

Sent via email: Charles.beer@ontario.ca

October 14, 2009

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

Dear Charles,

**Re: AMO Response to Review of the AODA**

In follow up to our meeting and discussion on August 31, 2009, I am sending to you a supplementary written response to the review of the *Accessibility for Ontarians with Disabilities Act*.

Thank you for taking the time to meet with AMO representatives. We are hopeful that our input will improve the municipal ability to meet the objectives of the *Act* and improve accessibility for our citizens in a way that is achievable, manageable and affordable.

**1. Feedback on the Standards Development Process:**

AMO continues to support the need for increased and improved accessibility for Ontarians in all aspects of community and civic life. AMO believes that since the enactment of the *AODA* four years ago, important advancements have been made in discussions on the key barriers to achieving accessibility for Ontarians with disabilities with respect to goods, services, facilities, accommodation, employment, buildings, structures and premises.

AMO also appreciates the government's inclusive approach to the standard development process and at the same time appreciates the challenges associated with reaching "consensus" on issues in a process where common ground has not been clearly defined.

AMO has consistently expressed concern with the lack of harmonization across the emerging standards as well as with existing legislation and regulations.



AMO's rationale for arguing this point has been that, given the scope and breadth of the AODA, implementing individual standards will impact on every facet of municipal operations. This impact of course will vary according to the size and nature of a municipality. Given this, it is necessary that the AODA is implemented in an efficient and streamlined way that reflects local issues and needs while respecting municipal capacity and resources.

The standard development process to date has been an iterative process that is not well thought out. Developing standards in isolation of one another and without thorough review and comparison of existing legislation and standards is not good public policy and, many will argue, not a prudent use of time.

At the outset of the standard development process it was widely understood that the standards under development would be based on principles and outcomes. This is demonstrated with the first standard, the Customer Service Standard. However, after the change in composition of standard development committees, the standard development process changed as well.

Rather than a principles and outcomes focused approach, the standard development process shifted, in many aspects, to a technical focus. See for example the built environment standard. This occurred in the absence of technical expertise amongst committee members. It is noted that the public review process has addressed some of these issues, most notably in the Information and Communications Standard which included a number of recommendations for which Ontario's market could not respond and would result in excessive and unmanageable costs to municipalities.

AMO recommends, at minimum, the following principles to guide future standard development processes:

- The standard (and ultimately the regulations created pursuant thereto) should be to the greatest extent possible, objective-based, realistic, achievable, measurable, enforceable and maintainable.
  - The standard should not result in the degradation of access to goods, services, programs, facilities, buildings, structures, premises, accommodation, and employment to the community as a whole.
  - The standard should encourage the pursuit of innovation and continuous quality improvement based on technologies and best practices that are feasible for use within the Province of Ontario.
  - The standard should be complementary and harmonized with other current legislated standards and regulations, including other common and sector specific AODA standards.
  - The standard should contain variable implementation time frames that reflect the diverse geographic, socio-economic, fiscal and/or operational capacity of jurisdictions and private sector businesses to meet the requirements.
  - While the standard will result in full accessibility by 2025, the standards should promote the removal of barriers as quickly as possible.
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While the above principles should be taken into consideration in future standard development processes, we are still currently faced with the challenges arising from the five standards developed to date.

It is important to note, that once the focus of standard development committees has been established appropriate representation must be determined. This includes an understanding and commitment of members to the purpose and parameters of the process. Without shared understanding, goals and objectives, the process will continue to be undermined.

The AMO Board of Directors recently endorsed *The Case for the Harmonization of Standards* (attached).

Given that the AODA standards will, to varying degrees, impact all areas of the municipal business and operations, 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" (attached)
- follow up and monitoring, including reporting of results

The model provides a comprehensive and phased approach to the planning and implementation of the standards that provides the 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 achievable.

The model addresses the key concerns consistently raised by AMO regarding the harmonization of standards and appropriate timelines for implementing what will be a cost and human resource heavy initiative.

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If the government chooses to adopt the proposed harmonization model, many of the concerns, including the cost and human resource implications of implementing any and all of the proposed standards will be addressed and significantly mitigated.

It is important to note, that the model in no way seeks to exempt municipalities or others from implementing the standards once passed into regulation. Rather, the model proposes implementing the standards in a phased manner that is responsive to local needs and issues as identified through Accessibility Advisory Committees and other local stakeholders. What the model actually provides is an achievable, manageable and affordable approach to implementation.

