

HUMAN RIGHTS AND PUBLIC TRANSIT SERVICES IN ONTARIO

Consultation Report

**ONTARIO
HUMAN RIGHTS
COMMISSION**

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I. EXECUTIVE SUMMARY	3
II. INTRODUCTION.....	4
III. SCOPE OF REPORT	6
IV. KEY THEMES	7
V. TRANSIT SURVEY UPDATE	8
1. Background.....	8
2. Plans and Standards	8
3. Conventional Transit Systems	9
4. Paratransit Systems	11
VI. CONVENTIONAL TRANSIT SYSTEMS.....	12
1. Conventional Transit Systems and Human Rights Law	12
2. Accessible Conventional Transit Services in Ontario	13
3. General Issues	14
4. Access for Persons with Mobility Impairments.....	15
5. Accessibility Features for Persons with Sensory Impairments	16
6. Other Issues	16
VII. PARATRANSIT SYSTEMS AND COMPARABLE SERVICE	16
1. Paratransit Systems and Human Rights Law.....	17
2. Paratransit Services in Ontario.....	18
3. Impact of Limitations in Paratransit Services	19
4. Key Concerns	20
VIII. FUNDING	25
IX. STANDARDS.....	28
X. ROLES AND RESPONSIBILITIES	32
1. Providers of Transit Services	33
2. Government.....	33
3. Ontario Human Rights Commission	35
XI. CONCLUSIONS AND RECOMMENDATIONS: MOVING TOWARD ACCESSIBLE TRANSIT SERVICES....	38
1. Transit Service Providers	38
2. Senior Levels of Government.....	40
3. Ontario Human Rights Commission	40
APPENDIX: ORGANIZATIONS THAT PROVIDED INPUT ..	42
ENDNOTES	44

I. EXECUTIVE SUMMARY

Equal access by persons with disabilities, older Ontarians, and families with young children to adequate, dignified public transit services is a right protected under the Ontario *Human Rights Code*. For many, it is also a necessity – in order to obtain an education, find and keep a job, or use basic public services like health care. Lack of access to transit may also lead to isolation, as visiting friends or participating in the life of the community becomes difficult or impossible.

Recognizing the importance of accessible public transportation to the ability of persons with disabilities, older Ontarians, and families with young children to fully and equally participate in their communities, during 2001 the Ontario Human Rights Commission consulted with transit providers, seniors' organizations, disability consumer groups, labour organizations, advocacy groups and individuals regarding the status of accessible transit in Ontario.

Unfortunately, equal access to transit services is far from reality for many Ontarians. While many improvements have been made in recent years to improve the accessibility of conventional transit services, such as increased use of low-floor or lift-equipped buses, and modifications to bus and subway stations, progress remains slow, and many of Ontario's transit systems anticipate that it will take 15 years or more to achieve maximum accessibility. At the same time, there are troubling limitations in many of Ontario's specialized or paratransit systems. Patrons too often face restrictive eligibility criteria, long waits for rides, punitive cancellation policies, and unequal fare structures.

Improvements in accessibility of public transit services have been hampered by a lack of resources. Public funding for transit in Ontario is relatively low, accounting for only 25% of revenues, the rest coming from the fare box, as compared to American transit systems, which typically receive about 60% of their revenue from public sources.

Another stumbling block has been the lack of common, objective standards or benchmarks for accessible transit services. Standards are essential in motivating and sustaining increased accessibility, as well as in ensuring that access to transit is not contingent on where in Ontario people live.

Accessible transit is a complex issue, involving many players. For advances to be made, all players – transit providers, municipalities, senior levels of government, non-governmental organizations, the Ontario Human Rights Commission itself, and persons with disabilities - must rethink their roles and responsibilities, and work together to find solutions.

The Commission recommends that transit providers set a goal of full integration and accessibility; design inclusively when developing new policies and

procedures, creating new services, or building or purchasing new structures or capital equipment; develop and maintain plans to achieve full integration and accessibility; involve persons with disabilities, and older Ontarians when planning accessibility improvements; and take all steps short of undue hardship to achieve integration and maximum accessibility.

The Ministry of Transportation has an important role to play in this field, and should take accessibility issues into account when considering transit funding initiatives. As well, the passage of the *Ontarians with Disabilities Act* and the creation of the Accessibility Directorate create a timely opportunity to address the urgent need for standards for accessible transit services.

The Commission itself will continue to take an active role in furthering transit accessibility. It will work with transit service providers to ensure they understand their human rights obligations and work to fulfill them. As well, the Commission will continue to monitor developments in this area, and to raise awareness about these issues through a variety of communication mediums.

II. INTRODUCTION

Accessible transit services are a key factor in assisting people to participate fully in the community – getting out and about, getting to work, conducting business, reaching health care, participating in events, being with friends and combating loneliness and isolation.

-Canadian Pensioners Concerned

Barriers to public transit services raise important human rights issues. For persons with disabilities, older persons, and families with young children, the lack of adequate, dignified¹, and accessible transportation can pose major barriers to participation in employment, education, and community activities. Many of the most vulnerable citizens of Ontario cannot assume access to public transportation, even though the Ontario *Human Rights Code* guarantees the right to equal treatment in services, including public transportation services, without discrimination because of age, handicap, or family status.

Despite the importance of this issue to the daily lives of many Ontarians, it has been the subject of relatively little public discussion. The Ontario Human Rights Commission (“OHRC”) therefore undertook a major initiative to promote public discussion and facilitate improvements in accessible public transportation.

This initiative was particularly appropriate in light of the OHRC’s release of its new *Policy and Guidelines on Disability and the Duty to Accommodate* in March 2001. This *Policy*, the result of one of the largest consultations in the OHRC’s history, outlines the OHRC’s approach to issues surrounding disability and the duty to accommodate, including an emphasis on the right to full participation and

Transit Consultation Report

integration, respect for dignity, the importance of inclusion by design, and the responsibility of all parties to an accommodation to work cooperatively. The *Policy* reaffirms the high standard for assessing undue hardship. This *Policy* provides the theoretical framework for the OHRC's work in the area of accessible public transportation.

