

TORONTO TRANSIT COMMISSION REPORT NO.

MEETING DATE: September 19, 2007

SUBJECT: PROVINCE OF ONTARIO'S DRAFT INITIAL PROPOSED
TRANSPORTATION ACCESSIBILITY STANDARD

RECOMMENDATIONS

It is recommended that the Commission:

1. Request the Minister of Community and Social Services defer finalising and approving the *Initial Proposed Transportation Accessibility Standard* until a common framework and set of definitions have been established for all of the accessibility standards currently under development, noting that:
 - the draft transportation standard is being brought forward in advance of the development of a number of broader accessibility standards that will be common for all sectors of the community;
 - this approach has created significant risks and uncertainties regarding the harmonisation of standards and, ultimately, the achievability of providing affordable accessible transit services that balance the needs of all transit riders;
 - the recommended delay in finalising the transportation standard will not have any effect on the TTC's plans to achieve full accessibility on the system in advance of the 2025 requirement established in the Accessibility for Ontarians with Disabilities Act, 2005 (AODA);
 - the TTC's current plans, as outlined in the annual accessibility reports to the Commission, and posted on the TTC website over the past four years, are anticipated to achieve the AODA goal by making bus services accessible by 2010, subway stations accessible by 2020 and light-rail systems accessible by 2024;
2. Endorse the staff position that the standard should be substantially revised, as outlined in this report and the attached submission to the Minister of Community and Social Services on the draft *Initial Proposed Transportation Accessibility Standard*, noting that:
 - the Province of Ontario is developing standards for implementing the AODA, both on a "common standards" basis to apply to all sectors in the province, and on a sector-specific basis for activities such as transportation. The TTC will be required to meet both the common standards related to such things as customer service and the built environment, and sector-specific standards for transportation;
 - TTC staff have participated in the Provincial standards development process but, as reported to the Commission in July 2006, continue to have significant concerns about the way in which the draft transportation standard has been developed, the lack of

- information and assessment of service implications, and the costs associated with implementing the proposed standard;
- many aspects of the current draft transportation standard are very unclear with respect to requirements but, based on staff's initial best estimate of the implications of the transportation standard alone, it is estimated that the added cost to the TTC of the proposed standard will be in the order of \$60 million in one-time capital costs and an increase of \$1.5 million to \$2.5 million per year in ongoing operating costs;
 - the Province is expected to impose additional requirements through the creation of common standards, but the costs and operational implications of these and therefore, the full impact of Provincial standards, may not be known until 2009;
 - the Province has not committed to fund the accessibility improvements outlined in the TTC's ongoing Accessibility Plan or the various accessibility improvements which will be imposed on the TTC and the City of Toronto by the accessibility standards currently being developed;
 - TTC staff will continue to work with transit service providers, transit and municipal associations, and other organizations with an interest in public transportation during the standards development process; and
3. Forward this report to the City of Toronto, the Ontario Ministries of Community and Social Services, Transportation, and Public Infrastructure Renewal, the Ontario Human Rights Commission, and the Greater Toronto Transportation Authority.

FUNDING

While there are many unknowns with respect to the interpretation of the draft standard as currently presented, TTC staff's best estimate is that implementing the transportation standard will require an additional one-time cost of approximately \$60 million and increase the TTC's on-going operating costs between \$1.5 million to \$2.5 million per year. In total, by 2025, implementation of the draft standard will add approximately \$85 million to TTC's combined operating and capital costs. These cost estimates assume that the requirements and schedules for implementing the various clauses remain as described in the draft standard. If changes are made to the requirements or timing, these costs will change.

These costs exclude the costs of an accessible fare collection system, as set out in the June 13, 2007 Commission Report, entitled *Business Case Review for a Smart Card System at the TTC* in the order of an estimated \$260 million (excluding fare boxes) which would be required for the TTC to participate fully in the Province's fare card initiative. Also, the costs noted are in addition to the substantial costs involved in purchasing accessible buses, light-rail vehicles, and new subway cars, and the costs associated with making TTC stations and other facilities accessible, which are already incorporated into the TTC capital budgets and described in the TTC's current

Accessibility Plan. Similarly, the costs, and their impact on cash flows, would be in addition to the potential changes to the Easier Access Program as outlined in the September 19, 2007 Commission Report *Easier Access Program Acceleration*.

Costs related to the other standards to be imposed by the Province cannot be determined at this time, but could be significant, particularly related to the costs associated with the construction of accessible stations, terminals, and other facilities.

Neither the draft initial transportation standard, nor the AODA itself, address the need for the Province to identify additional funding for municipal transit service providers, such as the TTC, to allow them to meet the requirements of the accessibility standards being imposed.

