To: Chair and Members  
Public Works Committee

From: Scott Stewart, C.E.T.  
General Manager  
Public Works Department  
Joseph L. Rinaldo  
General Manager  
Finance & Corporate Services  

| Telephone: | 905 546-2313 |
| Facsimile: | 905 546-4481 |
| E-mail: | sstewart@hamilton.ca |
| Telephone: | 905 540-6150 |
| Facsimile: | 905 546-2584 |
| E-mail: | jrinaldo@hamilton.ca |

Date: October 15, 2007  

Re: Response to Draft Transportation Standard, Accessibility for Ontarians with Disabilities Act (PW07135/FCS07099)

Council Direction:  
N/A

Information:

The Accessibility for Ontarians with Disabilities Act (AODA) received royal assent in June 2005. The purpose of the act is to remove and prevent barriers experienced by persons with disabilities and to ensure their full participation in the life of the community. The removal and prevention of barriers is to be achieved through the development, implementation and enforcement of accessibility standards which will create a fully accessible Ontario on or before 2025. Standards will cover provision of goods, services, facilities, premises, employment, communication, etc. The Customer Service Standard has been approved by regulation and becomes effective January 1, 2008. The second standard to be drafted, which is now available for public comment until September 28, 2007, is the Transportation Standard, the subject of this report. The report provides an outline of the areas covered by the standard in addition to the sections which impact on City services, and includes areas where it is felt that there are gaps in the standard or areas for improvement in the standard prior to its approval. A response from the Director of Transit to the Minister of Community and Social Services is attached. It has been forwarded to the Ministry in order to meet their deadline for submissions, and is attached as Appendix A.

The Accessibility for Ontarians with Disabilities Act (AODA) protects the rights and seeks to ensure full participation in society of persons with disabilities by requiring that goods and services offered to the public and to employees in Ontario be free of accessibility barriers by 2025, and to ensure that new barriers are not created.
The AODA mandates the development of a number of service standards to ensure equitable access for people with disabilities. Once these standards become law, which will begin as early as January 2008, compliance with the standards will be mandatory, although there is some differentiation in service standards based on different classes of businesses.

There are five standards currently completed or under development, as follows:

**Customer Service** - pertains to how services are delivered - standard development complete, regulation approved - effective January 2008.

**Built Environment** - pertains to access to/from all physical structures and space (indoor and outdoor) and supporting systems - Committee targeted to begin work in Fall of 2007.

**Employment** - pertains to employment policies, programs, practices and processes covering hiring and retaining of employees - Committee targeted to begin work in Fall of 2007.

**Information & Communications** - covers information processing and communication, which could include publications, software, websites and other technologies - Committee began work Spring 2007.

**Transportation Accessibility Standard** - will address barriers to accessibility for persons with disabilities in the delivery of public and private transportation services. Public and private transportation services refer to modes of passenger transportation within provincial and municipal jurisdiction (such as municipal transit and taxis).

The draft Transportation Standard was developed through a standards development committee appointed by the Ministry of Community and Social Services, chaired by the Accessibility Directorate and coordinated by the Canadian Standards Association.

The City of Hamilton has remained in touch with the development process through Hamilton Street Railway’s membership in the Ontario Public Transit Association, and the membership of the Transit Division’s Accessible Transit Services section in the Transit Industry Resource Group chaired by the London Transit Commission, which provided advice and feedback to the standard development committee. In addition, the Transportation Sub-committee of the City of Hamilton Advisory Committee for Persons with Disabilities was updated regularly by Tim Nolan, Chair, who was a member of the provincial standards development committee.

