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Submission to the  
Provincial Consultation on the  
Ontarians with Disabilities Act

“Delivering Positive Change  
Where it is Needed Most”

Presentation by

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City of Toronto Disability Issues Committee

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Diversity our Strength

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# CONTENTS

I.	INTRODUCTION .....	1
II.	BACKGROUND.....	1
III.	CITY OF TORONTO RESPONSE TO LEGISLATIVE PROPOSALS .....	1
IV.	IMPLEMENTATION OF THE ODA.....	3
V.	COMMENTS ON THE <i>ONTARIANS WITH DISABILITIES ACT, 2001</i> .....	4
VI.	RECOMMENDATIONS .....	5
VII.	CONCLUSIONS.....	5
	APPENDIX - .....	7
	ODA RESOLUTION UNANIMOUSLY PASSED BY THE ONTARIO LEGISLATURE OCTOBER 29, 1998	

## **I. Introduction**

Toronto City Council has a long-standing commitment toward removing barriers for people with disabilities. City Council expressed its concern about the *Ontarians with Disabilities Act* prior to its passage in 2001. City Council had expressed its concern about the scope of the legislation as well as its coverage. Therefore, we are pleased by the actions that are underway to review this legislation.

The Province of Ontario's intention was announced on November 20, 2003 in the speech from the throne in which an undertaking was given "(to) work with Ontarians with disabilities on meaningful legislation that will allow them to fully participate in building a stronger province."

The Government of Ontario is to be commended for making this commitment and for taking the steps to bring together people with disabilities along with other key stakeholders to seek a common ground regarding the directions for change.

This submission outlines our advice regarding the *Ontarians with Disabilities Act, 2001* (ODA).

## **II. Background**

The City of Toronto is home to more than 2.5 million people. Toronto is the fifth largest city in North America and is central to one of North America's most vibrant regions, the Greater Toronto Area (GTA). 5.2 million people live in the GTA, the cultural, entertainment and economic capital of Canada.

A recent Statistics Canada survey (PALS 2001) estimated that approximately 1.5 million Ontarians have a disability, representing 13.5% of all Ontarians, and about half of Ontario's population is concentrated in urban centres like the GTA. This number is expected to increase as the population ages."

It has been observed that the development of some form of disability increases with age. Elderly seniors (aged 75-79) are the fastest-growing population in Toronto. It is estimated that by 2011, one in every six Ontarians will be over the age of 65 and the over-75 populations will more than double.

## **III. City of Toronto Response to Legislative Proposals**

The City of Toronto's commitment to the removal of barriers for persons with disabilities is long standing. With respect to provincial legislation, at its meeting of February 29, March 1 and 2, 2001, Toronto City Council unanimously adopted a motion stating that any legislation applying to the prevention and removal of barriers for Ontarians with disabilities be mandatory, and apply to all sectors - public, private and non-profit.

In November 8 and 9, 2001, City Council reiterated this commitment to strong effective and mandatory legislation to remove barriers for people with disabilities. City Council unanimously adopted a motion to reinforce Council's commitment to making Toronto a barrier-free city by 2008. It also directed the City's Community Advisory Committee on Disability Issues, chaired by Councillor Joe Mihevc, "to make all necessary representation to the Province of Ontario to pursue the City's position." The Community Advisory Committee on Disability Issues, which is appointed by City Council, is composed of individuals who come from various sectors of the disability community in Toronto. The Committee provides advice to City Council and makes recommendations for positive change aimed at improving the lives of persons with disabilities in Toronto.

Following second reading of Bill 125, the City's Community Advisory Committee on Disability Issues was invited to appear and present its views before the Ontario Standing Committee on Financial and Economic Affairs. Councillor Mihevc and members of the City's Advisory Committee appeared before the Standing Committee on December 4, 2001.

In our submission to the Ontario Standing Committee on Financial and Economic Affairs regarding Bill 125, support was given to the proposals which provided a structured process and the establishment of framework to ensure the rights of persons with disabilities to equal treatment and equal opportunity. However, our submission noted that Bill 125 contained the same weaknesses as Bill 83, an earlier bill, which was introduced in 1998. Both proposals failed to apply to all sectors, to impose mandatory requirements, to establish enforcement mechanisms or to provide timelines.