BACKGROUND

The AODA requires the Minister of Community and Social Services to develop accessibility standards that set out the measures, policies, practices, and other steps leading to the achievement of the Provincial goal of a fully-accessible Ontario by 2025.

The standards being developed involve both accessibility standards to address barriers that are common to all sectors, and standards for sector-specific activities. The common accessibility standards will include those for the core areas of customer service, built environment, employment, and information and communications. To date, the only sector-specific standard the Minister has ordered developed is for public transportation.

The Customer Service standard developed under the processes required by the AODA, including the use of a standards development committee and public consultation, was approved in July 2007 through Ontario Regulation 429/07. The City of Toronto was represented on the Customer Service Standards Development Committee (CS-SDC).

For the TTC, the Customer Service Standard means having to meet mandatory compliance requirements by January 2010 and filing reports to verify compliance. The mandatory requirements include establishing policies, practices, and procedures for the provision of services to persons with disabilities, training, new notice/communications requirements, and customer feedback processes where they do not exist or may require review and possible revision. Failure to comply with the accessibility standards may result in a fine of up to \$100,000 per day for each day an offence continues to occur.

There are at least three other common standards which the Province plans to develop in 2008 and 2009, but the development process for these standards is at an early stage. These common standards, especially the Built Environment standard, which will apply to transit station and terminal designs, could have a significant impact on the TTC. Susan Reed Tanaka, Manager Engineering – Engineering Department is the TTC's representative on the Built Environment Standards Development Committee.

With respect to the transportation sector-specific standard, the work of the Minister's Transportation Standards Development Committee (T-SDC) to draft the standard was initiated

in early 2006. A member of TTC staff, Glenn Johnston, Senior Planner - TTC System Accessibility, and four other transit industry representatives, were selected to participate in the 27-member T-SDC. Due to the potential implications of the standard on all transit operators throughout the Province, the Ontario transit industry established a broadly-based Resource Team to support the transit industry representatives on the T-SDC.

In July 2006, the Commission received a report entitled, *Accessibility for Ontarians with Disabilities Act (AODA) – Standards Development*, which highlighted staff concerns that the standards development process was flawed and could result in substantial unexpected costs and/or a net deterioration in the provision of accessible transit services. A number of the issues raised by staff in mid-2006 are still of concern, including the potential for increases in transit costs which will result in pressure on Ontario jurisdictions to increase fares and/or reduce the overall amount of service provided, the inability to determine the cost and operational impacts of all the standards, and the lack of additional funding from the Province.

As with all standards developed under the AODA, the process for the development of the transportation standard requires public consultation. The Minister released the draft transportation standard on June 27, 2007 and invited comments from interested parties. Following the release of the draft transportation standard, staff provided copies to the Commission's Advisory Committee on Accessible Transportation (ACAT) and the City Manager's Office of the City of Toronto.

TTC staff have also consulted with others within the municipal transit industry. The transit industry's Resource Team held a full-day workshop for the transit industry to assess the standards and to identify areas of concern with the draft standard. The TTC's representative on the T-SDC was one of the workshop presenters, and members of TTC's senior management were workshop participants.

A Ministry of Community and Social Services-sponsored report on costs does not provide sufficient information to determine the costs to individual jurisdictions or the cumulative costs of all the standards. Furthermore, an assessment by the transit industry of the report suggested there were significant errors in the assumptions used and other problems that brought the estimates into question. The transit industry has estimated the added operating and capital cost to Ontario transit services at approximately \$500 million for the period to 2025 and \$16 million per year after that. The industry cannot estimate the cumulative cost of the Provincial standards because three of the proposed common standards are not available. Based on the workshop, the transit industry provided a submission to the Minister on the improvements required for the standard to be balanced and sustainable. The TTC staff response to the draft standard discussed below is consistent with the overall thrust of the industry's position.

ACAT held two all-day joint sessions of two subcommittees for the purpose of conducting a clause-by-clause assessment of the sections of the draft initial standard pertaining to definitions and terms, training, accessible conveyances, and various forms of accessible public transit services. The Chair of the ACAT Design Review Subcommittee aided in the drafting of the 'Commentary' section of the staff submission to the Minister of Community and Social Services.

The purposes of this report are to:

- update the Commission on the Provincial accessibility standards development process and the draft standard for the transportation sector in particular;
- obtain the Commission's endorsement of staff's position on the Provincial draft *Initial Proposed Transportation Accessibility Standard* document; and
- to provide the Commission with comments on possible future risks and opportunities associated with the Provincial standards development process.

