

October 9, 2009

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

Re: Proposed Accessible Built Environment Standards

Dear Minister:

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 some 60,000 businesses of all sizes, in all economic sectors and from every area of the province. The OCC's mandate is to advocate strong policies that promote economic renewal and business competitiveness.

The OCC supports the government's commitment and its laudable goal of removing and preventing barriers for people with all manner of disabilities. The OCC was actively involved in helping shape the Customer Service Standards and Employment Standards for the *Accessibility for Ontarians with Disabilities Act (AODA)*, and is currently represented on the Standards committee focusing on Built Environment. The OCC thanks the government for inviting all stakeholders to provide feedback on the *Initial Proposed Standard for Built Environment*.

Overall Assessment of the Standards

The OCC commends the Built Environment Standards Development Committee for its role in identifying the perceived barriers that the disabled community faces in regards to accessible buildings and public spaces. The OCC fully understands and supports the legislation's mandate that by 2025, new building and buildings going through extensive renovations will be designed and built in such a way that are fully accessible to people with all manner of disabilities.

Similarly, the OCC would also like to note its strong support for excluding retrofit and private dwellings into the Standard. The OCC commends the Minister for making this prudent decision. The OCC believes that including retrofit and private dwellings goes far beyond the mandate of the committee and would cause significant difficulties and financial hardship of

owners and tenants throughout the province. The OCC supports the terms of reference initially outlined for this Standard - that the Standard will focus on preventing barriers *on a go-forward basis*.

The OCC supports a number of the proposed Standards as currently written, but has reservations relating to the scope, timing and the high financial cost of compliance. *The OCC also reminds the government that this is but one of several Standards that will most likely have competing timeframes and different costs associated with implementation, and therefore should be considered as a whole rather than in a piecemeal fashion.*

The OCC believes it is imperative that the government coordinate the work relating to timelines and general expectations from all Standard Development Committees, thereby creating a smooth, seamless and transparent process with which businesses may comply. The OCC is concerned that the current process, where each Standards Development Committee works in isolation, will result in confusion, additional red tape, higher implementation costs and difficulty with compliance.

The OCC also notes that the government chose 2025 as the target year by which all Standards are to be fully phased in. The purpose of this was to allow businesses and public organizations sufficient time to plan for and budget their accessibility investments over a reasonable period of time. All five of the Standards to date have very aggressive timelines and in several instances the business community has only a few years to understand their commitments and comply. Businesses across the province have varying and limited resources and capacity to comply with many of the Standards in the timelines that are currently being proposed. It is difficult for businesses to comply within such a short time frame as more than a few businesses have already completed their one, two and in some cases five year business financial planning cycle.

Taking all of these factors into consideration, the OCC believes that the timeframes for implementation should not be decided upon until all the remaining Standards are complete and they can be viewed comprehensively. It is also important to allow businesses/organizations the opportunity to have a "phased in approach" with all Standards, giving them the opportunity to incur costs slowly and over a number of years to assist in mitigating the financial impact.

The Cost Impact Assessment prepared by IBI Group for the Built Environment Standard estimates that the cost for compliance for new construction will add an average of 4 per cent to the total construction cost, and cost premiums for most retrofit requirements are in the high and medium categories. It is projected that retrofit could add approximately 45 per cent to 100 per cent in additional costs. The financial implications for the implementation of this

Standard are potentially daunting, compounded by the fact that this is but one Standard under the Act.

In the absence of financial assistance, the current economic climate, and the years beyond as we try to grow our economy, the potential costs related to the scope and timing set out in the Standards will have a significant impact on the business community. Many businesses, particularly SMEs (which make up the majority of our economic demographic and are responsible for the majority of job creation in this province) operate with exceptionally small profit margins. Any Standard that creates a cost impact - however small or large - may cause hardship among SMEs. When one takes into account the additional costs that are expected to result from the other Standards, the cost impact on the business sector could be significant. In order to ensure the government is fully aware of the economic implications of the Standards, *the OCC recommends that the Government conduct a full impact analysis study on the economic implications of implementing all of the proposed Standards.* This will serve the government well, as the analysis will provide an estimate for its own expenditures as it strives to comply with all of the new Standards going forward.

