabilities because it failed to address their unique needs. The city argued that its plan was general in scope. Specific tactical programs were to be conducted and addressed by individual city departments. However, the city failed to produce evidence from any department demonstrating plans in place to address the needs of disabled individuals in an emergency. Failing to assure that pre-identified shelters were ADA compliant, the court opined that the city imperiled individuals with disabilities because they would not know which, if any, available shelters were accessible. The court also emphasized that there were no plans in place to notify those with auditory impairments or to evacuate, transport or temporarily shelter individuals with disabilities.

The city's arguments that it did not intentionally engage in any affirmative discriminatory actions, nor had it denied a reasonable accommodation to anyone who had requested one, were unpersuasive. The purpose of an emergency plan is to *anticipate* the future needs of all residents, reasoned the court. That the city had not taken affirmative discriminatory acts was irrelevant. Dismissing the city's view of the importance of personal planning and preparation, the court emphasized that the city's emergency plan needed to accommodate all residents. Failing to address the needs of individuals with disabilities in an emergency plan constituted unlawful discrimination.

Concerning next steps, the court did not detail the adequacy of the plan or how the city may rectify the plan's deficiencies. The court's analyses focused primarily on the absence of distinct plans to address the needs of the disabled during an emergency. The parties are expected to participate in a settlement conference in early March 2011 at which time the court will consider plans from both sides to correct the deficiencies in the emergency plan.

## SUPPORTERS



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