The following is an excerpt from the submission made by the City of Toronto's Community Advisory Committee on Disability Issues:

"In summary, this Bill is not proactive, it is not prescriptive, and may be interpreted as a declaration that people with disabilities are not now or soon to be entitled to equal opportunities to conduct their affairs or improve their lifestyle through less reliance on community support.

This Bill will not ensure that persons with disabilities will have equal opportunity to fully and meaningfully participate in all aspects of life.

This Bill does not supersede all other legislation, regulations or policies which either conflict with or provide lesser protections and entitlements to persons with disabilities.

This Bill does not require the private and voluntary sectors (and only partly the public sector), to be made fully physically accessible.

The Bill does not require that providers of goods, services and facilities to the public ensure that they are fully usable by persons with disabilities.

This Bill does not require public and private sector employers to take proactive steps to achieve barrier-free workplaces within prescribed time limits.

This Bill does not provide for a prompt and effective process for enforcement.

This Bill does not require a review after three or five years, nor that regulations be made on a sector-by-sector or industry-by-industry basis.

This Bill does not mandate the Government to provide education and other assistance to private sector organizations, individuals and groups who seek to achieve a barrier-free environment.

This Bill does not require the Government to promote the development and distribution of new adaptive technologies and services for persons with disabilities.

This Bill does not make it a strict condition of public sector contracts or grants that the services, goods or facilities be fully accessible to persons with disabilities.

This Bill does not have real force and effect. It is little more than window dressing. As such it guarantees a legacy of increasing costs to the public and private sectors who will delay taking action if not strongly encouraged, leaving a further burden of support to the next generation.”

#### **IV. Implementation of the ODA**

The *Ontarians with Disabilities Act, 2001* (ODA) which received Royal Assent on December 14, 2001, required the City to establish an advisory committee and to prepare an accessibility plan. The City’s Disability Issues Advisory Committee was established in January 2000 and the City’s first accessibility plan was adopted by Toronto City Council in September 2003.

This Plan has been filed with Provincial officials and has been posted on the City of Toronto’s website.

#### **City of Toronto Accessibility Plan**

The City is committed to providing access for all residents and in building an inclusive society. The City of Toronto’s Accessibility Plan committed the City of Toronto to address barriers in the City’s by-laws, policies, programs, practices and services and is moving forward with its responsibility for ensuring physical access to its facilities and properties. The City is also implementing an array of initiatives in its multiple roles as employer, service provider, grants provider and purchaser of goods and services. The City is also building principles of accessibility as it carries out a range of community engagement activities and its commitment to strengthen civic participation.

The central focus of the Accessibility Plan is to make city facilities, information and activities more accessible; to identify and eliminate disparities; and to create an accessible workplace.

To that end, the City of Toronto is working towards:

- the completion of its employment equity survey;
- the formalisation of an employment accommodation policy;
- the preparation of Accessibility Guidelines for new construction and renovation of City-owned facilities; and,
- the preparation of Access and Equity Guidelines to assist Departments and external bodies with the development of action plans.

The City of Toronto has also established a formal community based advisory committee, recognises significant accomplishments through the Access Awards program, and has also established a monitoring mechanism through the completion of reviews by the City's Auditor General.

The City's Accessibility Plan was prepared in cooperation with a corporate coordinating team (the inter-departmental staff team on access and equity), who are responsible for the preparation and reporting of departmental accessibility plans. The City of Toronto's Advisory Committee on Disability Issues was consulted throughout the development of the Plan.

## **V. Comments on the *Ontarians with Disabilities Act, 2001***

The purpose of the ODA is to "improve opportunities for persons with disabilities and to provide for their involvement in the identification, removal and prevention of barriers to their full participation." The objective of the Act should be to provide protection and removal of barriers for persons with disabilities rather than only establishing the processes by which implementation can take place.