DISCUSSION

The TTC's goal is to make all its facilities and services accessible to people with disabilities. The schedule that is included in the TTC approved Capital Budget is consistent with the intent of the AODA to have an accessible Ontario by 2025. The TTC's accessibility initiatives were developed in consultation with ACAT. Improvements to transit services in Toronto will have various benefits to TTC customers with disabilities including providing more opportunities for spontaneous travel on the scheduled accessible conventional services, travel with large groups on the TTC's regular transit services as the general public can, and use of integrated conventional and to-the-door services whenever and wherever possible.

It had previously been thought that the TTC's accessibility plans, including making bus services accessible by 2010, stations accessible by 2020 and light-rail systems accessible by 2024, would meet or exceed the Province's goal. However, through the standards development process, the Province has indicated that it will impose additional requirements beyond what is in the TTC current plans, and/or alter the TTC schedules for the implementation of the planned improvements to conveyances, facilities, and services. The Province is also imposing new administrative/reporting requirements, and penalties for failing to comply with Provincial standards and implementation schedules.

The changes will affect the cost of providing public transportation and, in turn, possibly have adverse impacts on fares and services in Ontario. However, the cumulative cost and operational impacts cannot be estimated until, at least, the requirements of the final transportation standard and key common standards, especially the Built Environment standard, are known. Even the process for assessing/determining compliance has not been detailed, although the Customer Service standard has already been approved through Ontario Regulation 429/07.

The process for the development of the accessibility standards is flawed in large part because the four common standards were not in place before the efforts to draft the sector-specific transportation standard were initiated, and because the Province has not provided direction on such matters as implementing a province-wide policy on free admission and fares for personal care attendants. Furthermore, the Province has neither put in place sustainable funding, nor made allowances for undue hardship and/or the potential need to vary the standards where compelling reasons exist (i.e. safety, implementation schedules which are not consistent with existing initiatives or local priorities, determining priorities in the case of competing Provincial

standards, etc.).

Although only the Customer Service standard has been approved and the initial transportation standard is in draft form, it is already clear that there is a need to harmonize the four common standards and the sector-specific transportation standard with regards to the interdependency of elements in different standards (i.e. transit vehicles in one, transit facilities in another, and communications on accessible transportation services in a third); the differences in compliance dates for the implementation of clauses in different standards; the various and different 'classes' in the standards; and variations in definitions and terms between standards. TTC staff have significant concerns that the lack of consistency and harmonisation between the draft transportation standard, and the other common-to-all-sectors standards will seriously undermine the practical implementation of all of the standards. Because of the uncertainty and lack of clarity resulting from the disconnected standards development process, TTC staff are unable, at this point, to determine if the proposed standard is financially sustainable, or can be reasonably balanced with the needs of all transit passengers. A framework for all of the common standards and sector-specific standards should be established, including the development of uniform terms, definitions, and classes, and clarification of the monitoring and enforcement aspects of the standards, before the transportation standard is finalised and formally approved.

There is also a need for guidelines for the implementation of the standard, especially for such a complex and specialized area as public transportation. The Ministry of Community and Social Services staff do not have specific expertise related to transportation policies and practices and, to date, have utilized outside consultants for such basic assessments as what practices are being employed elsewhere. Because of this, staff have recommended to the Minister that Ontario transit industry representatives should take the lead in developing guidelines for the correct and consistent application of the transportation standards and, as the TTC is the authority on multi-system mass transit services, the TTC intends to participate in the development of those guidelines.

The attached letter to the Minister of Community and Social Services outlines staff's concerns with the transportation standard document and provides specific recommendations on how the document should be improved. In recognition of the significance this standard will have on the long-term provision of transit services in Toronto, and the observations of staff, ACAT, and the transit industry that the draft standard has numerous shortcomings, staff would like the Commission's endorsement of the staff position that the standard should be substantially revised.

JUSTIFICATION

The TTC is a leader in making public transportation accessible and has plans to improve services and facilities which were in place before the Province passed the AODA requiring the Minister of Community and Social Services to develop accessibility standards. The sequence of the development of the standards and various aspects of the process are flawed and do not yet provide sufficient information to determine the cumulative costs and operational impacts for public transit services in Ontario. The draft initial standard for transportation was reviewed by TTC staff in consultation with ACAT, other transit service providers and public transit

associations, and they identified numerous opportunities to improve it. Moreover, the Province has not made any commitment to long-term sustainable funding for accessible services and facilities and has not yet addressed questions of policy and implementation of the various standards.

For these reasons, the TTC should request that Minister of Community and Social Services delay the finalization and approval of the draft transportation standard to allow for the standard to be harmonized with the other common standards currently planned or under development by the Province.

September 19, 2007
11-31-48

Attachment: Letter from G. M. Webster to Honourable Minister M. Meilleur, Minister of Community and Social Services Re: Toronto Transit Commission Staff Response - Draft Initial Proposed Transportation Accessibility Standard