

KING

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TOWNSHIP OF KING

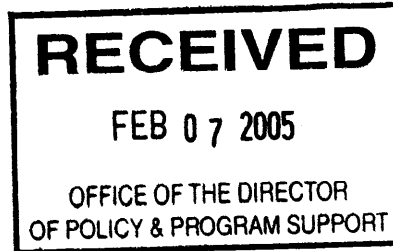
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February 2, 2005

Dr. Marie Bountrogianni, Minister
Ministry of Citizenship and Immigration
6th Floor
400 University Avenue
Toronto, ON M7A 2R9



Madam Minister:

**RE: Proposed Accessibility for Ontarians with Disabilities Act, 2004, Bill 118
Comments**

At its meeting of January 31st, 2005 Council of the Township of King considered the enclosed Report CL-2005-04 which reviewed the proposed Ontarians with Disabilities Act, 2004.

Council endorsed the Report and requested that it be forwarded as the Township's comments on the proposed legislation. Please note that Council amended recommendation (e) to read as follows:

"The Ministry broaden the membership requirement of the Accessibility Advisory Committee to include immediate caregivers as part of the majority that is comprised of persons with disabilities".

Yours truly,

Chris Somerville
Clerk
Encls.

cc. Cordelia Abankwa-Harris, Director Policy and Program Support
Services Division, Region of York
Association of Municipalities of Ontario (AMO)

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TOWNSHIP OF KING

DATE: January 31st, 2005

TO: Committee of the Whole

SUBJECT: Clerks Department Report CL-2005-04
Re: Ontarians with Disabilities Act – Legislation Update

1. RECOMMENDATIONS

It is respectfully recommended that:

- (a) Report CL-2005-04 be received as information.
- (b) The Ministry of Citizenship and Immigration (the Ministry) establish a specific municipal sector standards development committee to set standards for municipalities.
- (c) The Ministry provide funds to assist municipalities in the ongoing implementation of the Accessibility for Ontarians with Disabilities Act, 2004 and if there is any downloading of inspection or enforcement services, the Ministry provide financial support accordingly.
- (d) The Ministry provide clarification of the status of the Accessibility Plans prepared under the Ontarians with Disabilities Act, 2001, and of budget decisions and priority of action plans that have been undertaken pursuant to those Accessibility Plans, and give consideration to providing flexibility with respect to timelines and goals under the new Act.
- (e) The Ministry consider broadening the membership requirement of the Accessibility Advisory Committees to include immediate caregivers as part of the majority that is comprised of persons with disabilities.
- (f) The Township of King forward this report to the Minister of Citizenship and Immigration and request that the above recommendations (b) – (e) be given due consideration.

2. PURPOSE

This Report is to advise of the legislation which is proposed to replace the Ontarians with Disabilities Act, 2001 (ODA), being Bill 118: the Accessibility for Ontarians with Disabilities Act, 2004 (AODA), and to recommend comments for submission to the Ministry of Citizenship and Immigration.

COW
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3. BACKGROUND

Clerks Department Report CL-2004-09 to Committee of the Whole on March 22nd, 2004 advised of the then-ongoing consultation process undertaken by the Province with respect to regulations to the ODA. The Township of King supported nine comments prepared by the Region of York asking the Province to have regard for funding, phased-in timelines, standards and flexibility.

Instead of providing regulations to the existing ODA, the Province has re-written the Act and proposes to replace the ODA with Bill 118, the “Accessibility for Ontarians with Disabilities Act, 2004” (AODA). Second Reading of the AODA was completed on December 2, 2004. A consultation process is underway, with the deadline of February 8, 2005 for written submissions. Bill 118 – Appendix ‘A’ attached.

4. ANALYSIS & PROPOSALS

Where the ODA addressed only government and certain agencies, the AODA includes both the public and private sectors. It also includes:

- (i) **Mandatory Standards** – to be developed by people with disabilities, stake holders and the provincial government to address a full range of disabilities and barriers including physical, mental, sensory, developmental and learning disabilities. The standards will apply to persons and organizations in both the public and private sectors that employ other persons or that deal with the public by providing goods, services, facilities or accommodations or by owning or occupying premises that are open to the public. (Part III of the Bill).

Each accessibility standard will identify the class or persons or organizations to which it applies. The standard will require those persons and organizations to implement measures, policies or practices or do such things as are specified in the standard in order to identify and remove, and prevent the erection of barriers for persons with disabilities with respect to goods, services, facilities, employment, accommodation, buildings, structures or premises.

The Bill requires the Minister to establish a process for the development of accessibility standards which shall include the establishment of several standards development committees. Each committee is responsible for developing proposed accessibility standards for a specific industry, sector of the economy or class of persons or organizations. The process for the development of proposed accessibility standards is set out in section 9 of Bill 118.

The new Act will require that Accessibility reports be filed by the persons and organizations to which an accessibility standard applies with a director for review. The reports shall be made available to the public and filed annually or at such times as the director may specify. Section 15.