Work and thinking needs to go into applying the model and this can be carried out in cooperation with provincial, municipal and other key representatives.

AMO and its members have stated time and time again that we support the objectives of the *Act* and we are committed to the successful implementation of the *Act*.

The provincial legislature has given the government and its partners a mandate to complete the task by 2025. And just as no one is suggesting that we cannot make great strides in the meantime, we do have until 2025 to accomplish everything that needs to be done.

The desire to achieve accessibility in the fastest way possible is entirely understandable. We believe that the successful implementation of the act will require standards and regulations that, as stated, are achievable, manageable and affordable-for all municipalities. This also means standards and regulations that will allow us to make timely progress towards our shared and ultimate goal of an accessible Ontario.

We believe this goal has been lost sight of. Instead, good public policy has taken a back seat to timetables. We recommend that no other standards be passed into regulations until the issues identified above are addressed and reconciled. The absence of a good and thorough policy approach to the standard development process will undermine everyone's efforts to achieving accessibility.

## **2. The role of the municipal advisory committees**

AMO agrees that the municipal advisory committee process is important and necessary and should continue. Please see above for our recommendation regarding the continued existence of municipal advisory committees.

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### **3. Role of the Accessibility Directorate including public education**

The ADO should foremost commit to an orientation process for all SDC members that include a clear articulation and agreement of the parameters (technical versus principles) of the standards to be developed as well as the objectives and purpose of SDC meetings.

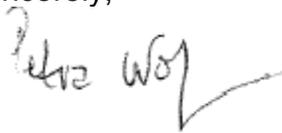
As stated, AMO recognizes the effort and intent of the current SDC composition but it appears that the disparity of purpose amongst members has created barriers to developing implementable standards.

### **4. Recommendations on a repeal strategy for the ODA**

AMO does not have a comment on the process at this time.

We appreciate the opportunity to respond.

Sincerely,

A handwritten signature in black ink, appearing to read "Petra Wolfbeiss", with a long horizontal flourish extending to the right.

Petra Wolfbeiss  
Senior Policy Advisor  
Association of Municipalities of Ontario (AMO)

Attachments

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# **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

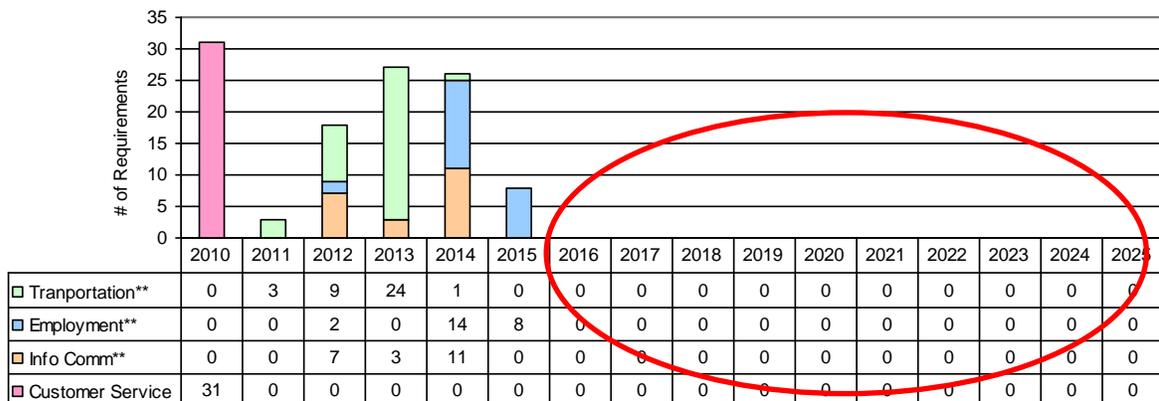
As stated in the *Act* itself:

*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**



Year of Compliance - \*\*assumes 2011 effective date

### 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 dependant, 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