The draft Transportation Standard is comprehensive in its approach, addressing transportation requirements for fixed route transit, specialized transit, and most other types of transportation including commuter rail, taxi, limousine, inter-city coach, and ferries. From the point of view of impacts on persons with disabilities in our community, this comprehensive approach is beneficial, in that it should ensure that there are additional transportation options available that were not available before, and that accommodation for the range of needs will eventually be standardized across the range of transportation services. In addition, the standard is consistent with the philosophy of the AODA and has many benefits to the City, increasing equitable access for persons with disabilities to transportation opportunities that will allow them to live a life that is more independent and with fewer barriers to participation.
The general approach of the draft Transportation Standard with respect to public transit and specialized transit is to require equity to be achieved between the two services, so that community members and visitors who cannot utilize conventional fixed route are not disadvantaged by a lack of transit, or inequitable transit options. In this regard, there are a number of requirements which will require changes to the transit options made available by the City as follows with different timing for implementation of each provision:

### Accessibility of Transit Vehicles

- Transit must be accessible for persons with disabilities
- Fare payment and ticket validation equipment must be accessible
- Temporary barriers at boarding/de-boarding points must be addressed by ensuring a safe, accessible alternative
- Vehicles must provide audible announcements of route, direction, or destination of the vehicle and stops, as well as visual announcement of stops
- Transit vehicles that are used to transport persons with disabilities to display the International Symbol of Access, the International Symbol of Blindness, and the International Symbol of Access for Hearing Loss, once stops are manually or electronically announced audibly and visually
- Specific regulations are provided to address route or destination signage
- Specific regulations address use of boarding ramps lifting devices and portable bridge plates at accessible stops, if requested, and the safety and markings required for these devices
- Operators (drivers) are required to provide assistance to passengers for boarding and de-boarding
- Safety provisions and markings regarding steps, grab bars, handholds, stanchions, floors, and aisles are detailed for all new vehicles, as is colour contrasting and lighting to assist with independent boarding
- Designated spaces for persons using mobility aids as well as personal care attendants, and service animals will be required on all new vehicles
- Warning visual lamp indicators, and audible warning alarm system, and stop-request controls are required for all new vehicles

### Improved Planning, Processes and Communication

- Emergency preparedness and response, maintenance of and communication about accessible features, notice of disruption of accessibility features and a policy on retrofits are also required
- In addition, there are several changes to the requirements for the development of, publication and reporting on an accessible transportation plan, and having an accessible transit advisory committee

### Accessible Services

- Hours of service and days of service for accessible transportation options must be the same as provided in fixed route public transit, in the same catchment area
- The area for accessible transit must be, at a minimum, the same area as for fixed route transit
• There are also changes required to the timing of booking services, and the booking service must be accessible
• If reservations are required, passengers must be informed of trip delays
• The same basic fare structure and fare media options must be made available to users of accessible transit options
• Availability of accessible transit can not be restricted by the number of trips eligible passengers are allowed, or through any operational practice that limits availability of service
• All individuals with disabilities that prevent them from using fixed route transit temporarily or permanently are eligible for accessible transit (this is consistent with the decision made by Council via Report PW 03128(b), approved May 28, 2007, and which is currently in the process of implementation)
• Accessible transit must be made available to visitors, and there shall be coordination of accessible transit in contiguous urban areas
• Companions may be allowed on accessible transit if space is available and their accommodation will not result in the denial of service to other eligible persons.

In addition to the requirements for improvements to transit, the other provisions requiring improved accessibility to other means of transportation will provide accessible options for transportation for persons with disabilities in the community. Of particular note are the regulations about on demand taxis and booked taxis, limousines, shuttles, etc. The requirements for equivalent accessible service for accessible taxis need to be implemented within a timeframe from five to ten years, depending on whether the organization is a brokerage or an independent operator. However, the requirement to charge the same fares for persons with disabilities is an immediate requirement which will make accessible taxis a more feasible option for community members as soon as the regulation is approved. The City’s requirements for licensing of taxis will need to be reviewed and brought into compliance with the regulation in accordance with the timeframes for change as noted in the standard.