On October 29, 1998, the Ontario Legislature unanimously adopted 11 principles (*Attached as Appendix*) that should comprise the core goals and components of effective accessibility legislation. On November 23, 1999, the Ontario Legislature unanimously adopted a further resolution that an *Ontarians with Disabilities Act* be strong, effective and mandatory.

On December 10, 2001, the Official Opposition to the Government of Ontario, then held by the Liberal Party, proposed that the 11 principles previously adopted by the Ontario Legislature should be reflected in the *Ontarians with Disabilities Act* and that the Act be amended to:

- make barrier removal and prevention mandatory, not voluntary, along reasonable time lines;
- extend the ODA's requirements to the private sector;
- require the development of accessibility standards; and,
- provide for effective enforcement and remedies.

The City of Toronto's previous submissions to the Government of Ontario and its Standing Committees have all endorsed the approach outlined in the foregoing.

## **VI. Recommendations**

Once again we recommend that the legislation be amended to incorporate the 11 principles, which were adopted by the Ontario Legislature on December 10, 2001.

The following summarises the approach that should be taken to make the ODA achieve its goal.

### **Purpose**

The purpose of the ODA should be changed “to achieve a barrier-free Ontario for all persons with disabilities, where persons with disabilities can fully participate in all aspects of Ontario life”.

### **Coverage**

The ODA should be amended to require barrier removal and prevention in the private and voluntary sectors in addition to the public sector.

### **Priority on Barrier-Prevention**

The ODA should require and mandate the removal and prevention of barriers in all aspects of life. This can be accomplished by the adoption of regulations to apply to purchasing and capital programs and the establishment of enforcement mechanisms.

It is also proposed that strategies for barrier prevention be introduced such as the application of barrier-free principles to government capital and purchasing programs to ensure that barriers are not maintained, nor new barriers created in the purchase of all goods or services for government use, or use by its employees or the public.

Effective enforcement mechanisms are also required and resources are also needed to assist municipalities, public institutions and the voluntary sector to meet legislative requirements.

### **Strengthened Role of Accessibility Advisory Committees**

The role of the accessibility advisory committees must be enhanced to provide greater and clearer authority; or, identify the appropriate body to monitor, direct and enforce the provisions of the Act.

## **VII. Conclusions**

In a submission to the Ontario Standing Committee on Financial and Economic Affairs on December 4, 2001, the City of Toronto outlined its commitment to the removal of barriers for persons with disabilities and noted the limitations of the proposed legislation.

“A strong foundation of commitment and leadership has already been established by the City of Toronto. The policy imperative in dealing with issues concerning the needs and rights of persons with disabilities is already contained within the City Council’s Strategic Plan as well as within a considerable number of existing policy commitments. The fundamental right to equality of access, opportunity and outcomes for all members of

Toronto's population has been a long-held pillar of governance policies in the City of Toronto.... And while high profile statements of ideals are important, they remain mere paper commitments if they are not incorporated into all aspects of the City's operations"

Toronto is one of the most diverse cities in the world with a long-standing goal of becoming an inclusive society where all residents, many of whom are people with disabilities, are able to fully participate in the social, cultural, recreational, economic and political life of the city and of the province. Inclusion is a primary social objective. All Ontarians should have the opportunity and right to participate without discrimination, environmental or service barriers.

The City of Toronto looks to a clear, strong and effective Ontarians with Disabilities Act that will enhance the mutual vision for a barrier-free Ontario and strengthen the efforts of the City of Toronto to translate its visions and commitments to action on behalf of persons with disabilities.

In closing, we are reminded of an International Conference, "Inclusion By Design", held in Montreal, Quebec, June 2001. As conference delegates worked towards an International Declaration of Access and Inclusion, they called upon all governments to apply the principles of inclusion in all activities and sectors of government and civil society:

"It will only be when Governments commit to eliminating barriers and implementing policies and programs that reflect the needs and interests of all their citizens that communities will be accessible and inclusive."

