TO: CHAIR AND MEMBERS  
BOARD OF CONTROL  
MEETING ON OCTOBER 21 2009

FROM:  
TOM JOHNSON  
DIRECTOR, CORPORATE MANAGEMENT SUPPORT

SUBJECT: CITY OF LONDON SUBMISSION TO THE INDEPENDENT REVIEW OF THE ACCESSIBILITY FOR ONTARIANS WITH DISABILITIES ACT, 2005

RECOMMENDATION

That, on the recommendation of the Director, Corporate Management Support, the attached written submission to Charles Beer, Independent Reviewer of the Accessibility for Ontarians with Disabilities Act, 2005, BE APPROVED for submission.

PREVIOUS REPORTS PERTINENT TO THIS MATTER

- London Transit Commission presentation to the joint meeting of the Community and Protective Services and the Environment and Transportation Committees, July 17, 2006
- "City of London Accessibility for Ontarians with Disabilities Act Update" Report to Board of Control, August 23, 2006
- "Accessibility for Ontarians with Disabilities Act, 2005" Report to Board of Control, November 14, 2007
- "Accessibility for Ontarians with Disabilities Act, 2005 Update Report" Report to Board of Control, October 8, 2008
- "City of London Response to the Proposed Accessible Information and Communications Standard for Public Review" Report to Board of Control, January 28, 2009
- "City of London Response to the Final Proposed Transportation Accessibility Standard for Public Review" Report to Board of Control, March 25, 2009
- "LTC’s Response to the Proposed Employment Standard" Information Item to Board of Control, April 8, 2009
- "City of London Response to the Employment Accessibility Initial Proposed Standard" Report to Board of Control, April 29, 2009
- "City of London Response to the Initial Proposed Accessible Built Environment Standard" Report to Board of Control, September 30, 2009

BACKGROUND

On June 12, 2009, the Ministry of Community and Social Service announced the appointment of Charles Beer to conduct an independent review of the Accessibility for Ontarians with Disabilities Act, 2005 ("AODA"). This review is required under section 41 of the AODA to be conducted within four years of the Act coming into force, and must include a public consultation process.
Review of Act
41. (1) Within four years after this section comes into force, the Lieutenant Governor in Council shall, after consultation with the Minister, appoint a person who shall undertake a comprehensive review of the effectiveness of this Act and the regulations and report on his or her findings to the Minister.

Consultation
(2) A person undertaking a review under this section shall consult with the public and, in particular, with persons with disabilities.

Contents of report
(3) Without limiting the generality of subsection (1), a report may include recommendations for improving the effectiveness of this Act and the regulations.

Tabling of report
(4) The Minister shall submit the report to the Lieutenant Governor in Council and shall cause the report to be laid before the Assembly if it is in session or, if not, at the next session.

Further review
(5) Within three years after the laying of a report under subsection (4) and every three years thereafter, the Lieutenant Governor in Council shall, after consultation with the Minister, appoint a person who shall undertake a further comprehensive review of the effectiveness of this Act and the regulations.

Purpose of the Review
As noted in section 41, the review process is intended to be a comprehensive examination of the AODA and result in recommendations for improving the effectiveness of the AODA and its standards. The review is not intended to make recommendations on the content of the standards but rather on the process by which they have been developed and, in the case of the Customer Service Standard, the effectiveness of implementation efforts. In particular, Charles Beer has requested that the public provide specific feedback on:

- The Standards Development Committee process
- The role of Municipal Accessibility Advisory Committees
- The functions of the Accessibility Directorate of Ontario, including public education
- Recommendations for a repeal strategy for the Ontarians with Disabilities Act, 2001

Public Consultation Process
Charles Beer is conducting his review process in two formats: hosting public consultation meetings and receiving written submissions from the public.

Beer hosted four public consultation sessions across Ontario (Sudbury, Ottawa, Toronto and London) during October 2009. Members of the public were invited to either make a presentation or attend as an observer. Mayor Anne Marie DeCicco-Best presented to Beer at the session in London on October 20. Civic Administration have also participated in a number of sector-specific meetings with Beer, one with the Association of Municipalities of Ontario (AMO) and one with the Association of Municipal Managers, Clerks and Treasurers of Ontario (AMCTO) Accessibility Working Group.

City of London Submission
Civic administration’s interdepartmental AODA Steering Committee has prepared a proposed written submission to Charles Beer as attached. This submission includes the following 15 recommendations on each of the four topics listed above, as well as comments on the need for support to assist municipalities in achieving implementation of the AODA standards:

1. We urge the Ministry to undertake a comprehensive harmonization review to ensure that unnecessary conflicts, duplication and overlap in the AODA standards are resolved prior to any further regulations being enacted; and, that no further regulations should come forward until this review of the AODA is complete.

2. We recommend that all future Regulations under the AODA be released in draft form for review prior to enactment as Regulation.

3. We recommend that the Ministry engage an independent consultant to perform a detailed, financial analysis in consultation with affected sectors in order to determine the cumulative financial impact of all of the AODA standards, and to understand the impact of the AODA on Ontario’s competitiveness.

4. We recommend that municipalities be actively consulted in the standard development process as a government partner.
5. We urge the Province to identify a funding source to assist municipalities and other organizations in achieving compliance.

6. We recommend that flexibility and the ability to focus on community priorities be incorporated as key principles of implementation in future regulations.