- (ii) **Timelines** – to ensure progress, mandatory standards and real results would be achieved every five years or less, moving towards an accessible Ontario in 20 years (2025). Section 9 sets out timelines for the development of standards by the appointed committees and for implementation by those persons and organizations to whom the standard(s) applies.
- (iii) **Enforcement** – all organizations will be required to demonstrate compliance by filing accessibility reports and making them public. The provincial government will review the accessibility reports, conduct inspections and spot audits. (Part IV). There are provisions for compliance orders, appeals and a tribunal and significant fines for individuals, corporations and directors of corporations. (Part VI of Bill 118).

Penalties: Fines of not more than \$100,000 for corporations and \$50,000 for its directors or officers for *each day* in which the offence occurs upon conviction related to the following:

- obstructing inspections
- providing false or misleading information in the accessibility report or to the director
- non-compliance with any order made by a director or the Tribunal
- undertaking any retaliating actions against persons who have sought enforcement of the Act, co-operated with inspectors or provided information in the course of an inspection.

Municipalities are included in the scope of the AODA, however, the proposed Act does not include specific requirements for municipalities except in regards to the continuation of the roles and responsibilities of Accessibility Advisory Committees (AACs).

The key difference between the AODA and the ODA is that the requirement to develop accessibility plans under the ODA allowed municipalities to establish their own timelines for identifying and removing barriers based on locally determined priorities and budgets. Under the AODA, the provincial government will now set the agenda for the scope and rate of changes to identify, remove and prevent barriers by establishing mandatory accessibility standards.

The proposed AODA is also different from the existing ODA because:

- Private sector businesses across Ontario must also comply
- There are provisions for the development, implementations and enforcement of standards
- Targets to ensure that progress is being made to achieve the level of accessibility set out in the standards are included
- There are significant compliance, enforcement measures and penalties for individuals and corporations

- There is a requirement that organizations file accessibility reports annually to a provincially appointed director, this is to determine whether the organizations have complied with standards.

5. FINANCIAL AND OTHER IMPLICATIONS

The implementation of a standard or standards will require additional financial and human resources to ensure that municipalities can implement all of the necessary requirements and comply with the timelines outlined by the standard and avoid fines and penalties. There is also concern that municipalities with their wide range of functions, programs and services may be subject to multiple accessibility standards. The cost of implementation of such standards on a timeframe set by the Province as well as the costs of training staff would present a hardship to municipalities.

The proposed legislation does not identify who the inspectors of the accessibility standards will be. It may be possible that existing municipal health and building inspectors may be directed to undertake the enforcement of the standards. It is also possible that the province could download the enforcement responsibilities to the local municipalities as part of their role of issuing business licences.

Draft Bill 118 has been provided to the Township of King Accessibility Advisory Committee. The Committee is pleased to see the stronger legislation and has only provided one comment. The ODA and the AODA requires that an Accessibility Advisory Committee (AAC) be comprised of a majority of persons with disabilities. It has been difficult to maintain such a majority over the past year and the Township AAC remains one person with disabilities short of its complement despite repeated advertising for an additional member. Presently, one of the members is the immediate caregiver for a child who is severely disabled. In this case, the person who is disabled cannot speak for himself and the caregiver is experiencing and dealing with the frustrations that are met on a day-to-day basis by persons with disabilities. The AAC feels that the membership requirement should include a "majority of persons who are disabled, or the immediate caretakers of persons who are disabled".

The new Act is expected to receive third reading this spring. There are a number of areas which require clarification with respect to municipalities and those agencies which were impacted by the ODA. As required by the ODA, almost all Ontario municipalities prepared Accessibility Plans in 2003 identifying, establishing goals and timelines for accessibility projects. Municipal budgets, both short and long term, and both Operating and Capital, have been prepared taking these recommendations into consideration. The 2004 Accessibility Plans carry on where the 2003 plans left off, providing the status of identified barriers and identifying new barriers to be dealt with. The new Act does not address the status of the ODA, nor the Accessibility Plans which were prepared under its direction, nor of projects commenced under it. The new Act provides that the ODA will be repealed by proclamation of the Lieutenant Governor, and also provides that the ODA may be repealed in part, which implies that the ODA may be phased out in stages. The

Ministry should provide information as to how the work that has been completed or is underway when the new Act is enacted will be recognized, and how the existing Accessibility Plans will fit into the mix.

6. CONCLUSIONS

The Township has begun the work of enhancing accessibility to its programs and services for persons with disabilities and continues to work with the AAC in identifying, removing and preventing barriers. In order to meet the requirements of the proposed AODA legislation, it is important to understand its implication to local municipalities and to have some assurance that there will be provincial funding to assist municipalities in the ongoing implementation of the AODA.

7. ATTACHMENTS

- (a) Appendix 'A': Bill 118, the Accessibility for Ontarians with Disabilities Act, 2004

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Prepared & Submitted by



Chris Somerville
Clerk

Reviewed by:



Bob Casselman
Chief Administrative Officer