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September 12, 2007

Hon. Madeleine Meilleur
Minister of Community and Social Services
80 Grosvenor Street
Hepburn Block, 6th Floor
Toronto, ON M7A 1E9

Dear Minister:

Re: AMO Response to the Initial Proposed Transportation Standard

The Association of Municipalities of Ontario (AMO) appreciates the opportunity to provide comments on the proposed Transportation Standard (T-S) as developed under the *Accessibility for Ontarians with Disabilities Act (AODA)*.

As you are aware, Alex Milojevic, Manager, Business Strategies, Works and Transportation, City of Brampton had the privilege to participate on the Transportation Standard Development Committee. We are pleased that the Ministry of Community and Social Services has acknowledged the value and importance of municipal input to this process. As you know, municipalities remain at the forefront of providing barrier free access to citizens with disabilities in their communities.

To begin with, we are pleased that you extended the period for which to develop the Standard. We are hopeful that this indicates your commitment to clear, measurable and sustainable (fiscally responsible) progress in providing accessible services while balancing the needs of all-customers and stakeholders alike.

As such, we believe that our comments are invaluable to ensuring that municipalities are able to sustain their efforts in creating accessible communities and to achieving the long term objectives of the AODA.

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Key Considerations

While previously communicated to you in our submission on the Proposed Customer Service Standard, we believe it is important to reassert the principles and key considerations by which to move forward on in the implementation of the AODA.

AMO supports the principles of accessible customer service for persons with disabilities: dignity, equity, inclusion, independence, responsiveness and sensitivity, as we support the spirit and intent of the AODA. What we recognize as being essential to achieving these principles and the long-term objectives of the Act, is a balanced, measured and sustainable approach that can maintain the progress necessary to fulfill the desired vision.

The challenge ultimately lies in some of the decisions that shape the path to the vision; the key one being that the AODA is not supported by a realistic means to realizing it - specifically, sustainable funding. As it stands, municipalities, who are leaders in laying the foundations for accessibility and barrier free communities may now be hampered and sanctioned in their efforts.

Specific to the Transportation Standard as currently proposed, AMO is very concerned that certain aspects of the Standard (for example, section 6.3.2) will have detrimental impacts on municipalities, resulting in not only service reductions, but in some areas, potentially, the cessation of public transit services. This probable outcome runs contrary to your Government's understanding that transit services need to be improved and increased not eliminated or reduced. It would be difficult to rationalize increased spending on one hand, while on the other hand, proposed regulations under the AODA would undermine achieving higher levels of transit accessibility.

In the absence of long-term sustainable funding, it is imperative that the cost and benefits of this Standard be weighed against the objective of the AODA and, most importantly, the recognition that this Standard is one of a number under the legislation that municipalities must bear full responsibility for implementing. The Government of Ontario must carefully consider the current fiscal capacity of municipalities and how this will impact community sustainability, economic progress and vulnerable Ontarians, including seniors, low-income Ontarians, new immigrants, youth and those this legislation is aiming to help, persons with disabilities.

Municipal Context

Municipalities are currently faced with a significant "fiscal imbalance". Municipalities are challenged with infrastructure deficit, expectations for service standard compliance requirements and the untenable provincial requirement of funding social and health services from the municipal property tax base. The current arrangements are not sustainable and do not work for people in our communities. It is difficult to imagine that adding the cost of implementing this important piece of legislation to the overburdened property tax payer has been clearly thought out. In light of the current fiscal realities facing municipalities, it is essential that new legislated standard requirements be accompanied by sustainable funding. In the absence of funding support, as stated, the Government should anticipate the reduction if not elimination of transit services in some municipalities across the province.

Through the current Provincial-Municipal Fiscal Review and the recent, important announcement of the \$935 million Ontario Drug Benefit and Ontario Disability Support Program upload, the Government has recognized the fiscal strain under which municipalities must currently operate to provide services. To implement this Standard alone, the municipal cost is anticipated to be approximately \$500 million (1.7 times higher than the provincial costing) with an additional \$16 million annually in ongoing costs. Again we caution against decisions that will result in perverse outcomes, for example, the benefits of an important upload of costs being muted by the municipal costs to implement provincial legislation - the AODA.

A related concern is the cost of compliance, particularly when one considers the cumulative cost impact of complying with all the common and sector specific standards. It is an important concern even though it is argued that the cost will be incurred over time and that pay back, both in terms of economic activity and having a more inclusive society is assumed. The impact will vary depending on the operating and fiscal environment of each municipality. Fundamentally however, the Province is placing expectations - fulfilled through compliance and enforcement - on municipalities without reasonableness or funding. As indicated above, AMO is concerned with the accuracy of the related Transportation Standard Readiness Assessment and Estimated Cost Report with respect to the true cost and the related impacts associated with Standard compliance. There is no dispute to the Readiness Assessment's position on the importance of investing in accessibility, however it fails to comment on the cumulative impact of having to comply with common and sector specific standards and the current and planned investment in accessibility over and above those components identified as incremental costs. Further, the comparison of the incremental cost to planned industry expenditure has the potential to create unreasonable expectations in that it fails to recognize that such planned expenditure also requires long term sustainable funding.

It is questionable whether the related Transportation Standard Readiness Assessment and Estimated Cost Report accurately assesses the true cost and related impacts associated with Standard compliance. Based upon a representative sample of detailed costing completed by individual transit systems from across the province, the estimated incremental cost of \$290 million for public transit services is significantly understated, with the actual incremental cost being approximately \$500 million or 1.7 times higher than provided in the report. Further, the 2025 annual ongoing cost is estimated at \$16 million per year. While referencing the importance of investing in accessibility (a position not in dispute), the document does not comment on the cumulative impact of having to comply with common and sector specific standards, and the current and planned investment in accessibility over and above those components identified as incremental cost. Further, the comparison of the incremental cost to planned industry expenditure could create expectations that are not sustainable. The projected expenditures to furthering accessible public transit services will require long term sustainable funding.