As well, the OHRC's public consultations and report on age discrimination in Ontario highlighted the scope and importance of issues facing older Ontarians. There is an urgent need for action to eliminate ageism and age discrimination, so that older persons can fully participate in our communities, enjoy the same rights afforded to others, and can live their later years with dignity. Several submissions to the OHRC's consultations on age discrimination highlighted issues around transportation, noting that, for older persons, particularly those with mobility impairments, transportation is extremely limited, and this can lead to isolation from family, community and from the general activities of daily living².

Demographic trends indicate that this issue will only become larger over time. Currently, it is estimated that 1.6 million Ontarians have a disability. As the population continues to age, it is estimated that in 20 years, one in five Ontarians could have a disability.³ A recent study for the Quebec department of transportation on the projected demand for paratransit from 1993 to 2006, based on data from the Health and Activity Limitations Survey found that even in the short term, aging may have a substantial impact on demand for these services.⁴

There has recently been some renewed public interest in issues surrounding public transit. For example, in September 2001, the provincial government announced that it would invest \$3 billion in public transit, spread out over 10 years. The Ministry of Transportation committed to provide operational and base capital funding for GO transit, as well as to consult with stakeholders to coordinate transit planning and services throughout the Golden Horseshoe region. The recent passage of the *Ontarians with Disabilities Act*⁵ ("ODA") will also have a major impact on transit services, given that it explicitly requires providers of public transit to develop and make public plans for accessibility. Given the opportunities presented by these government initiatives, it is particularly urgent that new investments and projects in the area of public transit take into account human rights issues and principles.

The OHRC's first step in the area of public transportation was a survey of Ontario's public transit providers, launched in July 1999. The purpose of the survey was to obtain information about the status of accessible transit in Ontario, and to identify key issues. Twenty-five transit service providers were contacted, of whom 19 replied. The survey revealed that, while significant efforts had been made to improve the accessibility of transit services across the province, much remains to be done. There are several gaps in the accessibility of conventional transit systems in Ontario. As well, people using paratransit services experience major discrepancies in service levels across the province, including eligibility

criteria, fees, and geographic limitations. In some cases, persons with certain types of disabilities, such as persons with mental disabilities, or with ambulatory or temporary disabilities, are unable to access either the conventional or the paratransit system.

The OHRC's *Discussion Paper on Accessible Transit Services in Ontario* ("*Discussion Paper*") was released in February 2001. It identified a number of key issues, and requested written submissions from interested parties. This information was sent to more than 400 stakeholders, as well as posted on the OHRC's Web site. Over thirty submissions were received from transit providers, seniors' organizations, disability consumer groups, labour organizations, advocacy groups, and individuals. A list of contributing organizations is included as an appendix to this Report. We are grateful to all who took the time to share their knowledge and experience with us.

The transit consultation has made clear both the urgency of the human rights issues surrounding public transportation services in Ontario, and the many opportunities for advancement. The issues outlined in this Report will not be resolved without concerted effort by all parties. However, the costs of failing to address the issue of accessible public transportation make action in this area a priority.

III. SCOPE OF REPORT

This Report is based on the many and varying viewpoints presented to the OHRC in the course of its public consultation on accessible public transportation in Ontario. As well, in the summer of 2001, the OHRC updated its 1999 transit survey, gathering current information on the status of conventional transit and paratransit systems, as well as planned initiatives to increase accessibility.

The Report begins with a brief outline of the status of accessible transit in Ontario today, based on the transit surveys conducted in 1999 and 2001, as well as information received through the consultation process. This section also identifies some best practices among transit providers. Conventional and paratransit systems are then examined in depth, in terms of the human rights principles that apply, the issues raised, and the impact on older persons, persons with disabilities, and families with young children.

Three key issues raised throughout the consultation were funding, standards, and roles and responsibilities. These issues are examined in depth.

Throughout, there has been an attempt to allow transit users, providers, and other stakeholders in the system to speak for themselves. Discussions of public transportation can seem mired in technical details and process issues. These seemingly technical decisions have, however, a powerful daily impact on

thousands of lives in this province. The effect of decisions about transportation on the dignity, independence and opportunities of thousands of Ontarians is profound, as the submissions to this consultation make abundantly clear.

Beyond simply identifying issues surrounding accessible public transportation, and the human rights principles that apply, this Report suggests ways to move the issue of accessible public transportation forward, making recommendations for transit providers, municipalities, and senior levels of government, as well as commitments for the OHRC's own actions. The Report is intended to assist all parties in identifying constructive ways to work together to improve the public transit system.

IV. KEY THEMES

The dominant theme in the submissions received by the OHRC was the magnitude of the impact of access to transit services on the lives of Ontarians. Public transportation – or the lack of it – touches the lives of thousands of Ontarians in profound ways. Being able to use transit can make the difference in access to work or education. It also has major consequences for those who need to get to health care and other essential government services. For many, it makes the difference between isolation and loneliness, and full participation in the life of their communities. Without accessible transportation, employment, education, and community life remain out of reach for many. The would-be contributions of many to their communities are lost. As well, the transportation options that exist may at times jeopardize the dignity, security, and autonomy of users. For many Ontarians, the lack of accessible, dignified transportation options is a source of ongoing frustration.

The changes required to achieve an accessible transportation system are major. Some changes require large investments of resources, and will take time to implement. Others can be quickly and easily achieved, with minimal cost. What is lacking is not awareness of the issues, or even of solutions. All parties agree on the goal: a system that is accessible, that is integrated to the degree possible, that fully respects the rights and dignity of persons with disabilities, older Ontarians, and families with young children, and that provides appropriate alternatives for those who are unable to use even the most accessible conventional services. What is needed is agreement and leadership on standards for accessibility, the will to implement them, and the resources to do so.

It was also very clear that improvements in accessible transportation can only be made through a partnership approach. Public transportation is a complex business, involving multiple levels of government, private organizations, non-governmental organizations, and volunteers. All parties must work together if

accessible transportation is to become a reality in Ontario. No one sector alone can make the necessary changes.