There are several areas where Hamilton is already providing services in compliance or partly in compliance with the draft regulations, and also several areas where planning or implementation is under way to make changes that will be consistent with the draft standard. However, there are several areas where the proposed standard will have impacts on the service in Hamilton and there will also be cost implications to the implementations of the standard. Preliminary estimates of cost implications are noted in the Financial Implications section of the report. The areas where there will be impacts are as follows:

• Hamilton plans to have an entirely low-floor transit fleet in 2009
• Expansion of the eligibility criteria as required by the draft standard is already underway
• Specialized service hours will need to be expanded to cover the same hours that HSR service operates
• HSR fare media, such as monthly passes and concessionary fares, such as discounted senior’s fares must be made available to users of ATS services
• Requirement for audible announcement of destinations and stops will require consultation between HSR and ATU in terms of changes to work practices
There are certain technical requirements related to static and electronic signage and other infrastructure which will require changes (many technical changes must be made to either new vehicles and/or in a timeframe of 18 years)

As the Minister has requested comments, staff prepared a response indicating areas for improvement or gaps in the draft standard that should be addressed prior to its adoption. The letter to the Minister is attached, addressing the following points:

**Comments on the Proposed Transportation Accessibility Standard.**

1. The AODA states that the intent is to identify and eliminate barriers and prevent further barriers and yet the standards were not designed from this very framework: this is demonstrated by the language of "may" not "must" and for many of the reasons outlined below.

2. The standard should also require transportation to look at demographics and utilize that information in terms of how they recruit for committee to ensure full community representation around the table when consulting.

3. The Transportation Standards are not in line with current Ontario Human Rights Code. For example:

   - Transportation providers can continue to purchase non-accessible second hand buses.
   - The standards for accommodation of the needs of service users with disabilities are not in line with the requirements of the Human Rights Code including the timelines. An example of the timeline discrepancy is the recent case requiring Toronto and Ottawa to announce the stops where the Standards give the provider 3 to 18 years to commence this practice.
   - These discrepancies could put the City/municipality in a position where they will have human rights complaints due to violation of the Code or undue hardships.
   - The Transportation Standards requirements are set below those of the Human Rights Code.

4. The language of "may" gives the impression that the provider can do it if they chose to and not "must" comply with the regulation.

5. There is very little reference to other disabilities other than physical disabilities that are used in the design of the standards. This would put the municipality in a situation again of not complying with the Code and the intent of the ODA and AODA that includes all barriers (physical, mental, developmental and learning - visible and invisible).

6. The Standards should clearly list the applicable legislations and regulations that transportations services are guided by.

7. The Transportation Standards does not define what "accessible" means and leaves it up to the provider to decide and this is very dangerous for the reasons outlined above with respect to the Ontario Human Rights Code.

8. The Standards instructs providers to use and make "visible" International Symbols as signage and gives a timeline of 3 years for most however this is very confusing since many vehicles may not be fully accessible and hence misleads the users.
9. Some of the language needs to be clarified, to avoid alternate terminology and definitions with other standards passed under the same legislation, and to ensure that people not familiar with the industry can understand the terminology. For example, the Customer Service Standard uses the term “support person” and the draft Transportation Standard uses the term “personal care attendant” in similar ways. In order for clarity in implementing these standards, the same terminology and definitions should be used. Also, the regulation provides a section on “Courtesy Seating” but there is no definition of this term provided.

Preliminary estimates of cost implications prepared by City staff with the assistance of the Ontario Public Transit Association indicate that compliance with the transportation standard will cost approximately $1.1 million annually, beginning in 2011 or 2012. These costs include the increased capital cost of the upgraded equipment that will be required when new buses are purchased, and additional operating costs to extend the current HSR fare structure to specialized transit, provide free transportation to personnel care attendants, and provide upgraded training to HSR bus operators.

The Public Works Strategic Plan (2008) makes a commitment to adapting our services to community needs.

____________________________________  ______________________________________
Scott Stewart, C.E.T.                  Joseph L. Rinaldo
General Manager                     General Manager
Public Works Department               Finance & Corporate Services
September 28, 2007

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

Dear Madam Minister:

Re: City of Hamilton Response- Initial Proposed AODA Transportation Standard

Thank you for the opportunity to provide comments on the Initial Transportation Standard developed under the Accessibility for Ontarians with Disabilities Act (AODA).