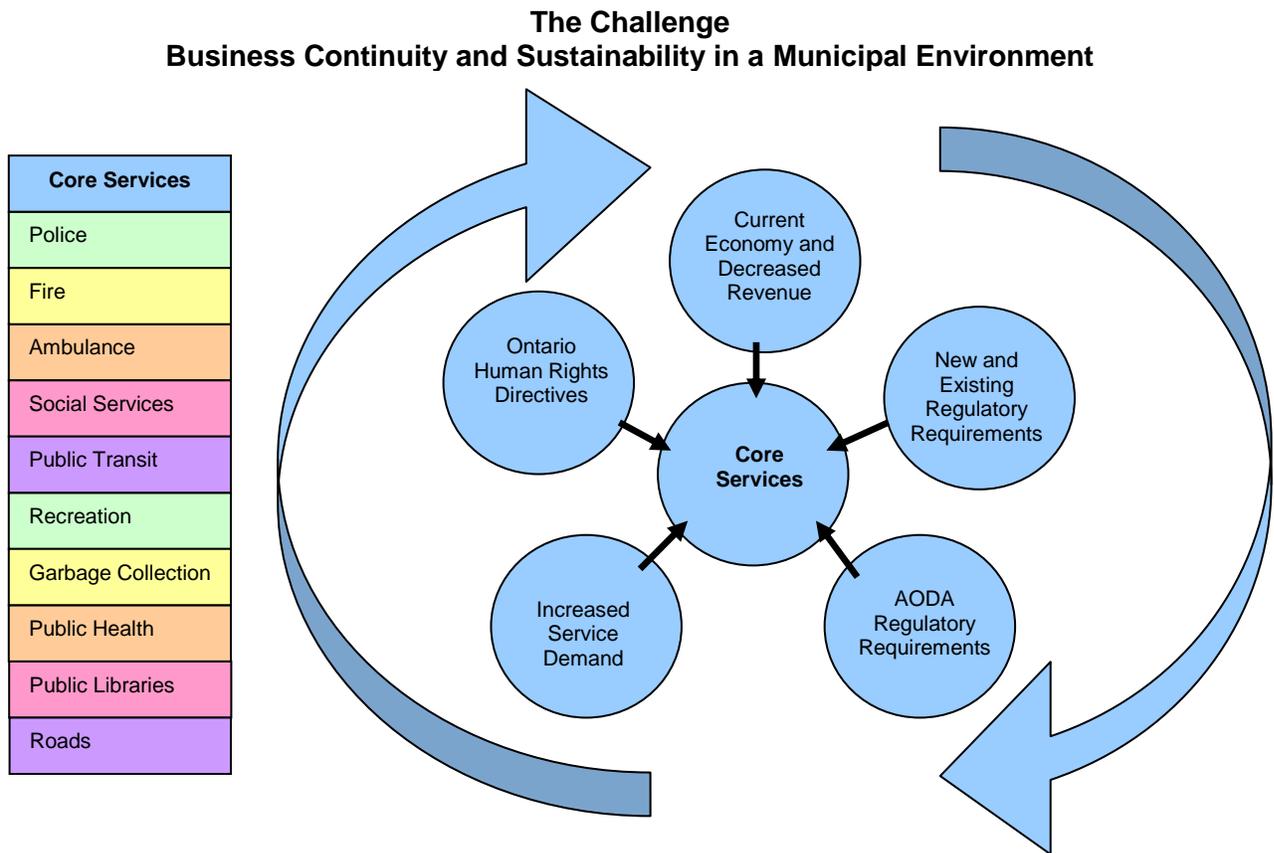
When assessing options and opportunities for harmonization of the standards, there are a number of issues/inputs that need to be considered, including:

- 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:

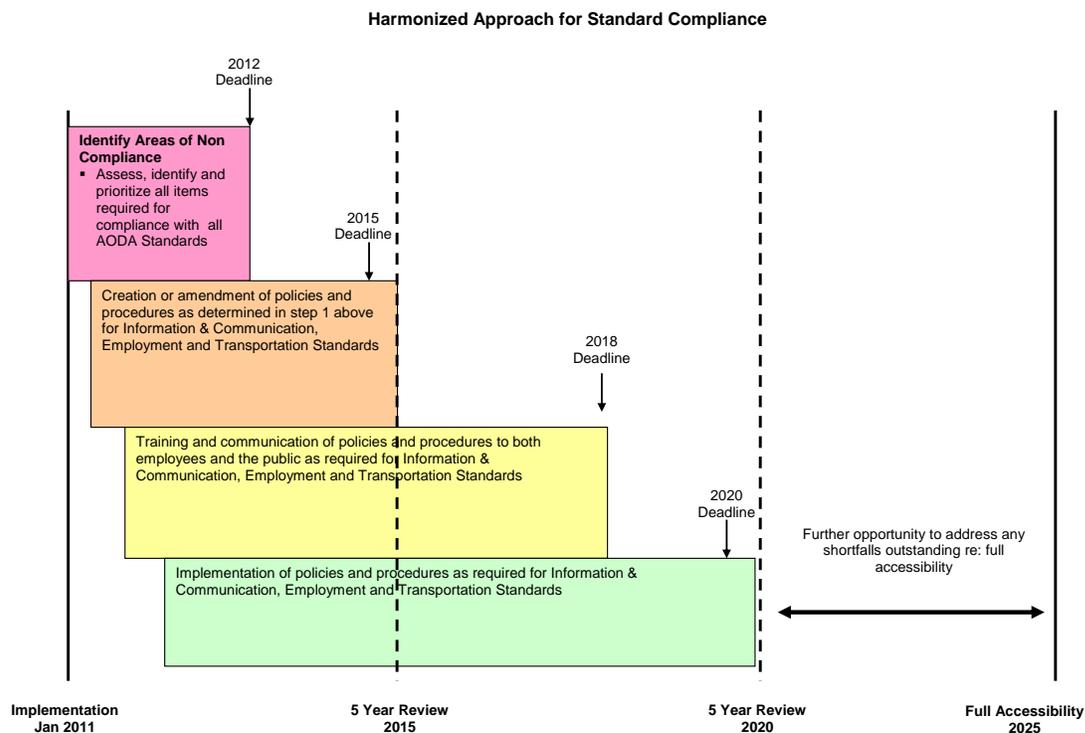
- understanding the current environment as it relates to all aspects of the organization
- considering/assessing all requirements collectively

- 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.

For further information please contact: Kelly Paleczny ([kpaleczn@london.ca](mailto:kpaleczn@london.ca)) or 519-451-1340 x 366  
or Larry Ducharme ([lducharm@london.ca](mailto:lducharm@london.ca)) or 519-451-1340 x 337

# 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

### Common Standards

#### Customer Service

31 requirements  
2 years to comply

#### Information & Communications

24 requirements  
1-15 years to comply

#### Employment

19 requirements  
1-4 years to comply

#### Built Environment

? requirements  
? years to comply

#### Transportation

45 requirements  
1-6 years to comply

## 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



The Premier  
of Ontario

Legislative Building  
Queen's Park  
Toronto, Ontario  
M7A 1A1

Le Premier ministre  
de l'Ontario

Édifice de l'Assemblée législative  
Queen's Park  
Toronto (Ontario)  
M7A 1A1



**RECEIVED**

REGISTRY No. 3464

DATE NOV 01 2006

FILE No. 06/180

**MAYORS OFFICE**

Her Worship Hazel McCallion, CM  
Mayor, City of Mississauga  
Chair, Large Urban Mayors' Caucus of Ontario (LUMCO)  
3-300 City Centre Drive  
Mississauga, Ontario  
L5B 3C1

Dear Mayor McCallion:

Thank you very much for your letter informing me of LUMCO's motion regarding the *Accessibility for Ontarians with Disabilities Act, 2005*, (AODA). As always, I appreciate your keeping me apprised of LUMCO's activities.

Our government is working hard to remove the barriers that people with disabilities face and is determined to achieve an accessible province by 2025. As you know, the AODA became law on June 13, 2005. The act sets standards that are the building blocks of accessibility, helping to ensure that real and effective change takes place — creating a province in which all people can participate equally.

We are moving forward with implementing the AODA by developing three new accessibility standards that will make Ontario a world leader in improving accessibility for people with disabilities. On October 23, 2006, we began to recruit members for the new information and communications standards development committee. Two other committees will be established to develop standards for the built environment and employment. These committees will be an addition to the first two committees established under the act; one committee is working on developing a proposed standard for transportation and the other has developed a draft standard for customer service, which was released for public review and comment on October 23.

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The process for creating standards is inclusive, bringing together people with disabilities, representatives of industry and sectors of the economy, and ministries to participate in development committees. The committees develop long-term objectives and set out the policies and practices that are to be implemented in five-year increments. Committees must take into account economic, technical and other considerations.

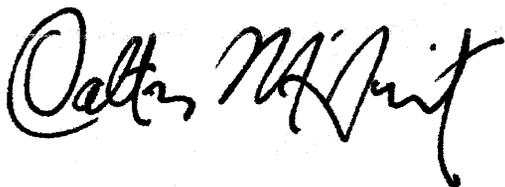
2025 was chosen as the target year by which standards are to be phased in, giving businesses and public organizations sufficient time to spread out their accessibility investments as part of their normal business and capital planning cycles.