V. TRANSIT SURVEY UPDATE

1. Background

As part of the preparation of this Consultation Report, in the summer of 2001, the OHRC updated the results of the transit survey that was conducted in the summer of 1999. The OHRC contacted 25 transit service providers, including all those who responded to the 1999 survey, as well as the 6 transit service providers who did not respond in 1999.

It should be noted here that, since several municipalities have undergone amalgamation since 1999, some transit service providers have also amalgamated, and in some cases there have been changes to services as a result.

Transit service providers were asked about accessibility improvements to their conventional and paratransit services since 1999. They were also asked about changes to their accessibility plans. Information was gathered about industry standards and practices, such as the percentage of accessible bus routes and standard booking times for paratransit services.

We would like to thank all of those transit service providers who responded for the helpful and detailed information that they provided.

Overall, the transit survey update did not reveal any dramatic changes in the status of accessible transit over the two-year period between surveys. Incremental progress continues to be made. However, there are still large gaps in both conventional and paratransit services across the province, and there are no indications that maximum accessibility will be achieved in the near future.

The update below does not attempt to exhaustively describe each transit system surveyed. Rather, it provides a survey of trends, and attempts to highlight some best practices and advances in this area.

2. Plans and Standards

A number of transit systems, notably the Toronto Transit Commission ("TTC"), have Accessibility Advisory Committees, which represent the needs and concerns of persons with disabilities and seniors, and provide input into accessibility initiatives and improvements. For example, persons with disabilities

and older persons are consulted on the allocation of new accessible buses, priorities for station access improvements, and new design standards.

The TTC also conducts “Open Forums” to consult on accessible transit issues with agencies, advocates and various organizations serving seniors and persons with disabilities.

A number of transit services indicated awareness of future demographic pressures on accessible transit services, and have been conducting surveys or re-evaluating services in order to develop new transit plans.

However, there are still many transit services that do not have current, publicly available, accessibility plans.

3. Conventional Transit Systems

Replacement of existing bus fleets with accessible models is a significant, but necessary investment in order to make public transit accessible. According to the Ontario Community Transportation Association (“OCTA”), about 15 percent of Ontario’s total bus fleet (about 700 buses) is now either lift-equipped, or low-floor. Ninety percent of Ontario transit systems have a procurement policy in favour of low-floor buses. Most transit providers surveyed indicated that between 20 and 40 percent of their bus fleets were accessible. Some have a much higher percentage (Thunder Bay’s fleet, for example, is 65% accessible) and some much lower (Niagara Transit has no low-floor or lift-equipped buses at all). The percentage of accessible bus routes varies widely as well, particularly as some transit providers have decided to concentrate their accessible vehicles on selected, high priority routes, while others are spreading their accessible vehicles over all routes. It should be noted that, because of the long life span of buses, it will take many years to achieve complete accessibility. Plans for full accessibility of bus fleets range from 2005 (for Thunder Bay) to 2016 (St. Catharine’s) and beyond. Not all transit services have identified time frames for maximum accessibility.

The TTC indicated that by 2004, 30 of its 69 subway and RT stations (including the new stations on the Sheppard line) will be fully accessible, if the necessary capital budget is funded. The TTC hopes to have elevators and other accessibility features in all stations by 2012. As well, the TTC plans to have 50 fully accessible bus routes by 2004, and a 100% accessible fleet by 2010. Routes where there is higher demand, such as routes near hospitals or senior citizens’ residences, are being given priority in this respect. All new buses and subway cars (as well as the new subway stations under construction) will be fully accessible. The OHRC was also encouraged to hear that the TTC is planning to begin acquiring low-floor streetcars, as the lack of accessibility of the streetcar system was a major concern highlighted in the *Discussion Paper*.

Transit Consultation Report

Interestingly, the TTC also indicated that it is exploring opportunities for improving existing TTC stations in conjunction with private and/or public sector development adjacent to stations. Since TTC stations are attractive locations for many types of development, where connections to stations are required, the TTC may require elevators and other easier access features as a condition to connection agreements. This appears to be an innovative way of involving other partners in accessibility advances.

Some other types of accessibility enhancements being carried out by transit providers are listed below:

- The TTC has invested in a number of accessibility enhancements to its subway stations, including accessible turnstiles, elevators and washrooms, modified rest benches, tactile platform edge tiles and wayfinding systems.
- Some systems encourage drivers of low-floor or lift-equipped buses to make special request stops where possible for customers using mobility devices.
- Investments in accommodations for persons with sensory impairments include lights indicating “next stop” at the front of vehicles, improved public announcement systems, and bright yellow colouring on next stop cords, bus step nosings, and hand and grab rails.
- Several systems give information about the next arriving accessible buses for each route through their computerized telephone information lines.
- Some transit systems have trained operators to recognize the need for, offer and provide assistance when necessary to passengers with disabilities as they board, deboard, and secure themselves on the bus. Other transit systems require passengers with disabilities to bring an attendant if they will need assistance in any of these respects.
- A number of transit systems have undertaken major programs to improve the accessibility of bus stops. For example, many transit providers are in the process of, or are completing, programs to ensure that transit shelters are accessible. Some are also working on improving access from the sidewalks of bus stops on to buses.
- Thunder Bay identified snow removal at bus stops as an accessibility issue, and indicated that snow removal standards have been improved in the downtown core, near medical facilities, and senior citizen’s homes. As well, there has been an effort to coordinate bus stop snow removal with the sidewalk snow removal.

Transit Consultation Report

- Several systems offer various levels of “community bus” service, generally targeted to areas of the city heavily populated by seniors or persons with mobility impairments, which provide rides to shopping and medical centres. For example, Markham operates a “Connector” bus, a fixed route Mobility Bus that does not require reservations.
- Guelph Transit offers a subsidized bus pass for adults with disabilities.
- OC Transpo has recently undertaken two marketing campaigns dealing with environmental sensitivity issues.