7. We recommend that the standard development committees be provided with adequate technical, expert, and support resources to ensure that they are able to develop well considered public policy proposals.

8. We recommend that the standard development committees be encouraged to take advantage of the 2025 timeline in setting reasonable, achievable compliance timeframes.

9. We recommend that the Ministry maintain its approach under the AODA to continuing existing Accessibility Advisory Committees with a mandate to advise Council and Departments on accessibility priorities.

10. We recommend that organizations required to produce an accessibility plan be encouraged to continue to do so for four-year periods to encourage long-range strategic planning.

11. We request that the ADO continue to develop implementation resources for future regulations, and release these resources at the time of regulation enactment.

12. We recommend that the ADO play a greater role in public education about the AODA standards to ensure that all organizations required to comply are aware of their responsibilities. We suggest this be done through three formats: (1) administering a public education campaign; (2) developing a closer relationship to industry and sector organizations; and, (3) making improvements to the AccessOn website.

13. We recommend that the ADO produce sector-specific resources to assist with implementation in the form of regular interpretation bulletins.

14. We recommend that annual compliance reporting on the AODA standards be collected through a simple web-based form and that the reporting for all AODA standards in effect should be done through one streamlined process.

15. We recommend that the ODA be repealed, but that its elements of local flexibility be incorporated into the AODA.

Written submissions have been requested to be submitted electronically up until October 30, 2009.

CONCLUSION

The City of London generally supports the spirit and intent of the Accessibility for Ontarians with Disabilities Act. Civic Administration has been actively interested and engaged in the standard development process with all five AODA standards. The City of London has submitted responses during the public review period for each AODA standard. The attached letter and appendices is a draft submission to Charles Beer in response to the review of the AODA process. Regular updates will be provided to Board of Control and City Council as the standards evolve and the City of London works toward compliance.

PREPARED BY:

KATE GRAHAM
MUNICIPAL POLICY SPECIALIST

RECOMMENDED BY:

TOM JOHNSON
DIRECTOR, CORPORATE MANAGEMENT SUPPORT AND AUDIT SERVICES

SUBMITTED BY:

DON IKEHO
SENIOR MANAGER - MANAGEMENT SUPPORT AND AUDIT SERVICES
October 27, 2009

Charles Beer, AODA Review
c/o Accessibility Directorate of Ontario
Ministry of Community and Social Services
777 Bay Street, Suite 601A
Toronto Ontario M7A 2J4

Dear Mr. Beer:

RE: Review of the Accessibility for Ontarians with Disabilities Act, 2005

I am writing to you on behalf of The Corporation of the City of London ("Corporation") to provide feedback to your review of the Accessibility for Ontarians with Disabilities Act, 2005 ("AODA"). The Corporation has been actively interested and engaged in the standard development process, and we support the ideals and objectives of the AODA. We are confident that our shared commitment with the Ministry of Community and Social Services will ensure a more inclusive, accessible Ontario in the future.

We appreciate the leadership that the Ministry of Community and Social Services has taken in providing a consultative process through the public review of each of the Accessibility for Ontarians with Disabilities Act, 2005 ("AODA") standards, and now of the effectiveness of the AODA in general. We are pleased to have this opportunity to provide feedback to your comprehensive review of the AODA.

We have organized our comments into six sections: general comments; the role of municipalities; the standard development committee process; the role of municipal accessibility advisory committees; the functions of the Accessibility Directorate of Ontario; and, the repeal strategy for the Ontarians with Disabilities Act, 2001 ("ODA"). For each section we have provided a series of recommendations which we would encourage you to reference in your report. A summary list of these recommendations is attached as Appendix A.

General Comments

The Corporation continues to support the intent of the AODA and its standards. We believe that removing barriers improves the quality of life for Ontarians of all ages and abilities. Accessibility is a priority both for the Province of Ontario and for all municipalities, and we are proud of the many achievements that we have made in improving accessibility in our communities. However, these improvements must be made in a sustainable, responsible way which balances the need for accessibility with many other community needs and public priorities. For this reason among others, we are concerned with the approach being taken in the development of the AODA standards.

The AODA envisions a fully accessible Ontario by 2025, and yet the compliance timeframes for most requirements in the draft standards have ranged from immediate to within a matter of a few years. In the case of the Accessible Customer Service Standard, municipalities are required to be fully compliant by 2010, a period of two years from passage of the regulation. Many requirements conflict and overlap between standards, and the timelines have not been harmonized over a reasonable timeframe. The implementation costs for the standards have not been adequately reflected in the costing reports, and we are concerned that the Ministry does not have a full understanding of the cumulative financial impact. For these reasons, we offer the following general recommendations to improve the effectiveness of the AODA and the standard development process:

1. We urge the Ministry to undertake a comprehensive harmonization review to ensure that unnecessary conflicts, duplication and overlap in the AODA standards are resolved prior to any further regulations being enacted; and, that no further regulations should come forward until the harmonization review of the AODA is complete.

The AODA standards have been developed by independent committees working on independent timelines. It is therefore understandable that the standard development committees ("SDCs") may not be fully aware of the scope,
application and timelines of the other standards. It is our position that it is the
Ministry's role to ensure the harmonization of the standards.

In the case of the Accessible Customer Service Standard, the City of London has
already spent over $80,000 on employee training. This does not include the
additional cost of the disruptions and loss of productivity that we will incur when
training over 3000 staff within a period of a few months by the end of 2009. We
anticipate that several other standards will also have training requirements.
These requirements should be harmonized to minimize the financial and
operational impact of implementation.