Municipalities play an important role in the development of standards. Municipal perspectives and interests will be considered as proposed standards are being developed. We value the ongoing input of municipalities and will ensure that it is an integral part of the review of standards, which is required every five years.

I note that you have sent a copy of LUMCO's motion to the Honourable John Gerretsen, Minister of Municipal Affairs and Housing, and the Honourable Madeleine Meilleur, Minister of Community and Social Services. I trust that the ministers will also take your organization's views into consideration.

Thank you again for the information. I welcome LUMCO's input on this or any other issue of provincial concern. Please accept my personal best wishes.

Yours truly,

A handwritten signature in black ink, appearing to read "Dalton McGuinty". The signature is fluid and cursive, with the first name "Dalton" being particularly prominent.

Dalton McGuinty  
Premier

c: The Honourable John Gerretsen  
The Honourable Madeleine Meilleur

# LUMCO

## LARGE URBAN MAYORS' CAUCUS OF ONTARIO

September 27, 2006

The Honourable Dalton McGuinty  
Premier of Ontario  
Main Legislative Building  
Room 281  
Toronto, Ontario  
M7A 1A1

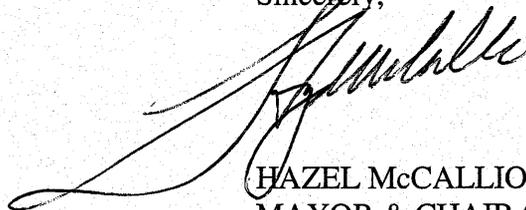
Dear Mr. Premier:

At the LUMCO meeting which took place on August 13, 2006, the enclosed motion was passed regarding the Accessibility for Ontarians with Disabilities Act, which is self-explanatory.

I would appreciate receiving a response from you in this regard.

Many thanks.

Sincerely,



HAZEL McCALLION, C.M.  
MAYOR & CHAIR OF LUMCO

cc: The Honourable John Gerretsen, Minister of Municipal Affairs and Housing  
The Honourable Madeleine Meilleur, Minister of Community and Social Services

Enc.

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Mayor Hazel McCallion  
City of Mississauga  
300 City Centre Drive, 3<sup>rd</sup> Floor  
Mississauga, Ontario  
L5B 3C1

Phone: (905) 896-5555  
Fax: (905) 896-5879

**Whereas LUMCO supports the purpose of the *Accessibility for Ontarians with Disabilities Act*, (AODA) to benefit all Ontarians by 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; and providing for the involvement of persons with disabilities, of the Government of Ontario and of the representatives of industries and of various sectors of the economy in the development of the accessibility standards.**

**Whereas issues have been identified with the development of sustainable sector specific transportation standards, with such concerns relating to timelines, process and affordability.**

Be it Resolved that LUMCO advise the Minister of Community and Social Services, the Minister of Municipal Affairs and Housing, and the Premier of our concerns and request consideration of the full options with regard to the following:

All common standards be developed and reconciled prior to any sector specific standards to achieve consistency in requirements, definitions and timing;

The Province confirm or establish a process that reconciles all standards to ensure consistency in obligations, definitions and time frames as well as with existing legislation that may be related to the standards;

Standards, while expected to be staged in 5-year increments, would only take effect when all standards (common and sector) have been developed, prioritized and approved as prescribed by the AODA;

Pre-planning, involving balanced representation for all applicable stakeholders take place with such pre-planning to include setting development timelines, guiding principles for the development of standards, and the process and protocols to be followed;

All standards should be objective in nature (versus prescriptive) and apply only on a go forward basis. How the standard objective is to be met should be left to discretion of the municipality. The standards should not be designed as specific operating procedures or requirements;

That the timelines for the development of all standards respect the significance of such standards on all aspects of the Ontario economy;

Standard development should build on Ontario best practices;

Standard development should include a broad consultation and research process recognizing that Ontario compete in a global economy;

Evaluation of the cost of standard compliance consider and reflect the capacity of municipalities to absorb such costs, provide flexibility in compliance timelines based on undue hardship, and the provision of new sustainable funding in support of compliance;

These recommendations apply as appropriate to standard development for customer service and transportation, notwithstanding that these processes have commenced.

B. Be it Further Resolved that LUMCO work with and encourage AMO and the City of Toronto to collectively nominate municipal sector representatives to serve on the standard committees yet to be established and that the members selected be supported by a resource team.