4. Paratransit Systems

As noted in the OHRC's *Discussion Paper*, paratransit systems vary widely across the province. Some paratransit services consist exclusively of specialized vehicles offering pre-booked, door-to-door service. Others combine such services with contract taxi/livery services and/or taxi scrip services⁶. These taxi services are used to transport persons with ambulatory disabilities, and, where usable, are generally found to be more cost-effective per trip than specialized vehicles. For example, in 1993, Hamilton calculated the cost per trip of its taxi/livery service at \$8.27, as opposed to \$24.30 for its accessible van service. A number of municipalities also have some form of community bus services. For example, Toronto's Wheel-Trans also offers some “zone” bus service that provides more spontaneous door-to-door service within specific high trip generating zones.

Rides must generally be pre-booked, with booking requirements ranging from 24 hours in some municipalities, to 2 weeks in others. Many services permit subscription bookings e.g., regular trips to and from work. OC Transpo provides booking priority to persons who use a mobility aid, over those who are ambulatory disabled.

All systems have formal eligibility requirements, although some are more restrictive than others. Some systems restrict eligibility to persons with permanent disabilities. Most eligibility requirements focus heavily on mobility restrictions – the inability to walk 175 metres or to climb steps, for example. Some systems require extensive in-person applications, while others rely on certification from the applicant's primary care physician. OC Transpo indicates that eligibility for its paratransit services is “based on a functional rather than a medical model. Persons are not qualified or disqualified on the basis of a specific diagnosis or disability. An individual will be certified as eligible if there is any part of the conventional transportation system which cannot be used or navigated by that individual because of a functional disability”.

Most services have fare structures that mirror those of the conventional system. Some, however, charge higher rates to paratransit passengers, or charge registration or application fees. Some systems allow attendants to ride free: most, however, require attendants to pay the regular fare.

Some systems provide service on a “priority basis”, prioritizing trips that are for work, education and medical purposes.

Most systems provide some form of training for employees operating paratransit services. Burlington also provides Taxi Operator Training for taxi drivers transporting passengers with special needs.

VI. CONVENTIONAL TRANSIT SYSTEMS

Without adequate and affordable transportation, a senior loses her independence, does not have the means to participate in activities outside her home, loses the chance to participate in social activities, and can actually take transportation means that are unsafe, or suffer isolation.

-Ontario Society (Coalition) of Senior Citizens' Organizations

1. Conventional Transit Systems and Human Rights Law

The OHRC's *Policy and Guidelines on Disability and the Duty to Accommodate* highlights the importance of the right to integration and full participation for persons with disabilities. This requires barrier-free and inclusive designs and removal of existing barriers. Segregated treatment in services is less dignified, and is unacceptable, unless it can be shown that integrated treatment would pose an undue hardship, or that segregation is the only way to achieve equality⁷.

In the context of public transit services, this means that the accessibility of the conventional transit system is essential, even where excellent paratransit services are available. Conventional transit services should be designed as inclusively as possible, from the outset, and barriers should be removed where they exist. This is the approach that most respects the dignity of persons with disabilities.

When planning new systems of transportation, we would all gain if attention were paid to the fact of an aging population ... It is more cost-effective to design the systems like this from the start, rather than having to retro-fit them at a later time.

- Ontario Society (Coalition) of Senior Citizens' Organizations

Increasing the accessibility of conventional transit may also make good practical sense. It is possible that increased accessibility in conventional transit will decrease demands on paratransit services. The TTC noted in its submission that, as its conventional system becomes more accessible, there has been a movement by persons with disabilities towards using the conventional service and being less reliant on the paratransit service. This increases efficiencies: for example, the average public subsidy per passenger trip for Wheel-Trans in 1999 was \$25.98, as opposed to \$.35 on the conventional system. However, the submission from OCTA and the Canadian Urban Transit Association (“CUTA”) is sceptical on this point, stating that the majority of people who are eligible for door to door service would be reluctant to give up this higher level of service to ride on conventional fixed route transit, even though it would eliminate the need for advance reservations, and provide greater flexibility and spontaneity. Kingston Transit notes that the types of paratransit users in each community vary widely, so that the impact of increasing the accessibility of conventional transit may differ between communities.

In any case, many modifications that increase accessibility also lead to improvements for other riders. For example, a recent study conducted by the American Transportation Research Board found that, for most of the transit providers surveyed, the most important reason for improving communication methods for persons with disabilities was the benefit it provided to all riders⁸.

2. Accessible Conventional Transit Services in Ontario

There are 58 conventional transit systems in Ontario. This includes commuter rail systems like GO Transit, and the subway system operated by the TTC. Public funding accounts for about 25% of the revenues, and in recent years has been contributed solely by municipalities⁹.

Many of Ontario’s older public transportation systems were not designed to accommodate persons with disabilities, and face significant challenges in removing existing barriers. Progress towards maximum accessibility is continuing, but at a slow pace. While transit service providers express support for the principle of maximum accessibility in the conventional transit system, they also universally indicate that lack of funding is posing significant obstacles to progress.

As indicated by the transit surveys, most public transit systems are operating at least some lift-equipped or low-floor buses. However, the information provided to the OHRC indicates that there is a long way to go to achieve completely accessible fleets. While 90% of Ontario transit systems have a procurement policy in favour of low-floor buses¹⁰, in many cases, these commitments are dependent on budget constraints. In recent years, accessibility initiatives have

also focussed on improvements to bus stops and shelters. Several systems offer some “community bus” services.

While many accessibility improvements are relatively low cost (such as having drivers announce stops), others are very costly. For example, retrofitting subway or transit stations to add elevators costs millions of dollars per station. Modifications to streets and sidewalks to improve access to low-floor buses are also expensive.

The sections below outline some key areas of concern with respect to the accessibility of conventional transit systems that were raised in the submissions to the OHRC.

3. General Issues

Many submissions pointed out that older persons and persons with disabilities often face significant challenges simply getting to and from fixed route transit, particularly during the winter months, when snow creates major barriers in most parts of Ontario. Unless these issues can be addressed, no amount of improvements to conventional transit systems will make conventional transit truly accessible. Some issues include the lack of benches at bus stops where passengers can rest while waiting for transit, long distances to buses, and long waiting periods. Piles of snow at bus stops can also pose hazards for persons with disabilities.

