



October 23, 2009

Accessibility Directorate of Ontario  
Outreach and Compliance Branch  
Ministry of Community and Social Services  
777 Bay Street, Suite 601  
Toronto ON Canada  
M7A 2J4

To whom it may concern,

**Re: Initial Proposed Accessible Built Environment Standard**

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On behalf of the Ontario Bar Association, we have listed our general comments regarding the Initial Proposed Accessible Built Environment Standard (the “**Standard**”) below. The Ontario Bar Association supports the government’s goal to create an accessible Ontario by 2025.

The current compliance deadline to the Standard for new construction is 12 months after implementation and for extensive renovations and retrofit, the deadline is 12-36 months for compliance. We are concerned that the timelines for compliance set out in the Standard may be unattainable. More reasonable timelines would increase the likelihood of compliance. It is also not clear which governing body will mandate the required compliance for extensive renovations and retrofit.

The “Standard” sets out rigorous requirements for building owners and operators, businesses, builders and developers, containing a great number of value statements. Instead of using value statements/judgements to support each proposed sub-standard, we would recommend that the Standard make use of clearer and more quantifiable information as support for its rationales.

We are concerned by the presence of inconsistencies in the forms of reference used in the Standard. For example, the term “multi-unit residential” is not defined in the Standard.

Cost numbers for each sub-standard are not set out explicitly throughout the Standard. It is also not clear if the government will be providing any compensation to individuals, businesses, builders or developers who may incur substantial costs in order to be compliant with the Standard.

We are of the opinion that the Standard should be consistent with the existing provisions of the Ontario Building Code. This would facilitate increased consistency of building design across the province, in a manner compliant with the Standard. Any implementation mechanism short of this would be inefficient.

It is our recommendation that the Standard should declare the primacy of the Ontario Human Rights Code (“Code”). We also recommend that there be some discussion about the interaction of the Building Code with the Standard, and a statement that compliance to the Standard and the Building Code, cannot be used as a sole defense to an alleged violation of the Code.

The Standard must be founded upon, and advance, principles of universal design. Universal design is mentioned within the proposed Standard, however, we would recommend further explanation of the concept of universal design throughout the Standard. Universal design means that all environments (built structures, technological systems, policies etc.) be designed for use by a broad range of people. The concept fosters social participation by maximizing accessibility and focuses on full inclusion, without after-the-fact adaptation or retrofitting. We note that the Convention on the Rights of Persons with Disabilities assigns a prominent role to universal design and expressly integrates this concept into the Convention.

The Standard should reference an enforcement mechanism in order to promote compliance.

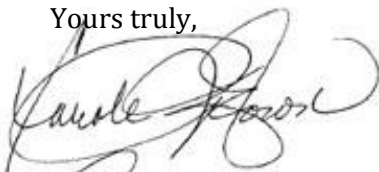
We are concerned with the broad range of exemptions pursuant to Section 2.2.2.3 of the Standard. We would recommend that the exemptions be reduced to only 2 categories: a) technically or structurally impossible; b) create undue hardship as expressed by the Ontario Human Rights Code. The partial exemptions as listed seem to be too broad, with no guidance as to how they are to be applied.

It is unclear as to who will be exercising the discretion contemplated in the Standard. For example, in Section 2.2.2.3 of the Standard which addresses “Partial Exemptions” from the Standard, it is not clear what governing body will grant such an exemption and under what terms.

We understand that although the Standard, as currently drafted, proposes to include retrofitting as a requirement in the Standard that the government does not plan to require all existing buildings to be retrofitted to meet accessibility requirements in the final accessible built environment standard. The spirit and intent of the Standard is to ensure there is no possible reason to deny persons with disabilities access to a built environment in Ontario. The Standard should reflect this spirit and intent by requiring retrofitting. Any proposed exemption should be used sparingly to ensure the Standard remains effective.

We understand that there will be a second review of the proposed standard, at which time we will make further submissions.

Yours truly,

A handwritten signature in black ink, appearing to read 'Carole J. Brown', written in a cursive style.

Carole J. Brown  
President  
Ontario Bar Association