The vision of a barrier-free Ontario by 2025 is one to which the City of Hamilton fully subscribes. The City has a long-standing commitment to improving the accessibility of facilities and services for people with disabilities. Hamilton's conventional transit fleet will consist entirely of low-floor accessible buses by 2009. Our taxi scrip and specialized transit programs collectively provide our citizens with disabilities with a level of service that is among the highest in Ontario. Our annual expenditures on taxi scrip and specialized transit in 2008 will approach $13 million.

Hamilton has remained in touch with the process of developing the transportation standard by participating in the Ontario transit industry resource team. The process was essentially one of brokering compromises between the stakeholders, while remaining focused on the goal of a barrier-free Ontario by 2025. Therein lies the real value of the standard, since a barrier-free Ontario cannot be realized unless governments, service providers and consumers commit themselves to working together on an ongoing basis to make the most effective use of human, financial and technical resources.

In response to your request for comments, we offer the following for your consideration.

**Comments on the Proposed Transportation Accessibility Standard**

1. We appreciate that the Standard accommodates diversity in service delivery approaches which reflects the differences between Ontario municipalities with respect to their needs, demographics and fiscal capacities. It is appropriate that implementation timelines have been conceived to accommodate the scope, starting point and costs of specific measures.

2. Since the Accessibility for Ontarians with Disabilities Act (AODA) states that the purpose is to identify, remove and prevent access barriers for people with disabilities, then the Standards should reflect the intent of the legislation in its requirements and measurements for removing and preventing barriers.

3. The Act also speaks of “the right of persons of all ages with disabilities to enjoy equal opportunity and to participate fully in the life of the province” which in essence is speaking to equity of outcomes and hence this should also be built into the framework of the Standards.

4. To be consistent with the AODA, the Standard should define what "accessible" means in terms of identifying, removing and preventing barriers that impede access by people with disabilities.

5. The Standard should clearly list as references the applicable Ontario legislation and regulations that govern the provision of transportation services, as well as provide links to other AODA standards. For example the transportation standard should refer the reader to relevant features in the eventual Built Environment standard, such as those for sidewalk and bus shelter design.
6. Additional clarification of terms and language would minimize confusion and misunderstanding, especially for people not familiar with the transportation industry. For example, the Customer Service Standard uses the term “support person” whereas the Transportation Standard uses the term “personal care attendant” in similar ways. In order for clarity in implementing these standards, the same terminology and definitions should be used. Also, the Transportation Standard provides a section on “Courtesy Seating” but there is no definition of this term provided. The harmonization of terms should be accomplished before the standard becomes an Ontario regulation.

7. The standard should require transportation entities to consider the demographic composition of the region they serve, and ensure it is reflected in the composition of consultative bodies they create to advise them.

8. Transportation providers should not be allowed to purchase used equipment that has accessibility barriers – for example, non-accessible buses.

9. The Standard instructs providers to use and make visible International Symbols as signage and gives a timeline of 3 years for most. However, the requirement to affix accessibility symbols should be made conditional upon the features actually being available on the vehicle, otherwise, confusion for the end-user will occur.

10. All AODA standards should have consistent compliance and reporting requirements, to the extent possible.

11. Standard implementation guidelines should be developed so that expectations and requirements will be clear to all stakeholders.

The City estimates that compliance with the transportation standard will increase its annual base budget costs by at least $1.1 million. We question whether this new Provincial requirement should be devolved upon the municipal tax base, already burdened by significant Provincial program downloading, without any consultation or compensation.

In closing, again thank you for the opportunity to provide input to the Standard development. Should you have any questions regarding the above, please do not hesitate to contact me.

Sincerely,

Don Hull
Director
Transit Division
Public Works Department
City of Hamilton

Cc. - Fred Eisenberger, Mayor, City of Hamilton
    - Advisory Committee for People with Disabilities
    - Scott Stewart, General Manager, Public Works
    - Joe Rinaldo, General Manager, Finance & Corporate Services
    - Maxine Carter, Access and Equity Coordinator
    - Jane Lee, Director of Customer Service, Access & Equity
    - Paul Thompson, Manager ATS and Fare and Revenue
    - Charles Fitzsimmons, Interim Manager ATS