I have been dropped off a streetcar or bus at the end of the sidewalk to face a mountain-like pile of snow. The streetcar would move away after I got off and then the cars would start to zoom by me before I managed to cross over the snow and reach the sidewalk. I felt like I was in the middle of a firing range.

-Individual submission

This concern was echoed in the submission of Canadian Pensioners Concerned.

As well, some submissions pointed out that priority seating for older persons and persons with disabilities is not always respected, particularly when transit is overcrowded.

Concerns were also raised that drivers on the conventional transit system may not receive sufficient training regarding assisting passengers in need. As a result, even where accessibility features are in place, passengers may not always be receiving the full benefit. For example, drivers may not give passengers with mobility or sensory impairments sufficient time to take their seats prior to moving the vehicle. As well, because of tight schedules, drivers are sometimes reluctant to take the time to lower the floor of kneeling buses or to ask other passengers to

make way, or are uncertain as to how to operate lift-equipped buses. Further, breakdowns of elevators or lifts, or non-functioning escalators are not uncommon.

As well, ongoing sensitivity and anti-discrimination training for transit staff is essential. Several submissions identified lack of sensitivity and discriminatory attitudes among transit personnel as barriers to access.

ARCH has received complaints about lack of training and discriminatory attitudes of the staff of these transit service providers. In these cases, even though the equipment is accessible, the staff have not been knowledgeable or willing to assist to accommodate the person. The requirement for accommodation with dignity embodied in the duty to accommodate is nullified when an individual has to fight to be able to access equipment which is already accessible.

-Advocacy Resource Centre for the Handicapped

A number of submissions pointed out the need for a broad understanding of accessibility. The focus of accessibility initiatives has most often been on mobility impairments. However, persons with sensory impairments, or invisible disabilities such as environmental sensitivities or mental disabilities, also have needs that should be taken into account when designing public transportation services, or in barrier removal.

4. Access for Persons with Mobility Impairments

As noted above, 90% of Ontario transit systems now have a procurement policy in favour of low-floor buses, and lift-equipped and low-floor buses now make up 15% of Ontario's total bus fleet. There are Easier Access features on the majority of the Ontario transit industry's 5600 buses, and there are a growing number of fully accessible bus routes in many Ontario cities. As well, many bus and subway stations have been made more accessible to persons with disabilities through the addition of elevators, accessible washrooms, modified rest benches, and other accessibility features.

However, there is still a long way to go. Information from the transit surveys indicates that maximum accessibility may be 15 years or more away in many urban centres in Ontario, even if all accessibility plans currently in place are implemented. This is partially due to the high costs of renovating transit stations and purchasing accessible vehicles, and partially due to the long life span for capital equipment: for example, in the city of Windsor, over half the bus fleet is over 25 years old. Procurement policies in favour of low-floor vehicles will therefore produce results only slowly.

5. Accessibility Features for Persons with Sensory Impairments

In its submission, the Canadian National Institute for the Blind recommended a number of measures to increase accessibility for persons who are blind or visually impaired, including making all information, including maps, available in alternative formats; consistently and clearly announcing all stops along subway, bus and streetcar lines; placing colour-contrasted, appropriately-sized signage in convenient locations; and using tactile ground surface indicators to indicate stairs, platform edges, and way finding. Although some transit systems have made advances in this respect, many have not.

The Discussion Paper appears to primarily focus on the accessibility needs of those with ambulatory disabilities and persons who use wheelchairs and stress the importance of accommodating persons with mental disabilities. The accessibility needs of persons who are blind and visually impaired must also be addressed. The TTC ... has undertaken a number of initiatives to accommodate the needs of persons who are blind and visually impaired, however, other Transit Authorities have yet to do so.

-Canadian National Institute for the Blind

Individual submissions also emphasized the importance of providing announcements of stops, and training for transit staff.

The Centre for Independent Living in Toronto ("CILT") recommended coin operated TTYs at bus and subway stations, using existing moving LCD signs on subway platforms to make public announcements, and installing LCD signs in buses and subway cars.

6. Other Issues

Accessibility features that would benefit persons with environmental sensitivities include implementing no-scent policies for drivers and passengers; prohibiting buses and taxis from idling at pick-up stops, in order to reduce chemical exposures; installation of benches at bus stops; and ensuring that elevators and escalators are not only available, but in good repair. OC Transpo has recently undertaken two marketing campaigns dealing with environmental sensitivity issues, the first of which was undertaken in partnership with the Environmental Health Association of Canada.

VII. PARATRANSIT SYSTEMS AND COMPARABLE SERVICE

The establishment of truly accessible public transit and paratransit systems will enhance the opportunity for people with disabilities to participate fully in their

communities. Lack of accessibility in public transit systems creates barriers for people who are disabled that do not exist for the able-bodied population. While able-bodied people have the right to decide at the last minute to participate in a community activity or be on-call for work, this option does not exist for people who are disabled who must rely on paratransit as it currently exists. Changes should and must be made to allow all people to participate on an equal basis.

-Multiple Sclerosis Society of Canada, Ontario Division

1. Paratransit Systems and Human Rights Law

Where individuals are unable, because of their disabilities or because of the non-inclusive design of many older transit systems, to access conventional transit systems, transit service providers have a duty to accommodate these needs, up to the point of undue hardship. While some transit providers argue that paratransit is a type of voluntary special program under human rights law¹¹, it is the position of the OHRC that paratransit is a form of accommodation that can be required to meet the duty to accommodate under the *Code*¹².

The OHRC's *Policy and Guidelines on Disability and the Duty to Accommodate* emphasizes the importance of inclusive design and barrier removal in ensuring the right of persons with disabilities to integration and full participation. The *Policy* states that:

[E]mployment, housing, services and facilities must be built or adapted to accommodate individuals with disabilities in a way that promotes their integration and full participation. Segregated treatment in services, employment, or housing for individuals with disabilities is less dignified and is unacceptable, unless it can be shown that integrated treatment would pose undue hardship or that segregation is the only way to achieve equality.

