



March 16, 2011

Sent via email
integratedaccessibilityregulation@ontario.ca

Ellen Waxman
Assistant Deputy Minister
Accessibility Directorate of Ontario
Ministry of Community and Social Services
777 Bay Street, Suite 601A
Toronto, ON M7A 2J4

Dear Ms. Waxman:

**Re: AMO Response to the Proposed Integrated Accessibility Regulation
under the *Accessibility for Ontarians with Disabilities Act, 2005***

The Association of Municipalities of Ontario (AMO) is a non-profit organization representing almost all of the 444 municipalities across all of Ontario's regions. One of AMO's key objectives is to ensure that our work with the provincial government results in policies and programs that are implementable for all municipalities - those that are large, small, northern, remote, rural and urban - in a reasonable, affordable and sustainable way.

Since 2005, AMO has been working with its members and the government to ensure that the *Accessibility for Ontarians with Disabilities Act (AODA)* will achieve its stated objectives for the majority of Ontarians with disabilities.

In our October 2010 submission on the draft proposed Integrated Accessibility Regulation (IAR), one of the key recommendations put forth was a slight adjustment in the timelines for implementing the integrated regulation pertaining to the Employment, Information and Communication and Transportation standards. Our rationale for increasing the staggered implementation timelines was, and continues to be, that in the absence of funding to support municipalities in meeting the *AODA* objectives, more time is needed to implement what is being asked.

In reviewing the current proposed IAR, it is difficult to understand why a slight timeline adjustment - an adjustment that would ensure the standards could be implementable by municipalities and that the majority of Ontarians would realize the benefits of the *AODA* - has not been accommodated.

It is AMO's contention that the IAR, as currently drafted, will result in a significant underachievement of the goals and objectives of the *AODA*. What will result is that the majority of the governments and municipalities' scarce resources will be used to respond to issues of enforcement and compliance come January 2012.

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This submission reiterates AMO's key concerns and recommendations as identified in our October 2010 response. This submission also addresses concerns to new areas in the IAR relating to:

- Lack of clarity in requirements within the standards;
- Lack of clarity in definitions and language; and
- Training requirements.

Revisiting AMO's Issues and Recommendations:

AMO has been very active on the accessibility file since the introduction of the *AODA* in 2005. AMO has participated in numerous consultations and working groups with stakeholders and with the government in an effort to provide good policy advice and direction for the sole purpose of ensuring that the *AODA* is implementable in an affordable, efficient and sustainable manner.

The approach of consolidating the *AODA* standards into a common regulation addresses a number of the concerns previously raised by AMO with respect to the harmonization of the standards, including the need for common definitions (although greater clarity is still needed) and the ability to consolidate like - requirements in order to make the maximum use of scarce resources. Further, it provides for a single reference point with respect to *AODA* legislation, making it easier for organizations to access and assess requirements and to plan for and achieve compliance.

However, a number of concerns remain outstanding for AMO and its members, most notably the further need for harmonization across standards and government initiatives and the ability of the current municipal capacity to meet the provincial expectations that have been set out on the integrated regulation.

The Cost of Implementing the AODA:

An example of provincial priorities at cross purposes is demonstrated through the government's "Open for Business" initiative, aimed to "make Ontario more attractive for business development while protecting the public interest."

According to the Ontario Regulatory Policy, regulations which affect business "must be justified by a solid business case"; "have a clear assessment of the total costs and benefits, including those to business, the public and government administration"; and, "be accompanied by a regulatory impact assessment that addresses, at a minimum, the impact on the access of persons, goods, services and investments".

AMO does not believe that the integrated regulation and implementation of the standards meets these objectives.

The fiscal cost of implementing the *AODA* standards remains unaddressed. It is difficult to assess the feasibility of implementing government requirements in the absence of understanding the cost of doing so. AMO believes that the proposed standards and all requirements under *AODA* require a thorough cost-benefit analysis.

It is only with this understanding that municipalities can determine whether the goals and timelines as set out in the integrated regulation are achievable without undermining municipalities' resource capacities and competitiveness.

Municipal governments must balance the cumulative impact of all provincial requirements as well as local requirements and ongoing obligations. And similar to the provincial government, the economy remains a leading concern for municipalities. In some communities, for example, where manufacturing has been particularly hard hit, or in northern communities, that have struggled with a long economic decline, new obligations will be challenging to meet.

The Martin Prosperity Institute report, "Releasing Constraints: Projecting the Economic Impacts of Increased Accessibility in Ontario," highlighted the potential benefits of the standards under the *Accessibility for Ontarians with Disabilities Act, 2005*, including:

- an increase of up to \$1.6 billion in new tourism revenue;
- an additional increase in total sales of between \$3.8 and \$9.6 billion; and
- up to \$359 million in employment income.

