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UPDATE ON THE FINAL PROPOSED TRANSPORTATION ACCESSIBILITY STANDARD

The Transit Committee recommends the adoption of the recommendation contained in the following report dated April 30, 2009, from the Commissioner of Transportation Services and the Commissioner of Community and Health Services.

1. RECOMMENDATION

It is recommended that:

1. The Regional Clerk forward this report to the local municipalities and their local Accessibility Advisory Committees, and to the York Region Accessibility Advisory Committee for their information.

2. PURPOSE

This report provides an update on the Final Proposed Transportation Accessibility Standard under the *Accessibility for Ontarians with Disabilities Act, 2005* (AODA) and its potential implications for York Region.

3. BACKGROUND

Municipalities must continue to implement the *Ontarians with Disabilities Act, 2001* and the *Accessibility for Ontarians with Disabilities Act, 2005* simultaneously

The *Accessibility for Ontarians with Disabilities Act, 2005* (AODA) came into effect on June 13, 2005. The AODA applies to both the public and private sectors and covers every aspect of life except private homes. The goal of the AODA is to ensure that all Ontarians with disabilities have full and equal access to goods, services, facilities, accommodation, employment, buildings, structures and premises by January 1, 2025. This goal will be achieved through the development, implementation and enforcement of provincially-set accessibility standards. Both public and private sector organizations will be required to implement these standards in phases.

The AODA will eventually replace the *Ontarians with Disabilities Act, 2001* (ODA), however, the Province has indicated that the ODA will remain in effect for the foreseeable future. Until the standards are finalized into Regulation, all organizations,

including local municipalities and the Region, must continue to implement both Acts simultaneously.

AODA includes enforcement of Standard, compliance checks and penalties

Unlike the ODA, the AODA includes enforcement provisions. Enforcement will be through a process of reporting, inspection, investigation, compliance orders, and administrative penalties. For example:

- Organizations will be required to file accessibility compliance reports.
- Inspectors may be appointed by the province to verify compliance.
- Provincial Directors may issue orders and/or administrative penalties of \$50,000 to individuals and \$100,000 to corporations, per day, for each day the offence occurs.

The Province has not yet released details on the compliance reporting requirements.

The Accessibility Advisory Committee's role has been expanded

Under the AODA, the role of each municipal Accessibility Advisory Committee will change from advising municipal councils on their annual accessibility plans as required under the ODA, to reviewing and advising Councils on their municipality's compliance with the new accessibility standards.

Until the ODA is repealed, Accessibility Advisory Committees will have responsibilities under both Acts.

4. ANALYSIS AND OPTIONS

Standard Development Committees have been established by the Province to develop AODA standards

Under the AODA, Provincial Standard Development Committees are comprised of over 50% of persons with disabilities, as well as sector professionals and government representatives. Committees were established in the following five areas:

1. Customer Service
2. Transportation
3. Information and Communications
4. Employment
5. Built Environment

Each Standard Development Committee is responsible for the development of a proposed accessibility standard to submit to the Minister of Community and Social Services for public review and input. After a specified time of review, the public input is collected and

the Committee considers changes to the proposed standard before submitting it again to the Minister for consideration to be passed into law.

The Customer Service Regulation is Ontario's first accessibility standard. It came into effect on January 1, 2008. The standard states what businesses and other organizations in Ontario must do to make the provision of their goods and services more accessible to people with disabilities. The Regional Municipality of York, as a designated public sector organization under the AODA, must, like all municipalities, comply with the regulation by January 1, 2010. Implementation activities are well underway and are being led by the Office of the Chief Administrative Officer. The Community and Health Services Department will lead the development of policies and procedures for this and other regulatory standards. It is anticipated that Accessible Customer Service training will be delivered to all staff and all other regulatory requirements, including the Accessible Customer Service corporate policy, will be completed by the compliance date of January 1, 2010.

The Final Proposed Transportation Accessibility Standard could come into effect this spring

The proposed Accessible Transportation Standard has now been submitted to the Minister of Community and Social Services for consideration and approval. The initial proposed standard was released for its mandatory public review period from June 27, 2007 to September 28, 2007. At that time, York Region Transit (YRT) provided input to the draft through the Ontario Public Transit Association (OPTA).

The Standard Development Committee then revised the initial proposed standard to reflect the public's input resulting in the final proposed standard discussed in the following section of this report. The Accessibility Directorate of Ontario posted the proposed standard online and accepted comments again until March 31, 2009, at which time YRT continued to provide input through OPTA. The Minister of Community and Social Services has 90 days to decide whether the proposed standard should be adopted as regulation. Therefore, this standard could come into effect in June 2009 or earlier.

Mandatory Requirements of the Final Proposed Transportation Accessibility Standard for York Region and other broader public service organizations

The final proposed Transportation Accessibility Standard will apply to every person and organization that provides transportation services in Ontario. Under this proposed standard, transportation providers, including the Region, will be required to:

- Establish and implement accessibility training for employees/volunteers about providing transportation services to passengers with disabilities.
- Develop and maintain a policy and procedure for emergencies.