Comments and Recommendations

It should be noted, that AMO's response and recommendations support and reflect those put forward by the transit industry. As such, you will be familiar with the comments and recommendations outlined below.

On balance, when viewed in its entirety, we believe the public transit service section of the Standard constitutes a reasonable approach. This view recognizes the following considerations:

- 1) The recognition in the Standard of an Ontario best practice with reference to the concept of a family of accessible public transit services versus simply adopting the historic view of delivering conventional transit and para transit as separate and distinct services;
- 2) The Standard offers service providers flexibility, working in concert with their advisory committees and other stakeholders to determine how best to address the issues of accommodation with respect to accessible public transit service delivery in their communities. This flexibility recognizes the unique differences and capacities of municipalities and the corresponding challenges each will have in addressing the Transportation Standard, as well as all common standards to be developed under the AODA;
- 3) The Standard provides a variety of implementation timeframes, noting the 5 year assessment period provides the opportunity to ensure reasonable and measurable steps are taken by the Province, municipalities and service providers toward attaining the overall goals of the AODA; and
- 4) The Standard and associated implementation timeframes address all disabilities collectively, in a fair and equitable manner which will result in better, more accessible services for communities at large versus the focused, one-off approach resulting from Human Rights Complaints, which often results in resources being allocated to addressing the needs of one specific disability.

While AMO is generally supportive of the Transportation Standard, a number of issues remain that warrant comment and consideration:

- 1) All common and sector specific standards developed under the AODA must be harmonized. The current standard development process provides for a phased introduction of the respective standards, which further underlines the critical need for harmonization. The challenge of harmonization would be mitigated if all standards were finalized and reconciled prior to coming into force. This requirement is supported by the following:
 - the need to consider the cumulative financial impact of all standards, particularly in determining compliance dates and class definitions, and the expected resulting need to prioritize competing standards;
 - the clear link or interdependency of the standards, e.g. compliance requirements under the Transportation Standard will be impacted by a requirement under the Built Environment Standard; accessibility standards relating to sidewalks, passenger amenities etc. which have a direct impact on providing accessible public transit services;
 - the need to ensure consistency (or reconciliation) of “class” definitions for respective standards;

- the need to ensure consistency in compliance dates for linked standards;
 - the need to ensure consistency in terms of terminology, definitions, requirements and presentation for all standards, for example the existing difference in definitions in separate standards for persons or items having the same role. i.e. “personal care attendant” per the Transportation Standard versus “accessibility support person” per the Customer Service Standard; and
 - the need to ensure consistency in the many potential compliance reporting and administrative tasks that will be associated with the common and sector specific standards.
- 2) Similar to the reconciliation and/or harmonization of the standards as a collective, the standards should be harmonized with related existing legislated requirements/standards, e.g. *Ontario Building Code, Highway Traffic Act, Ontario Human Rights Code*. Reconciliation of competing requirements and/or inconsistent enforcement processes should not be left to the judicial process to be determined after the Standards are legislated.
 - 3) The process for assessing/determining compliance with all standards must be defined. There has to be a clear understanding of what the process entails by those expected to comply, prior to the standards coming into force.
 - 4) Compliance with the standard has to be balanced against the issues of :
 - safety; and
 - fiscal capacity, competing demands for resources, local priorities and current initiatives, and the requirement to comply with all common standards as well as sector specific standards.
 - 5) There is a need to develop and distribute “standard interpretation guidelines” for each standard prior to being adopted into regulation. Guidelines are critical to ensuring consistent understanding, clarification and application of all standards, particularly with respect to how each standard relates to other accessibility standards, existing legislation and diverse operating environments. As such, the proposed interpretation guidelines should only be developed with input and participation from AMO and respective stakeholders.
 - 6) There needs to be consideration of and processes developed to address issues concerning cross boundary service provision. This is an issue of concern not only to Standard implementation but also compliance.

In Conclusion

Finally, while AMO has expressed its support for the principles and spirit of the AODA, we have indicated that the success of the legislation hinges on the need for a realistic means to implementation - sustainable funding. We have also stated the importance for harmonization and coordination of the standard development and implementation process, which should include employee training requirements. We are concerned that the difficulty a staggered

process will pose for municipalities, both fiscally and regarding human resource commitments, has not been recognized within the Customer Service Standard regulation. One example of this disregard is the reduced training timeframes to 2 years for public sector organizations and 4 years for private sector.

We are troubled that the recommendations captured in our submission on the Customer Service Standard have not been taken into consideration thereby resulting in multiple training cycles for employees on one piece of legislation. This is untenable and will have significant cost and time impacts. This is especially troubling given that municipalities remain unsupported in the implementation of this provincial legislation.

With standard development in three significant areas - employment, information and communications and the built environment - currently underway, we are extremely concerned that the implementation of the AODA will continue in a siloed and fractured manner without regard to the broader political and fiscal context. AMO is hopeful, that in the absence of provincial support through long-term sustained funding, our recommendations will be given due consideration in future decisions on the implementation of the AODA.

On behalf of AMO, we thank you for the opportunity to comment on the proposed Standard and anticipate that our comments and recommendations can support you in implementing the legislation as it fully deserves and needs to be. We welcome any comments or questions on our submission.

Sincerely,



Doug Reycraft
President

- cc. Hon. John Gerretsen, Minister of Municipal Affairs and Housing
Andrew Posluns, Director, Urban Affairs & Stakeholder Relations Branch, MMAH
Scot Weeres, Director, Standards, Development and Compliance Branch, MCSS
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