The report contends that these benefits will be experienced by businesses within communities and could result in both business and economic growth.

However, the report fails to demonstrate how untapped spending power will in fact benefit municipalities. Sales taxes and employment taxes benefit the provincial and federal governments. While some municipalities may benefit from some additional tourism dollars, all municipalities will be facing significant cost increases and budgetary pressures to meet the provincial mandate of the *AODA*. Municipalities will not benefit from any direct cost offsets.

It is for this reason that AMO continues to advocate for the implementation of the *AODA* in a manner that is flexible and responsive to local needs and capacities and recognizes the true cost of getting implementation right.

The report commissioned from the Martin Prosperity Institute, does not tell the full story of accessibility as it does not address the costs or any other potential impacts of implementing the *AODA* standards. This does not satisfy the requirement in the Regulatory Policy for an impact assessment including risks, costs, and potential impact on trade or investment.

Recommendation:

AMO believes that the proposed standards and all requirements under AODA require a thorough cost-benefit analysis.

AMO requests that an independent regulatory impact assessment of the proposed regulation be conducted prior to the passage of any further regulations under the AODA, including the integrated Standard.

Harmonization:

The consolidation of the three standards into one regulation is beneficial and eliminates the duplication of effort and potential conflict within each of the standards. AMO also appreciates that the Information and Communication and Employment standards have been streamlined with the requirements relating to employment being more policy and process based in recognition of the evolution of employment law.

Through these changes, the government has indicated the need for a planning process that ensures existing law and policies are not in conflict with emerging initiatives. And, while the Ministry of Community and Social Services has consolidated the presentation of the three standards, the issue of harmonization has not been fully addressed.

The fact that the Built Environment standard is still under development and recognition of the government requirements for example under Bill 168, speak to the need for planning processes that not only provides municipalities the opportunity to maximize its resources but also to ensure that expectations under the AODA do not conflict with such serious matters like violence in the work place. This concern will be most relevant in relation to a number of expectations in the transportation standard that place requirements on operators that are in direct conflict with Bill 168.

The IAR requires that all employees (as applicable to their duties), be trained on all aspects of the requirement set out in the regulation by January 1, 2014 for large public organizations. The previous request for training to be streamlined is to provide organizations to plan for and deliver training that is efficient and reduces service disruption. While the requirement for training has been spelled out in one section, there remain several other sections in the document that will require employee training in order for an organization to be in compliance, many of which are required prior to the January 1, 2014 date. This approach will result in the requirement for numerous cycles of training for the same employee group, which is a waste of constrained resources and is a clear example of the ongoing request for harmonization.

Recommendation:

That training be harmonized and respond to AMO's request for staggered implementation timelines of a minimum of two years from the OPS implementation timeframe.

Implementation Timelines:

All along, AMO's efforts have been to ensure that the objectives of the AODA can be realized. A key recommendation put forth by AMO that would support measurable and sustainable progress towards an accessible Ontario - in a way that all municipalities could afford - both fiscally and operationally - was to revise the timelines for implementation. Specifically, AMO asked that municipalities begin implementing the standards two years after the provincial government.

• ***Rationale for proposed timelines:***

Best Practices:

- Municipalities will require a period of time to learn from the provincial implementation and to adjust the best practices of the province to the large, medium and small municipal environment - a one year time lag, or, staggered in year start dates does not provide sufficient time to provide and adapt lessons learned.
- The most efficient and effective method of implementing the proposed regulations across the municipal sector is to provide the opportunity for medium sized organizations to learn from the large organizations and small organizations to learn from the medium sized organizations.
- This trickle down implementation strategy is effective for small and medium sized municipal organizations and will result in the implementation of best municipal practices which leads to lasting and sustainable change.
- This method of information transfer from the OPS to, and, between municipalities of different sizes, limits the need for small local municipalities to hire dedicated human resources or consultants to implement the legislation.
- If time is not provided for small and medium sized municipalities to learn and copy best practices from the larger municipalities, they will have a much higher per capita implementation cost for the legislation.

Staggered Completion Dates:

- For many municipalities in Ontario, the administrative responsibility for the implementation of the standards will be the responsibility of a single resource person.
 - Providing staggered completion dates will ensure the administration will not be overwhelmed trying to implement more than one standard in a single year. Again, this approach provides an opportunity to make lasting, sustainable change.
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Funding AODA Standards:

- In addition to the time required to implement the new standards, municipalities must also be provided the time to plan for the funding of the new standards.
- Without the proper period of time to fund the implementation of the new standards in a normal business cycle, the ultimate success of the implementation of the *AODA* standards cannot be assured and lasting change will be difficult to achieve.
- For capital intensive *AODA* projects, it is imperative that municipalities be permitted the opportunity to place these purchases in their normal business cycle.
- In recent years, the Province of Ontario has required municipalities to fund capital projects through a Tangible Capital Asset Funding Program.
- The province's proposed timeline would circumvent proper municipal financial planning processes by not providing the appropriate time to develop the necessary funding for new capital initiatives. In addition, the current proposed implementation timelines for some aspects of the standard fall outside of the current municipal budgeting process.
- Specifically, the province's proposal to immediately require new capital expenditures for the transportation standard circumvents proper municipal financial planning and it puts the financial health of the municipality at risk by requiring that capital investment be completed outside of the normal business cycle.
- Municipalities have just completed their 2010 budget approval processes, which called for budget forecasts for 2011-2013, forecasts that in all likelihood did not include specific resources related to potential *AODA* requirements given the uncertainty around the standards and related compliance timelines.

Distribution of Completion Dates Through 2025:

- AMO's recommendations on implementation timelines are consistent with provincial commitments on the *AODA*.
 - On several occasions, the Premier has assured municipalities that they will have appropriate time to implement and fund the standards.
 - In a letter to LUMCO dated October 30, 2006, the Premier stated that the implementation of standards would not need to be completed prior to 2025 and that municipalities would be provided the ability to implement the standards in their normal business cycle.
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- The timelines proposed by the province front-load the implementation of the standards prior to 2016 and do not reflect the Premier's commitment.

An even distribution of the completion dates will provide the appropriate time for municipalities to fund and implement the new standards while realizing the provincial obligations and objectives of the Act.

Recommendation:

Provide for a Minimum 2 Years Between OPS and BPS Compliance Timelines.

Transportation:

AMO supports the Transit Industries Response to the IAR.

The cost implications for the transportation standard are believed to be significant. Provisional estimates, for certain smaller transit systems, would see the annual ongoing operating costs equate to upwards of 50% of the current operating costs.

The estimated costs associated with compliance of the proposed Integrated Regulation are significant and likely will require some or all of the following courses of action:

- higher passenger fares;
- increased fare subsidy support from municipal taxpayers;
- cuts to existing services and/or deferral of planned service expansion/growth in response to growing demand and customer expectations; and
- potential re-allocation of the Provincial Gas Tax funding since it is allocated on a ridership growth and population basis. The funds are largely intended to support growth initiatives. The use of the funds to accommodate, in whole or in part, AODA requirements will impact transit expansion, which has already been compromised given the Province's elimination of the Ontario Bus Replacement program.

AMO has heard from its membership that in the absence of revised timelines or supportive funding to support the implementation of the transportation standard, many providers will be unable to not only meet current transit demands but also requirements under the standard. Smaller transit providers will be faced with the possibility of service degradation.

Recommendation:

AMO supports the transit industries recommendations identified in the joint CUTA/OPTA submission and calls on the government to respond.

Information and Communication Standard:

The implementation of the requirements in the IAR relating to information and communication remain of concern. The assumption that municipalities have the resources and capacity to understand the highly technical WCAG.20 is not a fair one.

Recommendation:

AMO asks that the government provide appropriate timing and resources to support municipalities in the implementation of requirements including a three year advance timeframe as well as ongoing.

Clarification on requirements, definitions and language:

Areas within the IAR are unclear and vague as to the expectations they attempt to address. This includes the following:

- Organizations are expected to “incorporate accessibility criteria and features when procuring or acquiring goods, services or facilities, except where it is not practicable to do so”: this expectation is not defined and requires clarification;
- Some sections require actions to be carried out “upon request” or that information is provided “upon request as soon as practicable”. Consistency is important to ensure expectations are met. It makes sense to add the definition “upon request” to the standard.
- The Employment Standard now includes the term “suitable accommodation”. While both vague and not consistent with legislative language it is recommended that “suitable” be removed.
- Emergency planning: the scope and the definition of “public safety information” is unclear. While AMO understands and supports the need for planning and the availability of information in this area, we request clarification on both the requirement for planning and the scope of the requirement. We advise that consultation be undertaken with appropriate experts be undertaken to establish a reasonable and achievable target.

Recommendation:

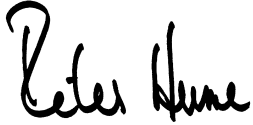
See above.

The aggressive standards’ timelines are setting up a no-win situation which is contrary to our shared policy interest and principles. AMO believes that in the absence of the adoption of the above recommendations, many municipalities will at best, only be able to meet minimal requirements for accessibility or be in non-compliance. We offer our best advice to the government so that we can collectively succeed at the implementation of a shared policy

interest. AMO understands the government's desire to get this right. We are providing the above insight and recommendations in our shared desire for sustainable change.

We look forward to the continued opportunity to work together on this important effort.

Yours truly,

A handwritten signature in black ink that reads "Peter Hume". The signature is written in a cursive style with a large, prominent initial 'P'.

Peter Hume
President