Mr. Beer, while we appreciate that the content of the standards is outside of the
scope of your review, we ask that you recommend from a process perspective
that the Ministry undertake a comprehensive harmonization review to ensure that
unnecessary conflicts, duplication and overlap in the AODA standards are
resolved prior to any further regulations being enacted. This review should also
ensure that the standards are harmonized with related existing legislative
requirements. The need for harmonization is consistent with the objective of the
Provincial Government's "Open for Business" initiative which is intended to
eliminate obsolete, duplicate, contradictory and/or competing requirements in
provincial regulations. We recommend that no further regulations should come
forward until a harmonization review, as well as your review of the AODA, is
complete.

We support the "An Approach to Harmonization of the AODA Standards" position
as developed by the London Transit Commission on behalf of the Ontario
Transportation Industry. We have attached a copy of this document to this letter
as Appendix B.

2. We recommend that all future Regulations under the AODA be released in draft
form for review prior to enactment as Regulation.

The Accessibility Standards for Customer Service, Ontario Regulation 429/07,
was enacted without opportunity for review by stakeholders of the technical
language in that standard. Issues with the clarity and interpretation of the
language in the standard have arisen subsequent to release which could have
been avoided if an opportunity for public review had been provided prior to
enactment. There is precedent for this process, particularly in cases where the
regulation contains detailed, technical information where clarity of purpose and
technical feasibility is critical to the success of the Regulation.

3. We recommend that the Ministry engage an independent consultant to perform a
detailed, financial analysis in consultation with affected sectors in order to
determine the cumulative financial impact of all of the AODA standards, and to
understand the impact of the AODA on Ontario's competitiveness.

As noted in our responses to each of the proposed standards, we have been
seriously concerned with the costing reports. Based on our analysis, none of the
reports that have been released provided an adequate or accurate assessment
of the actual financial impact. In the case of the Built Environment costing report,
there was no assessment done for some of the most significant aspects of the
proposed standard such as extensive renovation and change of use. In the case
of the proposed Employment Standard, the report stated that the estimated $650
million compliance cost could simply be accommodated by shifting the priorities
of Human Resources staff. These reports have not provided complete
information to the SDCs or to the Ministry on the actual, cumulative cost of AODA
implementation for the public or private sector. It is our fear that the sheer cost of
compliance could have serious implications for attracting and retaining business
in Ontario, and could lead to Ontario being uncompetitive with other provinces
and internationally.

In light of the potential province-wide financial impact of the AODA standards,
further impact analysis is required to ensure that the Ministry is fully aware of the
economic implications prior to the adoption of any further regulations. We request
that an independent financial analysis be commissioned with two specific
objectives: (1) to determine the cumulative financial impact of all of the AODA
standards, and (2) to understand the impact of the AODA on Ontario's
competitiveness. Understanding the actual financial impact prior to the
enactment of Regulations is crucial.
Role of Municipalities

The municipal sector is a longstanding champion of accessibility in Ontario. Many municipalities including the City of London have been actively engaged in the AODA standard development and review process. Municipal sector organizations such as the Association of Municipalities of Ontario ("AMO") and the Association of Municipal Managers, Clerks and Treasurers of Ontario ("AMCTO") have established committees that provide input into the standard development committees and during the public review periods. Many municipalities have also taken initiative to improve accessibility in their communities, such as the City of London in developing the Facility Accessibility Design Standards ("FADS") in 2001 (revised in 2006), a standard which has since been adopted by over 60 other municipalities and organizations.

In addition to being champions of accessibility, municipalities are also critical to the success of the AODA. Municipalities were a key component to the implementation of the Ontarians with Disabilities Act, 2001 ("ODA") and will continue to support the Ministry's accessibility priorities in compliance with the AODA. However, given the important role of municipalities, support for and engagement with the municipal sector needs to be continued and enhanced. Specifically, our recommendations with respect to the role of municipalities are:

4. We recommend that municipalities be actively consulted in the standard development process as a government partner.

We appreciate that the municipal sector through AMO have had representatives on each of the standard development committees, and have been engaged in the public consultation process for each standard. However, as noted earlier municipal governments play a particularly critical role in the implementation of the AODA standards. In the case of the Built Environment Standard, municipalities will be disproportionately affected as most elements in the public built environment such as roads, sidewalks, buildings, parks, and more. We recommend that municipalities be actively consulted in each stage of the standard development process to ensure that the necessary municipal expertise is reflected in the resulting standards.

5. We urge the Province to identify a funding source to assist municipalities and other organizations in achieving compliance.

As noted under recommendation #2, we fear that the Ministry is not fully informed on the cumulative financial cost of implementation. Our preliminary analysis approximates that the consultant reports have significantly underestimated the actual cost. Even municipalities are struggling to budget for the long-term resource needs for AODA implementation as we have received no clear, conclusive estimate of the financial and other resources that will be required. The private sector is facing this same challenge. Unless the Province can identify a source of funding to assist municipalities and other organizations to achieve implementation, achieving compliance within unreasonably aggressive timelines could result in a necessary degradation to services and could make Ontario uncompetitive with other provinces.

In cases where municipalities may be required to act as an administrative body, such as with the proposal in the draft Accessible Built Environment Standard that administration be vested within existing processes such as through municipal Chief Building Officials, provincial funding will be particularly necessary to ensure the effectiveness of the legislation.

