

October 1, 2010

The Honourable Madeleine Meilleur
Minister of Community and Social Services
6th Floor Hepburn Block
80 Grosvenor Street
Toronto, Ontario, M7A 1E9

RE: Proposed Accessible Built Environment Standard

Dear Minister Meilleur:

The Ontario Chamber of Commerce (OCC) is a federation of 160 local chambers of commerce and boards of trade in the Province of Ontario, representing 60,000 businesses of all sizes, in all economic sectors covering every area of the province. The OCC's mandate is to advocate strong and effective policies on issues that affect its membership throughout Ontario's business community.

The OCC believes that removing and preventing barriers for people with all manners of disabilities is integral to achieving higher standards of living and greater economic competitiveness for all Ontarians. We commend the government for taking decisive action to realize greater opportunities for people with disabilities through the development of mandatory accessibility standards for government, business, and non-profit organizations. The OCC has been directly involved in helping shape the Customer Service, Employment, and Built Environment Standards under the Accessibility for Ontarians with Disabilities Act (AODA). During this process, we have reminded the government of the need to balance accessibility principles with an understanding of how technical requirements may negatively impact the competitiveness of businesses and the economy. The Built Environment Standard Development Committee, on which the OCC was a participant, recognizes that accessibility standards must take into account the fiscal, economic, and technical realities that stakeholders face.

Reducing the administrative burden of regulatory requirements on business has been the driving theme of the government's three-year "Open for Business" program and associated initiatives to harmonize standards, expedite approvals, and simplify the compliance process. In response to the Open for Business initiative, the OCC has urged the government to make economic sustainability a key feature of its approach by: requiring all new and existing regulations to undergo an impact assessment to obtain qualitative and quantitative data on the impact on productivity; adopting an outcomes-based approach to implementation which allows businesses to develop their own technical specifications and design principles for complying with the intent of the standards; and permitting regulatory tiering to offset the disproportionate effect of regulations on small and medium businesses.

It is important for the new accessibility standards to take into account the above principles if they are to achieve the desired outcomes. Evidence suggests that regulations which are overly prescriptive in nature, and do not provide sufficient flexibility for businesses to adapt, can cause people to cut corners, fuel the underground economy, and undermine public health and safety. Although the

accessibility standards have been designed in careful collaboration with stakeholders, there are some outstanding concerns from the business community that have not been adequately addressed. This is particularly the case with the Built Environment Standard, which has just been submitted to the Minister of Community and Social Services for final review.

While the OCC is broadly supportive of the measures included in this standard, we have reservations regarding the scope, timing, and technical and financial feasibility of the standard as currently written. Regarding *scope*, the terms of reference for the Standard Development Committee limited its mandate to *new* construction and extensive renovation projects. Retrofitting and private dwellings were intentionally excluded. In its final recommendations, the committee requested that the government include retrofitting in the next committee cycle in order to bring all buildings, including *existing buildings*, into the scope of the regulation. The OCC maintains its position that requiring owners of existing buildings to retroactively implement accessibility standards is both impractical and unaffordable. *The OCC strongly recommends that the government retain its original mandate of addressing impediments to accessibility on a go-forward basis, and reaffirm this commitment when the regulations are implemented.*

Similarly, the proposed *timelines* for implementing the standard do not give businesses sufficient leeway to comply. The Committee has allocated a period of 24 months after the regulation comes into effect to meet the requirements. However, given that businesses across the province have varying and limited resources, as well as independent planning cycles, this timeframe may not be adequate for all businesses to familiarize themselves with the requirements and develop compliance plans. This is especially true for large-scale projects that are already underway. Furthermore, given that the remaining AODA standards will be set out in the Proposed Integrated Accessibility Regulation, which is still being developed, a longer timeframe may be required in order to align the two regulations into one standardized process to the extent possible. *As such, the OCC recommends that the government revise the timelines for new construction and extensive renovation projects to 36 months.* This would accomplish two things: (a) provide the appropriate lead time for businesses to plan and prepare; and (b) better align the Built Environment Standard with timelines for other accessibility standards.