The government has been working with the OCC and other stakeholders regarding its "*Open for Business*" initiative, with the goal to create '*smart regulations*' and *reduce the red-tape burden on business.* Indeed, the OCC views this as a very important initiative proposed by the government and fully supports this endeavour. As such, the OCC strongly recommends that the government view all accessibility standards through the Open for Business lens. The proposed Standard - along with the other four Standards - seem to place a significant amount of red tape and financial burden on business which may conflict with the objectives of the "Open for Business" initiative. It is imperative that the government ensure that Ministries are kept informed of the details pertaining to the Standards, are consulted with, and work together when the final decisions are being made regarding the outcome of all the accessibility standards. This will assist in enabling government to keep the commitments made with its "*Open for Business*" initiative.

Retrofit and private dwellings

As currently drafted, the Standard would apply both to new construction, as well as to significant renovations. However, there is indication that the Committee may wish to extend the Standard to retrofitting and to private dwellings. As mentioned previously, the OCC strongly supports and commends the Minister for making the decision to exclude retrofit and private dwellings in the Standard. The OCC believes that including retrofit and private dwellings goes far beyond the mandate of the committee and would cause significant financial hardship throughout the province. The OCC also believes that the inclusion of private

dwelling goes well beyond the mandate of the committee or the government. It is imperative that the government not move forward in this direction.

Technical Requirements

The OCC notes that the Built Environment Standards are very technical in nature. The OCC recommends that the technical requirements proposed in the Standard be reviewed and analyzed by industry experts and a full cost analysis completed. The OCC recommends that the government factor in the cost analysis prior to imposing timelines for compliance with the business community.

Renovations

The OCC is uncertain as to what defines "*extensive renovations*". The OCC recommends that there be clarity in what defines "extensive renovation" and that the definition allows businesses to comply with the intent of the Standard. The definition must provide flexibility in recognition that in some instances compliance will not be feasible. For example, if a business is to conduct "*extensive renovations*" on a heritage building it may not be feasible for the business to comply with all the recommendations made in the Standard.

Definition of Undue Hardship

As the Built Environment Committee has commented, the definition of 'undue hardship' is very broad in nature. If the Committee decides that the Standard will define the concept of undue hardship differently than the definition under the Human Rights Code, the OCC recommends that stakeholders be invited to comment on this prior to final approval of the Standard. The OCC wants to ensure that businesses that would experience severe financial difficulties to comply should be exempt from the Standard.

Administration

The OCC notes that the Standard proposes to add a potentially significant administrative burden on business. The OCC recommends that the administrative duties that are being proposed for businesses in all five Standards be assessed and implemented collectively in order to avoid confusion. Since the goal is to encourage compliance, making it easier for businesses to comply in the most efficient manner should be paramount. The OCC also recommends that the government perform a cost analysis on the administrative requirements and how they will impact the business community and Ontario as a whole.

Training and Resources

The implementation and understanding of this Standard poses to be a challenge for many stakeholders if they are not provided with the proper support, tools and resources. The OCC recommends that businesses, associations and organizations be given the proper tools and training material from the government well in advance of the Standards coming into force. This will give businesses the appropriate transition time to accommodate training and prepare in advance. The OCC would be pleased to assist the Ministry in this regard.

Conclusion

The OCC strongly believes that it is imperative that the government understand that the Built Environment Standards are just one of several Standards with which businesses/organizations must comply. Any Standard that creates a cost impact - however small or large - has the potential to cause hardship among SMEs, and therefore must be reviewed and assessed comprehensively, rather than in a "piecemeal" fashion.

These Standards will fundamentally alter how a business operates in Ontario. The OCC encourages the Ministry to engage the business community in discussions about accessibility in order to make them aware of their pending obligations. As mentioned previously, the OCC would be pleased to assist the Ministry in reaching out to the business community.

The OCC would like to thank you for the opportunity to provide feedback on the proposed Built Environment Standards, and looks forward to reviewing the final Standards. If you would like any additional information please ask your staff to contact Stuart Johnston, Vice President Policy & Government Relations, 416-482-5222 ext 232, or stuartjohnston@occ.on.ca.

Yours sincerely,

Len Crispino
President & CEO

cc: Honourable Dalton McGuinty, Premier of Ontario
Tim Hudak, Leader of the Official Opposition
Andrea Horwath, Leader of the NDP

OCC Membership