6. We recommend that flexibility and the ability to focus on community priorities be incorporated as key principles of implementation in future regulations.

As noted, municipalities have been leaders in accessibility. Under the ODA, municipalities such as the City of London adopt annual accessibility plans to guide the Corporate efforts to remove accessibility barriers in municipal services. The City of London has developed these plans with our Accessibility Advisory Committee ("AAC") based on local needs and priorities. We believe that this has been a very successful approach which encourages innovation, community collaboration, and a high level of engagement of people with disabilities in local governance.
Our concern is that provincially mandated accessibility standards are unduly prescriptive and could result in a limited ability of the AAC to lead the accessibility initiatives in their community based on local needs and priorities; rather, the focus will be on compliance activities rather than finding local solutions to local problems. We will discuss this in more depth in our comments on the role of the AAC. Our recommendation, in general, is that flexibility and community priorities be incorporated as key principles of implementation in future regulations.

The Standards Development Committee Process

We have stated in each of our responses to the proposed standards during public review periods that we are seriously concerned with the fragmented approach to the development and implementation of the AODA standards.

As noted in recommendation #1, we believe that all standards under the AODA need to be harmonized prior to becoming regulation. The current approach creates unnecessary confusion and limits the ability of organizations to develop holistic accessibility implementation plans. We have recommended that all standards under the AODA be harmonized, as well as with existing legislation, prior to becoming regulation.

We also have concerns with the standard development committee process. We appreciate that the Ministry has worked to ensure representation of people with disabilities in the standard development committees. Their experiential knowledge of the issue is invaluable to this process. However, as we have analyzed the proposed standards, we have become concerned that the draft standards are not supported by the technical rigor that should be the hallmark of a regulatory standard. We are concerned that some of the draft standards were released without adequate technical review regarding feasibility and implications for other public policy objectives. Additionally, the SDCs could have been better informed about the activities of the other SDCs to establish reasonable, harmonized compliance timelines.

Our recommendations with respect to the standard development committee process are:

7. We recommend that the standard development committees be provided with adequate technical, expert, and support resources to ensure that they are able to develop well considered public policy proposals.

A number of the requirements of the proposed standards have simply been technical impossibilities. As an example, the initial proposed Information and Communications Standard required accessible built enterprise systems that are not available on the market, and rendering compliance unachievable. In other cases, the proposed standards have made requirements that do not seem to be based on sufficient research or analysis. The Built Environment Standard, in particular, contains requirements for lighting that far exceed international engineering standards. Many of the width dimensions do not appear to have been established based on any of the applicable research on accessible routes, exterior walkways, etc. To our knowledge, the SDC did not receive complete information about the technical research and expert knowledge available. These standards must be developed through an appropriate technical rather than political process.

Furthermore, we have received feedback from a number of individuals who participated in the SDC process that the committees did not have clear guiding principles to start, there was no opportunity to educate committee members on existing best practices, and the support staff did not ensure that the committees terms of reference were followed. We have also heard from numerous SDC members that the imposed deadlines limited the ability for members to consult with stakeholders and instead resulting in members relying on personal perspectives and issues. These factors could have a negative impact on the quality of the resulting documents. For these reason, we recommend that the standard development committees be provided with adequate technical, expert, and support resources to ensure that they are able to develop well considered public policy proposals.

8. We recommend that the standard development committees be encouraged to take advantage of the 2025 timeline in setting reasonable, achievable compliance timelines.
At the onset, the AODA provided for a 20 year period from enactment to achieving accessibility for all Ontarians. Currently there is still a 15 year period remaining to achieve this goal. The Corporation supports the objective of the AODA and plans to make many efforts to remove barriers in our community in the future. However, these improvements must be made incrementally over a reasonable period of time to ensure that accessibility is balanced among other public priorities.

We are concerned that the SDCs were not made fully aware of the activities of the other committees, and therefore have set timelines that are unreasonably aggressive when the cumulative impact of several standards is considered. We recommend that the standard development committees be encouraged to take advantage of the 2025 timeline in setting reasonable, achievable compliance timeframes.

The Role of the Municipal Accessibility Advisory Committees

The Corporation has enjoyed a very strong relationship with our Accessibility Advisory Committee since it was established under the ODA in 2001. The members of our AAC are highly committed, cooperative, and community-minded individuals who have worked with Council and staff to spearhead a number of successful accessibility initiatives in our city. Our AAC was involved in the development of FADS, host an annual community forum on accessibility issues, provide accessibility consulting services to local businesses upon request, and inform many of the community priorities for the City's annual accessibility plan. Above all else, the AAC's mandate is to advise Council and Departments on accessibility issues. Our AAC members are connected to several accessibility-oriented associations and organizations in the community, and act as a conduit to the City to the local disability community.

Under section 12(2) of the ODA, the primary duty of the AAC is to advise Council each year about the preparation, implementation and effectiveness of its accessibility plan. While we support the continuation of the AACs, we do not support the requirement for organizations to produce an annual accessibility plan as this limits the ability to make long-range strategic plans. Rather these plans should be developed for a four-year period with annual review and update to align with the four-year Council and Advisory Committee term.

Our recommendation with respect to the role of Accessibility Advisory Committees is:

9. We recommend that the Ministry maintain its approach under the AODA to continuing existing Accessibility Advisory Committees with a mandate to advise Council and Departments on accessibility priorities.