The *Policy* goes on to recognize that even up-front inclusive design and systematic removal of existing barriers may not always result in full participation for persons with disabilities, and at this point, differential treatment may be required in order to provide equal opportunity to full participation.

This applies to transit services. There will always be individuals who will be unable to use even the most accessible conventional transit system. Certainly, at this point in the evolution of conventional transit, there are many individuals in these circumstances. A segregated paratransit system is therefore a necessity to achieve equality for persons with disabilities, and this will most likely always continue to be the case, although the need may diminish as the accessibility of the conventional system increases.

The right to equal treatment in services means that paratransit systems should be comparable to conventional transit services in terms of the types and level of services they provide, unless the provision of comparable services will cause undue hardship for the transit service provider.

Further, as with any type of accommodation, paratransit services must be provided in a manner that most respects the dignity of persons with disabilities. Respect for dignity includes individual self-respect and self-worth, as well as the privacy, confidentiality, comfort, autonomy, individuality and self-esteem of persons with disabilities.

2. Paratransit Services in Ontario

According to OCTA, there are 72 paratransit services currently operating in Ontario. The Canadian Urban Transit Association's statistics indicate that Canada's urban paratransit systems provide rides to almost 11 million riders per year. In Toronto alone, Wheel-Trans has over 18,000 registrants, and in 1999, it provided almost 1.5 million rides.

The public subsidy per rider tends to be much higher for paratransit services than it is for conventional transit. For example, again in Toronto, the public subsidy for each passenger trip on Wheel-Trans was \$25.98, as compared to \$.35 for each passenger trip on the conventional system.

Paratransit services are provided through a variety of institutions. In some cases, services are provided directly by a municipality, or by a municipal transit commission. In others, paratransit services are contracted out to specialized providers. Community agencies, such as Community Care Access Centres, often provide some form of paratransit service. As well, there are many volunteer-operated paratransit-type services across the province. Concerns have been raised about the heavy involvement of volunteer organizations in providing paratransit services. As one Community Care Access Centre noted: "Our agency does its best to give service to this client group but volunteers cannot be expected to shoulder this responsibility, but can augment municipal and county services. Governments are shifting the responsibility for core services more and more to the voluntary sector" (Community Care Peterborough).

The nature of paratransit services varies widely across the province, as outlined in Part V, section 4 of this Report, the **Transit Survey Update**. Some areas provide a combined family of services, including wheelchair accessible vans, contracted taxi services, and taxi scrips, while others provide only wheelchair accessible vans. Some services provide community bus services on routes heavily populated by seniors and persons with disabilities. Some provide services only for restricted purposes, such as employment, education, and medical appointments, while others have no such restrictions. Eligibility

requirements also vary widely, as do fares and fare structures, and booking requirements.

3. Impact of Limitations in Paratransit Services

Submissions received by the OHRC spoke very strongly to the powerful negative impact on persons with disabilities and senior citizens of insufficient or inadequate paratransit services. Difficulties in accessing paratransit services restrict access to employment, education, and services. An employment counsellor who works with persons with disabilities pointed out the major barriers that lack of transit creates for job seekers with disabilities. For example, employers will frequently call and offer interviews on the same day or the next day, while paratransit services require patrons to book substantially ahead of time. Because some paratransit services often run behind schedule, job-seekers may frequently find themselves late for job interviews, or unable to guarantee fixed start times for a job (CILT). The Kidney Foundation indicated that limitations in paratransit services may actually have serious health implications for some. Access to comprehensive medical treatment is not simply a function of adequate medical facilities, but also of the existence of the necessary supports to complement these centres. For example, the Kidney Foundation states, “When transit is not available, delayed or long waiting periods are encountered, they [renal patients] experience stress reactions that can be very detrimental to their already compromised health status”.

Seniors' organizations also raised concerns about the social isolation that can result from lack of access to paratransit services. This is particularly the case where paratransit systems prioritize, or exclusively provide, trips for employment, educational, or medical services.

As well, limitations in paratransit services raise larger issues of respect for dignity.

What is even more pernicious is the complete lack of control that people with disabilities experience in their lives as a result of the capricious, under-funded paratransit service. People with disabilities are individuals, members of our society and tax-payers. And yet, they are deprived of one of the most fundamental qualities of individuality – agency. They cannot plan ahead. They cannot change their minds at the last minute. Often they cannot access the paratransit phones for hours at a time, or must book 4-5 days in advance. They are penalized for being late like naughty school children. They are often abandoned in out of the way places, or stranded in the cold waiting for a pick-up. A taxi driver is rude – there is no penalty.... People with disabilities are treated as less than human by some paratransit authorities and the governments that fund the service.

-Transportation Action Now

It should be emphasized that several submissions also highlighted how highly valued and appreciated the available services are, the professionalism and courtesy of many of the drivers, and the willingness of administrators to engage in ongoing dialogue about improvements to the system.

Summarized below are some recurring themes from submissions. In reviewing the issues below, the wide variance in paratransit services across the province must be kept in mind.

4. Key Concerns

Eligibility Requirements

All paratransit services have eligibility criteria of one form or another, although the criteria, and the method of assessing eligibility, vary widely. Some paratransit services limit eligibility to persons with permanent disabilities, while others permit persons with temporary disabilities to access the system. In general, most systems have eligibility requirements that focus heavily on persons with mobility restrictions, for example, the inability to climb stairs or to walk 175 metres unassisted.

Under the *Americans with Disabilities Act* (“ADA”), which sets standards for accessible transit in the United States, the criteria for eligibility for paratransit services is simply whether or not an individual can use the transportation provider’s fixed route system – for example, because the person is unable, because of his or her disability to use accessible conventional transit services; because accessible conventional transit services are not available at that time on that route; or because the person is unable, by reason of his or her disability, to travel to or from the boarding or deboarding location. Eligibility is therefore a functional determination of whether the person can use the regular transit system as it currently exists, and not simply a medical or physical diagnosis.¹³ This approach appears to be more in keeping with the broad definition of disability in the *Ontario Human Rights Code*¹⁴, as well as with the requirement that persons with disabilities be considered, assessed, and accommodated individually.