**APPENDIX**  
**ODA Resolution Unanimously Passed by the Ontario Legislature**  
**October 29, 1998**

In the opinion of this House, since persons with disabilities in Ontario face systemic barriers in access to employment, services, goods, facilities and accommodation; and since, all Ontarians will benefit from the removal of these barriers, thereby enabling these persons to enjoy equal opportunity and full participation in the life of the province; and since Premier Harris promised in writing during the last election in the letter from Michael D. Harris to the Ontarians with Disabilities Act Committee dated May 24, 1995 to:

- a) enact an *Ontarians with Disabilities Act* within its current term of office; and
- b) work together with members of the Ontarians with Disabilities Act Committee, amongst others, in the development of such legislation.

And since this House unanimously passed a resolution on May 16, 1996 calling on the Ontario Government to keep this promise, Therefore this House resolves that the *Ontarians with Disabilities Act* should embody the following principles:

1. The purpose of the *Ontarians with Disabilities Act* should be to effectively ensure to persons with disabilities in Ontario the equal opportunity to fully and meaningfully participate in all aspects of life in Ontario based on their individual merit, by removing existing barriers confronting them and by preventing the creation of new barriers. It should seek to achieve a barrier-free Ontario for persons with disabilities within as short a time as is reasonably possible, with implementation to begin immediately upon proclamation.
2. The *Ontarians with Disabilities Act's* requirements should supersede all other legislation, regulations or policies which either conflict with it, or which provide lesser protections and entitlements to persons with disabilities.
3. The *Ontarians with Disabilities Act* should require government entities, public premises, companies and organizations to be made fully accessible to all persons with disabilities through the removal of existing barriers and the prevention of the creation of new barriers, within strict time frames to be prescribed in the legislation or regulations.
4. The *Ontarians with Disabilities Act* should require the providers of goods, services and facilities to the public to ensure that their goods, services and facilities are fully usable by persons with disabilities, and that they are designed to reasonably accommodate the needs of persons with disabilities. Included among services, goods and facilities, among other things, are all aspects of education including primary, secondary and post-secondary education, as well as providers of transportation and communication facilities (to the extent that Ontario can regulate these) and public sector providers of information to the public e.g. governments. Providers of these goods, services and facilities should be required to devise and implement detailed plans to remove existing barriers within legislated timetables.

5. The *Ontarians with Disabilities Act* should require public and private sector employers to take proactive steps to achieve barrier-free workplaces within prescribed time limits. Among other things, employers should be required to identify existing barriers which impede persons with disabilities, and then to devise and implement plans for the removal of these barriers, and for the prevention of new barriers in the workplace.
6. The *Ontarians with Disabilities Act* should provide for a prompt and effective process for enforcement. It should not simply incorporate the existing procedures for filing discrimination complaints with the Ontario Human Rights Commission, as these are too slow and cumbersome, and yield inadequate remedies.
7. As part of its enforcement process, the *Ontarians with Disabilities Act* should provide for a process of regulation-making to define with clarity the steps required for compliance with the *Ontarians with Disabilities Act*. It should be open for such regulations to be made on an industry-by-industry basis, or sector-by-sector basis. This should include a requirement that input be obtained from affected groups such as persons with disabilities before such regulations are enacted. It should also provide persons with disabilities with the opportunity to apply to have regulations made in specific sectors of the economy.
8. The *Ontarians with Disabilities Act* should also mandate the Government of Ontario to provide education and other information resources to companies, individuals and groups who seek to comply with the requirements of the *Ontarians with Disabilities Act*.
9. The *Ontarians with Disabilities Act* should also require the Government of Ontario to take affirmative steps to promote the development and distribution in Ontario of new adaptive technologies and services for persons with disabilities.
10. The *Ontarians with Disabilities Act* should require the provincial and municipal governments to make it a strict condition of funding any program, or of purchasing any services, goods or facilities, that they be designed to be fully accessible to and usable by persons with disabilities. Any grant or contract which does not so provide is void and unenforceable by the grant- recipient or contractor with the government in question.

The *Ontarians with Disabilities Act* must be more than mere window dressing. It should contribute meaningfully to the improvement of the position of persons with disabilities in Ontario. It must have real force and effect.