We appreciate that section 29(1) of the AODA requires the continuation of AACs established before the AODA came into force. The AAC provides an important voice for the local disability community and ensures that accessibility issues remain on the public agenda. We commend the Ministry for taking this approach, and recommend that this be continued.

10. We recommend that organizations required to produce an accessibility plan be encouraged to continue to do so for four-year periods to encourage long-range strategic planning.

As noted, section 12(2) of the ODA provides that it is the duty of the AAC to advise Council each year about the preparation, implementation and effectiveness of its accessibility plan. Section 29 of the AODA on Accessibility Advisory Committees does not include this requirement, nor are annual accessibility plans required under any section of the AODA. We recognize that annual compliance reporting will be required for compliance with the AODA standards, but it is our understanding that these will be online forms rather than the filing of a prepared document.

However, we do feel that the preparation of accessibility plans is a valuable tool for municipalities. Annual plans are a challenge due to the timing of the municipal budget process, and discourage long-range strategic planning because of their short duration. We recommend that municipalities be encouraged, but not required, to continue in preparing accessibility plans for a four-year period to
align with the four-year Council and Advisory Committee term, and to provide a long enough period to make meaningful change.

The Functions of the Accessibility Directorate of Ontario

The Accessibility Directorate of Ontario ("ADO") was established by the Ontarians with Disabilities Act, 2001 under the Ministry of Citizenship and Immigration, and was transferred in 2005 to Ministry of Community and Social Services with additional duties under the Accessibility for Ontarians with Disabilities Act, 2005. We agree with the Province's approach and believe that the ADO should be vested within the Ministry responsible for the AODA standards.

In terms of the functions of the ADO, on balance we feel that the Directorate has been mostly effective in meeting its mandate. The ADO has consulted with people and organizations required to comply with the ODA and the AODA, provided support to the SDCs in the development of standards, and supported organizations through partnerships. The ADO worked with AMCTO for the development of the Accessibility Toolkit website, a helpful resource widely accessed in the municipal sector. The ADO has also been present at municipal sector conferences such as AMCTO and AMO within the past year. We attended the ADO's Accessibility Advisory Committee Forum in early 2009 with our AAC members, and found it to be a useful learning and networking opportunity. Additionally, we have found the staff at the ADO to be helpful and responsive.

There are a number of functions of the ADO which we feel could be strengthened. First, the general awareness of the AODA standards still seems to be low, particularly in the private sector. Successful implementation requires sufficient planning and preparation, so it is critical that private sector organizations be made aware of the requirements under the Accessible Customer Service Standard and the proposed requirements under each of the other standards.

Second, there have been a number of occasions where a municipality or municipal sector organization has requested interpretation, clarification from the ADO on a particular clause of the Accessible Customer Service Standard. One example is the treatment of municipal agencies, boards and commissions. The response from the ADO was that it was the discretion of each municipality to make this decision in consultation with their solicitor. This clearly can lead to significant variation, and leaves municipalities at risk of litigation.

Based on these concerns, our recommendations with respect to the functions of the ADO are:

11. We request that the ADO continue to develop implementation resources for future regulations, and release these resources at the time of regulation enactment.

With respect to the Accessible Customer Service Standard, the ADO developed many tools and resources to help organizations meet their obligations under the regulation. The Serve-Ability training module, Talk to Me video, Compliance Assistance Resources CDs and booklets, compliance manual, and numerous posters and videos are excellent tools. However, to be fully effective, such tools must be released at the time of regulation enactment. In the case of the Accessible Customer Service Standards, some resources were not released until two years after enactment. This is too late in the process as many organizations have already put resources into developing their own resources by this point. This resulted in a significant duplication of effort and unnecessary waste which could have been prevented had the resources been made available in a more timely manner. We recommend that the ADO continue to develop useful resources, but ensure that they are made widely available to organizations at the same time as the regulation is enacted.

12. We recommend that the ADO play a greater role in public education about the AODA standards to ensure that all organizations required to comply are aware of their responsibilities. We suggest this be done through three formats: (1) administering a public education campaign; (2) developing a closer relationship to industry and sector organizations; and, (3) making improvements to the AccessOn website.
As noted, we feel that there is a seriously low level of awareness of the AODA standards in the broader community. The ADO plays a critical role in informing businesses and organizations about their obligations under the standards. We suggest that the ADO undertake a public education campaign to better educate the public about the AODA and its standards. The campaign could take the form of television or newspaper advertisements, the use of social media, or through increasing media coverage.

We also suggest that the ADO develop closer relationships with industry and sector organizations as done within the municipal sector. Working with the provincial Chamber of Commerce, professional associations, and other industry and sector organizations would increase general awareness of the AODA standards. Public education programming could also be delivered through these existing channels.

Finally, we suggest that the AccessOn website should be the information portal for all Provincial accessibility related initiatives. The Ministry website provides more detailed information about the AODA and standard development process, but the site is difficult to navigate. We expect that most users would look for this sort of information on the AccessOn site, but it is not available. Basic details about the status of each of the standards, key dates, summaries of the requirements, and so forth should be easily accessed on the AccessOn main page.

13. We recommend that the ADO produce sector-specific resources to assist with implementation in the form of regular interpretation bulletins.