- Charge the same fare to people with disabilities and people without disabilities for the same trip at the same time of day.
- Not charge a fee for storing assistive devices, such as a wheelchair.
- Not charge a fare to a support person accompanying a person with a disability.
- Meet standards for services with regard to boarding and de-boarding assistance and accommodating support people, service animals and assistive devices.
- Ensure all public transit vehicles are accessible and that accessibility-related equipment is in good working order.
- Make announcements accessible.
- Develop annual accessible public transportation plans that include policies, procedures and performance measures that ensure the provision of equivalent transportation services to all passengers.
- Offer comparable hours and service for accessible and conventional public transit.
- Develop eligibility criteria and a process to determine eligibility for accessible public transit services (that includes, but is not limited to, conventional fixed route, to-the-door shared ride, shuttles or community buses) and establish an independent appeal process for eligibility decisions.
- Provide accessible transportation services to visitors.

The standard does not appear to apply to Emergency Medical Services (EMS) and police vehicles.

Compliance requirements under this proposed standard range from one year (e.g. Emergency Planning policies and procedures) to six years.

Implementation Roles and Responsibilities within York Region

The Transportation Services Department is responsible for leading and monitoring the overall implementation of this regulatory standard across the corporation.

The Community and Health Services Department will be responsible for the co-ordination and development of corporate policies as well as reviewing Regional departments' compliance for this and all future regulations under the AODA.

York Region is well prepared to meet the requirements of the proposed standards

After six years under the *Ontarians with Disabilities Act, 2001*, accessibility planning has already been integrated within the Transportation Department's service and business planning practices; accordingly, the Transportation Services Department is well prepared to meet many of the requirements of the proposed standard. For example, as part of York Region Transit's (YRT) fleet replacement program, buses have been purchased over the

last six years that include accessibility features. It is estimated that by 2012 the fleet will be 100% accessible. Other examples of where the Department is prepared to meet the requirements of this proposed standard include automated next stop announcements and variable message systems in the buses displaying the next stop, all of which are currently fully functional system-wide. Additionally, YRT continuously seeks advice from the York Region Accessibility Advisory Committee concerning accessible transportation matters.

Ontario Human Rights Commission raised a number of significant concerns about the Final Draft

The Ontario Human Rights Commission submitted comments to the Minister during the public review of the final Transportation Standard. According to the Commission, the final version is a “vast improvement” over the initial version, but it fails to adequately incorporate human rights principles as well as decisions of the Ontario Human Rights Tribunal relating to public transit. For example, the Standard requires implementation of audible stop announcements for all stops within one year of the passing of the regulation. The Commission takes the position that as a result of the Tribunal’s ruling against the Toronto Transit Commission in the *Lepofsy* case, audible stop announcements are an immediate requirement which should be in place within 30 days of the passing of the regulations. As previously noted, YRT/Viva services already comply with this requirement.

The AODA provides that in the event of conflict between the Act or an accessibility standard or regulation and the provision of any other Act or regulation, the provision that provides the highest level of accessibility shall prevail. Consequently, the *Human Rights Code* could prevail over the Transportation Standard resulting in accelerated timelines and/or enhanced accessibility requirements beyond those prescribed in the final Transportation Standard.

5. FINANCIAL IMPLICATIONS

Implications of the final proposed Transportation Accessibility Standard for York Region

Under the final proposed Transportation Accessibility Standard, it is estimated that it will cost the Region a one-time start up cost of \$1,101,832. This estimate includes costs associated with:

1. Training both regional and contracted staff.
2. Upgrading the INIT software with the option of external pre-boarding announcements on all buses.

3. Expanding service hours on door-to-door Mobility Plus service to match conventional YRT and Viva service hours.

These one-time costs have not yet been budgeted and will have to be deliberated in the 2010 Business Plan and Budget process.

Annual ongoing costs of \$485,917 are also anticipated, which will include staffing and ongoing training.

There is no provincial funding to support the implementation of standards under the AODA

The costs to make the Region accessible under the AODA can only be assessed incrementally as the Province releases the standards as regulations, including the Transportation standard.

The Province has provided estimated costs of compliance for each draft standard, however, as these standards are passed into law, costs will have to be reassessed to determine the actual costs of compliance for York Region.

6. LOCAL MUNICIPAL IMPACT

The Municipal Staff Reference Group, which is led by the Region, is comprised of those responsible for implementing the requirements of the ODA and the AODA in all of its nine municipalities and broader sectors such as hospitals and school boards. The group meets to exchange information and share ideas regarding implementation activities. Six municipalities in the northern part of the Region have formulated a group and co-ordinated efforts to meet the implementation requirements of the AODA Customer Service Regulation. The other three municipalities, including York Region, are in the process of establishing their own implementation strategies for implementation. York Region will continue to meet with and share reports/information with the Municipal Staff Reference Group and their Accessibility Advisory Committees.

7. CONCLUSION

York Region continues to demonstrate support of accessibility for all of its residents and is proud of the progress made to-date to make the Region more inclusive and welcoming of people with disabilities.

In moving forward in implementing the standards under the AODA, the Region will continue to integrate accessibility planning into business practices and processes across all departments.

For more information on this report, please contact Don Gordon, General Manager Transit at Ext. 5625.

The Senior Management Group has reviewed this report.