Concerns were repeatedly raised that restrictive eligibility criteria are leaving some individuals with access to neither the conventional system, nor the paratransit system in their communities. For example, the Kidney Foundation indicated that persons with kidney-related disabilities may experience changes in their mobility, and therefore may not be eligible for paratransit. The Environmental Illness Society of Canada reported that attitudinal barriers to the validity of invisible disabilities, such as environmental illnesses, have led to evaluation procedures that deny services to passengers who need the service.

Transit Consultation Report

As noted in the *Discussion Paper*, persons with mental disabilities are generally only eligible for paratransit services if they also have a mobility restriction. This leaves many persons with mental disabilities with no access to transit services.

One individual submission raised concerns about the combined effect of disability and family status. As a blind person, he is generally able to access the conventional transit system. However, as a parent with a small child, the combined effect of his disability and his family status present him with serious transportation difficulties.

I recently became a father and began to face new challenges and barriers in taking my baby with me on public transportation. Where and what are my choices? I can't drive, I can't stop a cab on the street when I am in a hurry. I won't be taking the stroller, and my wife does not feel it is safe for me to take the baby in a back pack or chest-sack style bag with my white cane. What can I do? Is there a provision in the Wheel Trans admission criteria to admit blind parents at least? Or, is one of the governments ready to subsidize my cab expenses?

-Individual submission

The Advocacy Resource Centre for the Handicapped ("ARCH") states that, in the case of Toronto's Wheel-Trans system, the criteria are not designed to individually assess a person's need for accessible transportation: only persons with mobility disabilities who use the "right" assistive devices are accepted on to the program. According to ARCH, Wheel-Trans does not accommodate persons with disabilities such as cognitive disabilities, respiratory disabilities, or visual disabilities, for example. There are as a result many people who have no access to public transportation.

The categorical denial of a service based on the nature of a disability constitutes *prima facie* discrimination. Further, the duty to accommodate to the point of undue hardship extends to *all* persons with disabilities who require accommodation to use public transportation, not only those captured by the restrictive criteria applied by transit service providers.

-ARCH

Scheduling Practices

For some paratransit systems, bookings must be made up to two weeks in advance, which can severely restrict patrons' ability to attend appointments, or access services. Even where services provide for much shorter booking requirements (in some systems, only 24 hours in advance), it may be very

Transit Consultation Report

difficult to actually get a booking. Many patrons mentioned having to start trying to call the system at 5:30 a.m. in order to book a ride, and spending up to 45 minutes trying to get through on the telephone.

As well, some submissions mentioned services that are routinely 30 minutes or more late, causing difficulties for persons trying to reach medical appointments, or employment. Particular concerns were raised about situations where rides have been several hours late or have not arrived at all, and patrons were left waiting outside, sometimes in inclement weather, with no idea of when or whether their ride would arrive. It was pointed out that this raises real safety concerns for persons with disabilities or frail seniors.

Ride Cancellations

Some paratransit systems have policies penalizing patrons who cancel rides on the day of service. Penalties can include suspensions from the service of up to 30 days. As several submissions pointed out, these policies seem particularly unfair when they are applied regardless of the reason for the cancellation, especially since paratransit systems are dealing with persons whose health status may be fragile and fluctuating.

Fares and Fare Structures

Fare structures for paratransit services vary widely, especially when one considers the effect of taxi scrip services. Some services charge the same fares as those charged to riders on the conventional system, while others charge higher fees per trip. Some paratransit systems levy one-time registration fees. Few paratransit systems permit patrons to purchase monthly passes, or bulk tickets, as is common on the conventional system.

Priorizing of trips

Some paratransit systems will only carry riders on trips for employment, educational, or medical services. Others prioritize such trips, and allow patrons to ride for other purposes on an availability basis. Some do not prioritize trips at all. A number of submissions pointed out the isolating effects of prioritization policies, as they cut people off from social, recreational, and other services.

Reciprocity

Several submissions raised concerns about the lack of reciprocity arrangements between Ontario paratransit systems, which would allow those eligible for paratransit services in one system to use the equivalent service when visiting another area. This is especially the case given the rigorousness and length of the eligibility screening procedures for some systems. This lack of reciprocity, some patrons felt, posed a real barrier to travel for persons dependent on paratransit

Transit Consultation Report

services. As one individual submission said “Blindness and its subsequent dilemmas do not recognize ... boundaries. Needing a ‘ride’ somewhere is needing a ‘ride’ somewhere whether you are in Moncton, N.B., or Sechelt, B.C. “. A short-term visitor may have to wait a week or more to be accepted as eligible for paratransit service.

Cross Boundary Travel

Travel across the many boundaries in the Greater Toronto Area (“GTA”) is a major issue. As the GTA continues to expand and develop, residents more frequently have need to cross various municipal boundaries in order to work, obtain an education, access community programs, or receive medical services. However, the paratransit systems in the GTA have been unable to come up with a formula to permit persons who are dependent on paratransit to cross a municipal boundary.

For able-bodied people crossing a boundary is a matter of jumping in your car; even some public transit accommodation is made. In the GTA, there is talk of “seamless” transportation for the general public but none for people with disabilities. Getting into and out of Toronto is a nightmare for those who are dependent on paratransit.

-Transportation Action Now

According to the Kidney Foundation, cross boundary trips can be quite physically onerous, creating significant difficulties for patrons who are attempting to travel home after arduous medical treatments, such as dialysis.

Authorities should be required to put the rider first and agree upon a way to deliver the customers safely to their destination. Crossing boundaries may mean being discharged on the side of a busy road and left to cross on their own or be taken off a van and left to be picked up by a van of an adjoining municipality. This should not be allowed. Those involved must seek out other municipalities who have resolved similar situations and implement that formula before a rider is hurt or killed.