Interpretation bulletins have been an effective way to provide further clarification in many other areas of legislation. Many of the requirements in the Accessible Customer Service Standard could have different implications in different sectors. For example, the training requirement for "employees, volunteers, agents and otherwise" under section 6 would mean significantly different groups of people for a public than for a private organization. Over the past few months, municipalities have sought clarification from the ADO on how to interpret particular requirements, but the responses are typically verbal or through emails that do not carry the same authority as would an interpretation bulletin. We recommend that the ADO produce sector-specific interpretation bulletins, which do not carry the force of law but are more authoritative than email correspondence, to assist organizations with achieving compliance.

14. We recommend that annual compliance reporting on the AODA standards be collected through a simple web-based form and that the reporting for all AODA standards in effect should be done through one streamlined process.

Given the sheer number of organizations expected to comply with the AODA standards, we urge the Ministry to collect compliance reporting through a simple, web-based form. Any more onerous requirement would be unduly arduous administrative duties that would result in little to no benefit for people with disabilities. Furthermore, as future standards become regulation we recommend that the process for compliance reporting be integrated into the same online form used for the Accessible Customer Service Standard.

Repeal Strategy for the Ontarians with Disabilities Act, 2001

There are a number of elements of the Ontarians with Disabilities Act, 2001 which we support. First, we support the initiative taken by the Ontario Government to lead the way under the ODA, requiring Ministries to develop accessibility plans, train management, ensure accessibility features in new buildings, and so forth. The ODA also introduced Accessibility Advisory Committees, a feature that we support as noted earlier. We also appreciated that the ODA encouraged communities to establish their own accessibility plans based on local needs and priorities. However, with the AODA now in force, we support the repeal of the ODA to avoid duplication and overlap. It is our position that the legacy of the ODA should not be entirely disbanded, and some of the most successful elements should be incorporated into the AODA or its standards. Specifically, our recommendation with respect to the repeal strategy for the Ontarians with Disabilities Act, 2001 is:
15. We recommend that the ODA be repealed, but that its elements of local flexibility be incorporated into the AODA.

Under section 11(2) of the ODA, through the annual accessibility plan, municipalities are to “address the identification, removal and prevention of barriers to persons with disabilities in the municipality’s by-laws and in its policies, programs, practices and services.” Municipalities are also to identify “measures that the municipality intends to take in the coming year to identify, remove and prevent barriers to persons with disabilities” (s. 11(3)). We prefer this approach of finding community solutions for community issues, rather than focusing on compliance activities for Provincial mandates that may not necessarily address the local priorities. The AODA and the proposed standards have been much more prescriptive in nature, leaving less discretion to municipalities and potentially de-empowering AACs.

We encourage you, Mr. Beer, to recognize in your report to Minister Meilleur that municipalities have already made great advances to improve accessibility in our communities, and want to continue in this work. As the ODA is repealed, local flexibility and autonomy need to be built into forthcoming AODA standards to ensure that communities are able to continue to address local issues.

In closing, we would like to thank you for the opportunity to provide input to your review of the Accessibility for Ontarians with Disabilities Act, 2005. We request that our recommendations be considered as you develop your final report to the Ministry. We would also encourage you to consider putting forward these recommendations and those of others into an interim report before the end of 2009 to make improvements on the standards and standard development processes that are in progression.

Thank you for your consideration. We are confident that our shared commitment to removing barriers in an effective, sustainable way will result in a stronger, more accessible Ontario for the future.

Sincerely,

Anne Marie DeCicco-Best
Mayor
City of London

cc. Chris Bentley, MPP - London West
Deb Matthews, MPP - London North Centre
Khalf Ramal, MPP - London-Fanshawe
Steve Peters, MPP - Elgin-Middlesex-London
Dalton McGuinty, Premier of Ontario
Dwight Duncan, Ontario Minister of Finance and Minister of Revenue
Jim Watson, Ontario Minister of Municipal Affairs and Housing
Accessibility Directorate of Ontario
Association of Municipalities of Ontario
Association of Municipal Clerks and Treasurers of Ontario
Grant Hopcroft, Director, Intergovernmental and Community Liaison
Appendix A: Summary of Recommendations

1. We urge the Ministry to undertake a comprehensive harmonization review to ensure that unnecessary conflicts, duplication and overlap in the AODA standards are resolved prior to any further regulations being enacted; and, that no further regulations should come forward until this review of the AODA is complete.

2. We recommend that all future Regulations under the AODA be released in draft form for review prior to enactment as Regulation.

3. We recommend that the Ministry engage an independent consultant to perform a detailed, financial analysis in consultation with affected sectors in order to determine the cumulative financial impact of all of the AODA standards, and to understand the impact of the AODA on Ontario’s competitiveness.

4. We recommend that municipalities be actively consulted in the standard development process as a government partner.

5. We urge the Province to identify a funding source to assist municipalities and other organizations in achieving compliance.

6. We recommend that flexibility and the ability to focus on community priorities be incorporated as key principles of implementation in future regulations.

7. We recommend that the standard development committees be provided with adequate technical, expert, and support resources to ensure that they are able to develop well considered public policy proposals.

8. We recommend that the standard development committees be encouraged to take advantage of the 2025 timeline in setting reasonable, achievable compliance timeframes.

9. We recommend that the Ministry maintain its approach under the AODA to continuing existing Accessibility Advisory Committees with a mandate to advise Council and Departments on accessibility priorities.