Finally, the OCC believes that the technical requirements that specify the specific design criteria for the various elements of accessibility do not fully take into account the tradeoff between more advanced accessibility capabilities and the productivity environment. There are some requirements that could severely constrain the ability of businesses to comply, while resulting in negligible benefits for those with disabilities. Specifically:

- The 900 mm door width proposal exceeds the current industry standard, and would require an overhaul of existing production and logistical systems
- The proposed ground and floor surface requirements stipulate the use of floor surface technology that does not yet exist for energy absorbing materials.
- The requirement to include adult change tables in all universal toilet rooms is excessive in terms of space requirements, cost, and general need. It could also have different insurance requirements.

- Requiring all main corridors in every building and sector to change their construction material to improve sound quality may be costly and impractical given that such corridors are usually constructed to accumulate high traffic and therefore need to give primary consideration to durability.
- The requirement to include more space in meeting rooms for turning radiuses, routing, etc. may not be practical in existing settings due to cost implications and/or the physical constraints of existing buildings.
- The proposal to make assistive listening devices mandatory in meeting rooms may not be practical or affordable, particularly in existing buildings such as aging meeting halls, churches, legions, etc.
- The requirements for multi residential units to be adaptable in the manner prescribed may not be physically possible or cost effective in the existing housing stock.

While the Proposed Built Environment Standard has built-in exemption criteria, these seem to apply mainly to physical constraints. There is no express consideration given to whether companies have the financial or technical capacity to cover the costs and practical application of the new technologies.

There is a concern that if the standard is adopted as written, with all of the proposed technical requirements, it may create a major disincentive to doing business in the province. When one takes into account the additional costs that are expected to result from the other Accessibility Standards, the cost to the business sector could be quite onerous, both in time and money. The concern is particularly valid in the case of small businesses and non-profit organizations, which do not have the available resources to make significant changes to their existing operations. Given that the proposed technical measures could lead to higher costs for business, it is essential that the government be able to demonstrate a clear benefit from each of the measures, and to balance costs with expected outcomes.

In addition, the government should ensure that its accessibility policy takes into account the co-priority to streamline regulations through the Open for Business initiative. The Proposed Accessible Built Environment Standard is one of five new areas being regulated under the Accessibility for Ontarians with Disabilities Act. It must therefore be viewed in the context of the overarching accessibility regulatory regime, which involves multiple standards and technical and reporting requirements. The government has done a good job of reconciling accessibility with its Open for Business prerogatives by combining the proposed information and communications, employment, and transportation standards into one global accessibility regulation. Providing one general framework for accessibility standards will make it easier for businesses to understand, interpret, and comply with their regulatory requirements. However, the government could further streamline the process for business by rolling the elements of the Built Environment Standard that fall outside changes to the Building Code into the Proposed Integrated Accessibility Regulation, where possible.

The OCC encourages the government to adopt the following recommendations:

- *conduct a full impact analysis for the most contentious requirements that measures the net gain from the proposed technical requirement*
- *Taking into account the results of the analysis, commit to adopting more flexible requirements where appropriate and/or removing requirements that cause exorbitant costs to business.*
- *Where possible, consider adopting a mechanism to recognize alternative solutions to accessibility proposed by businesses that are functionally equivalent to the prescribed measures.*
- *Incorporate the Built Environment Standards which fall outside changes to the Building Code into the Proposed Integrated Accessibility Regulation in order to create a streamlined framework for accessibility, where possible.*

The government is doing the people of Ontario an invaluable service by making its public spaces and workplaces accessible to people with disabilities on an equal basis. Ontario will be not only a better place to live, but a pre-eminent location for diversity, talent, and innovation. However, the government must ensure that accessibility is not achieved at the expense of economic productivity - these two goals must go hand in hand if Ontario is to achieve higher standards of living for all. Implemented with the principles of economic sustainability in mind, the government's accessibility standards will put Ontario on the path to success.

Thank you for taking the time to review our concerns. If you have any questions or comments, you may direct your staff to contact Stuart Johnston, Vice President Policy and Government Relations at (416)-482-5222, extension 232, or stuartjohnston@occ.on.ca.

Yours sincerely,



Len Crispino
President & CEO

cc: Sylvia Jones, MPP, PC Critic, Community and Social Services
Michael Prue, MPP, NDP Critic, Community and Social Services
The Hon. Dalton McGuinty, Premier of Ontario
Tim Hudak, MPP, PC Leader, Leader of the Official Opposition
Andrea Horwath, MPP, NDP Leader
OCC Membership