10. We recommend that organizations required to produce an accessibility plan be encouraged to continue to do so for four-year periods to encourage long-range strategic planning.

11. We request that the ADO continue to develop implementation resources for future regulations, and release these resources at the time of regulation enactment.

12. We recommend that the ADO play a greater role in public education about the AODA standards to ensure that all organizations required to comply are aware of their responsibilities. We suggest this be done through three formats: (1) administering a public education campaign; (2) developing a closer relationship to industry and sector organizations; and, (3) making improvements to the AccessOn website.

13. We recommend that the ADO produce sector-specific resources to assist with implementation in the form of regular interpretation bulletins.

14. We recommend that annual compliance reporting on the AODA standards be collected through a simple web-based form and that the reporting for all AODA standards in effect should be done through one streamlined process.

15. We recommend that the ODA be repealed, but that its elements of local flexibility be incorporated into the AODA.
An Approach to the Harmonization of AODA Standards

Prepared by London Transit
on behalf of the Ontario Transit Industry

September 24, 2009
An Approach to Harmonization of AODA Standards

Virtually all stakeholders who have been involved in the AODA standard development process have indicated the need for the standards to be harmonized. This need is predicated on the fact that the four common standards being developed will apply to all sectors of the Ontario economy, that is both private and public, impacting all facets of the respective operations, operations that within an organization are linked. As such, it is critical in order to establish an effective and efficient process to deal with AODA requirements, to have all expectations clearly defined, understood and implemented in an effective, efficient and sustainable manner.

The impact on organizations, both private and public, of the respective standards under the AODA is expected to vary significantly given such factors as the nature and size of the organization, the business(es) they are in, their current state of development and/or compliance with respect to the various standard provisions and the impacts of compliance with respect to similar and/or competing legislation. What is evident is that given the number, nature and state of readiness associated with the various core services provided by municipalities across the Province, the AODA will have a significant impact on the municipal sector. Adding to the impact are the requirements of the sector specific Transportation Standard.

The Purpose of the AODA

As stated in the Act itself:
Recognizing the history of discrimination against persons with disabilities in Ontario, the purpose of this Act is to benefit all Ontarians by,

a) developing, implementing and enforcing accessibility standards in order to achieve accessibility for Ontarians with disabilities with respect to goods, services, facilities, accommodation, employment, buildings, structures and premises on or before January 1, 2025

As the graph below illustrates, the timelines for standards that have been developed to date call for the goal set out in item (a) above to be met by 2016 by the public sector, essentially compressing the mammoth task of achieving full accessibility into 8 years, when the Act clearly envisioned a much greater timeframe.

Compliance Dates of AODA Standards to Date

![Compliance Dates of AODA Standards to Date](chart.png)
The Need for Harmonization of AODA Standards

The provision in the Act for the establishment of four common standards, as well as the opportunity for sector-specific standards recognizes that there are many aspects and elements of business in the province that would have to be addressed in order to meet the goal of full accessibility by 2025. While the four common standards each focus on different aspects of a business, they are tied to the common goal of full accessibility by 2025 and therefore can only be viewed/treated as a collective. Given that three of the four common standards as well as the Transportation standard were completed concurrently, with each SDC working independently with no appreciation for what was being addressed and/or considered by the other SDC’s, the resulting standards in some cases overlap with one another (ie policy requirements) or far more troubling, contradict one another (ie compliance timeframes). Further underscoring the need for harmonization are such factors including:

- current/proposed compliance timeframes for the respective standards are compressed, with compliance for the most part occurring within the first five years after adoption of the related regulation. The current/proposed timeframes create an expectation far beyond what can be reasonably accomplished.
- requirements in one standard may be dependent, or impacted by those in another, and as such, will need to be addressed concurrently
- certain requirements in the standards as drafted conflict with, or are impacted by other regulations, and as such, compliance with one may result in non-compliance with the other
- the lack of available financial resources to support compliance

The process followed to date has left the task of harmonization to the Ministry of Community and Social Services as the overseeing body, a task which must ensure the potential impacts on all organizations in all sectors of the economy will be given due consideration.

Inputs to Be Considered with Respect to Harmonization

When assessing options and opportunities for harmonization of the standards, there are a number of issues/inputs that need to be considered, including:

- the Ontario Government's stated "Open for Business" mandate
- Premier McGuinty's statement that "2025 was chosen as the target year by which standards are to be phased in, giving businesses and public organizations sufficient time to spread out their accessibility investments as part of their normal business and capital planning cycles"
- organizations across the province have varying and limited resources and/or capacity to address compliance within the timelines as drafted
- organizations across the province are at various stages of compliance with the standard requirements as currently drafted
- needs and expectations relating to accessibility vary across the province, and as such, local priorities will differ significantly
- both the services offered and the levels of service vary significantly in jurisdictions across the province, and as such, the impacts of compliance will also vary significantly
- compliance with the requirements in the core standards and the transportation standard within the timelines as currently drafted, when viewed as a collective are neither practical nor achievable
- the difference in perspectives, that is the disability community tends to look for compliance timeframes in the near term, noting their desire is to see demonstrated progress toward full accessibility, while organizations advocate for extended time frames noting the complexities involved with compliance as well as the 2025 deadline and the requirement for 5 year reviews
- the standards including compliance timeframes are intended to be minimums, noting organizations have the opportunity to address requirements prior to established deadlines
- the potential to implement "quick wins" in order to demonstrate progress toward the end goal
recognizing that communities may have different priorities associated with dealing with disability issues
• compliance mechanisms need to be consistent for all standards and communicated at the time the regulation is adopted
• competing demand for resources and competing expectations of other legislative requirements

A Potential Option
Harmonization of all AODA standards is imperative, however, given the issues set out above, accomplishing the task in a manner that achieves reasonable and sustainable standards for all organizations in the province presents a significant challenge. From a Municipal perspective, there are a number of competing objectives that will impact the progress toward compliance. The diagram below provides an overview of the municipal environment.

As depicted in the diagram, each of the core businesses provided by a municipality are subject to a number of sometimes competing objectives, all of which must be balanced in order to ensure business continuity and sustainability. Further complications arise when each of the municipality's core businesses are forced to compete with one another for support.

Given that the AODA standards will, to varying degrees, impact all areas of the municipality, the most effective and efficient manner in which to address compliance with the AODA requirements is from a holistic perspective that supports:
• understanding the current environment as it relates to all aspects of the organization
• considering/assessing all requirements collectively
• developing a logical, supportive, prioritized implementation strategy that is reflective of local priorities and maximizes the use of the 5 year review periods as set out in the AODA legislation
• implementing the strategy consistent with fiscal and operational capacity consistent with Premier McGuinty's statement to the Large Urban Mayors Caucus of Ontario (LUMCO) that "2025 was chosen as the target year by which standards are to be phased in, giving businesses and public organizations sufficient time to spread out their accessibility investments as part of their normal business and capital planning cycles"
• follow up and monitoring, including reporting of results

The attachment labeled Enclosure I provides an overview of the steps an organization would take, in assessing AODA standard requirements and taking the necessary steps to achieve compliance. The approach focuses on process, a process designed to deal with the AODA requirements holistically, recognizing the complexities of organizations as well as one that supports balanced, measured and sustainable progress toward the end goal. This includes identifying resource requirements and arranging for same as part of the business development/planning cycle as intended by the AODA. The process is intended to move from an approach of reacting to a requirement to one of planning for and delivering on the requirement. This process will need to be repeated for each requirement in each of the AODA standards.

Given the wide spectrum of obligated organizations in the province, and the many facets of each that must be examined in order to assess potential impacts, it will be extremely difficult, if not impossible for the Province to complete the harmonization task with resulting standards that will be achievable and sustainable for all obligated organizations. This task is further complicated with the approach of assessing the potential impacts of each of the standards in isolation versus viewing all requirements collectively.

A potential approach has been developed which addresses the issues raised in this paper by revising the approach to compliance timeframes in a manner that will leave an element of the harmonization exercise to the obligated organizations. The illustration below sets out a phased compliance framework which provides the much needed flexibility for organizations to assess the standard requirements, and then prioritize and implement the changes necessary to achieve compliance in a manner that is specific to their business and local priorities and at the same time will be sustainable.
As depicted in the diagram, while there are end dates by which each of the phases need to be completed, the phases overlap, thus allowing for continued progress toward the end goal of full accessibility. This approach will ensure that progress is demonstrated in all organizations, noting the requirement to assess and identify all requirements, and provide a prioritized plan for implementation will provide the opportunity for the local disability community to participate in prioritizing. The process envisions an annual reporting process, similar to that already required under the ODA, which the province can use to monitor progress. Should the Province decide to prioritize specific items in the standards for early implementation, the process could be modified to provide further guidance to organizations when setting the implementation plans associated with compliance. However, caution should be exercised with this approach noting that local priorities vary significantly across the province and common compliance dates for regulated requirements may result in progress on other local priorities being deferred or cancelled completely.

The process also underscores the importance of the 5 year review requirements as set out in the AODA legislation, providing the opportunity for the Province to review progress and work with stakeholders to add or make any necessary adjustments to requirements and/or compliance timelines.

Finally, the process will meet the goal of the AODA, a fully accessible province by 2025, in a manner that is achievable and sustainable for all obligated organizations, while at the same time providing for local priorities to be considered in the implementation plan.

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An Approach to Compliance

Identify Areas of Non-Compliance

- once the standard is adopted, organizations must identify the areas of non-compliance
  - consultation with staff in all affected areas of the business must take place to accurate assessment
  - create a matrix identifying all areas of non-compliance requiring attention
  - prioritize items giving consideration to establishing a mechanism to identify what standard is to be given priority, how the established priority reconciles with other obligations including legal requirements, resource capacity availability (staff and funding)
  - assign staff accordingly

Establish New / Amend Existing Policies & Procedures

- each standard requires the creation and adoption of new policies and procedures
  - consult with staff in all affected areas for input with respect to both content and implementation options
  - consult with customers for input with respect to both content and implementation options
  - development of policies and procedures
  - adoption of policies and procedures by senior level staff
  - establish implementation strategy recognizing competing programs and resource/investment requirements

Implement New / Amended Policies and Procedures

- communicate new policies and procedures with staff (training)
  - the magnitude of the change will impact the level of training required
- communicate new policies and procedures with public (various formats as required)
  - the magnitude of the change will influence the nature of communications required and the advance notice period (ie mailout, public meetings etc.)
- implement new policies and procedures

Assess Effectiveness of New Policies and Procedures

- consultation with affected staff regarding effectiveness of new policies and procedures
- consultation with customers regarding effectiveness of new policies and procedures