-Multiple Sclerosis Society of Canada

Amenities

The Multiple Sclerosis Society of Canada emphasized the importance of amenities such as functioning shock absorbent systems and air conditioning for persons with certain disabilities. For example, persons who have acquired osteoporosis from being in a wheelchair for many years can actually suffer stress fractures from a rough vehicle ride, while persons with heart and lung disease, multiple sclerosis, and in some cases muscular dystrophy would benefit from

Transit Consultation Report

having a cool environment during a ride. CILT submitted the story of a patron who was actually physically injured because of the poor suspension on a paratransit vehicle, and the carelessness of the driver. The rider, who was a quadriplegic in a wheelchair, and paralysed from the neck down, with limited range of movement in her neck, stated, "I was devastated. The only part of me that was working and that gave me a measure of independence was now damaged."

Taxis

Many paratransit services in Ontario supplement their bus and van operations with taxis, either sedan or accessible. Some use taxi services as a supplement only when their accessible vans are overbooked or suffer breakdowns, while others make taxi services a regular component of their family of services. Some also provide taxi scrip services, where eligible persons can take taxis at a reduced rate. Taxis tend to be a much cheaper and more flexible mode of providing accessible or door-to-door service than are vans, especially in small towns and rural areas, although they are not appropriate for all persons with disabilities.

However, because taxis are operated by private, for-profit companies and independent drivers, it is very difficult to set standards for courtesy, dignity, and assistance. For example, concerns were raised in submissions that taxis contracted by paratransit services, especially in the Toronto area, are frequently extremely late, and at times do not even show up, and yet there are few or no repercussions. The Kidney Foundation's submission stated that, in Toronto, while the Wheel-Trans buses are fairly reliable, there is a severe problem with the taxi services, to the point where some patients refuse to use certain taxi companies, as the stress of the delays they experience has an extremely negative impact on their health status. One case was cited where a patient waited five hours for a pick-up from dialysis. Transportation Action Now suggested in its submission that this is perhaps because the rates of return are low, so there is always a temptation to grab another fare off the street and let the client wait. This submission further suggested that the Metro Licensing Commission does not take this type of behaviour seriously, and as a result there are no penalties.

Other Concerns

The Kidney Foundation stated that it is important to ensure that there are effective and timely complaint and appeal systems for paratransit systems. As well, the Foundation recommended that regular "rider satisfaction surveys" be administered, with key concerns followed up in a timely fashion.

VIII. FUNDING

The financial realities for transit in Ontario have become increasingly harsh during the last decade, even as transit has struggled to fulfil not only its traditional economic and social roles, but also its newly recognized mission to help protect the environment. One by one the financial supports for capital improvements and operating costs – subsidies that were largely responsible for the resurgence of public transportation in the seventies and eighties – have fallen away, until it is now only municipalities and passengers who shoulder the entire cost of public transit.

- Canadian Urban Transit Association/Ontario Community Transit Association

The lack of funding for accessible transit systems and the impact of funding constraints was a recurring theme in submissions.

Transit service providers have a duty to accommodate to the point of undue hardship. This encompasses both the conventional and the paratransit systems. Factors in assessing undue hardship are costs, outside sources of funding, and health and safety. To amount to undue hardship, costs must be quantifiable, shown to be related to the accommodation, and so substantial that they would alter the essential nature of the enterprise, or so significant that they would substantially affect its viability. Costs may include capital costs, operating costs, costs incurred as a result of restructuring, or any other quantifiable costs that are incurred directly as a result of the accommodation.

In calculating costs, consideration must be given to:

- the possibility of recovering some or all of the costs in the normal course of business,
- the availability of funds from government or non-government sources that could offset the cost of accommodation,
- the possibility of distributing the costs of accommodation throughout the entire enterprise,
- the ability to amortize or depreciate capital costs according to generally accepted accounting principles, and
- the ability to deduct from the costs any savings that may be available as a result of the accommodation.

A number of submissions pointed out that public funding for transit is relatively low in Ontario, accounting for only 25% of revenues, as compared to, for example, American transit systems, which typically receive about 60% of their revenue through public funds. Further, in recent years public funding has come only from municipalities, as the province has gradually withdrawn from its historical role of providing operational or capital funding for municipal transit services. Publications by the Canadian Urban Transit Association point out that,

Transit Consultation Report

although Canada is one of the most urbanized countries in the world, it is the only G-7 country without an urban transit investment program at the national level.¹⁵ Municipal governments are constrained by law from operating at a deficit, which leaves funding for transit services vulnerable when economic downturns occur.

A number of transit providers pointed out that superior accessibility of transit systems in the United States can be attributed as much to the provision of adequate, stable funding to transit providers, as to the effect of the *ADA*.

A number of suggestions for creative financing options for public transit services have been put forward, including:

- Exempting public transit organizations from the payment of various taxes (such as property taxes);
- Directing road tolls to funding public transit;
- Entitling transit organizations to the proceeds arising from the real estate developments over and above transit property;
- Creating a levy on motor vehicle licenses directed to funding public transit; and
- Directing a portion of the gas tax to funding public transit.

In an important step, in the fall of 2001, the Ontario Ministry of Transportation announced new funding for transit in Ontario, in the form of \$3 billion over 10 years, as part of a proposed federal, provincial and municipal partnership. As part of the transit plan, the province will establish an operating authority that will take responsibility for 100% of GO Transit's operating and base capital funding.

No reliable estimate has been developed as to the cost of ensuring fully accessible transit services. The costs, however, are likely to be large. The TTC, for example, has estimated that the cost of implementing its full accessibility plan would be in the order of \$1 billion.

The lack of funding for accessible transit, therefore, poses a substantial barrier to achieving maximum transit accessibility. The TTC estimates that, without further funding, maximum accessibility will take 10-15 years to achieve. Transit service providers express concerns that, should accessibility initiatives be funded solely through increases in fares, ridership on the conventional system would decline, and the ability of transit services to meet their economic, social and environmental missions would be severely compromised.

The TTC remains committed to the goal of providing an accessible conventional transit service for all its riders, making the system fully accessible as quickly as it can without compromising the sustainability of the entire system However, the financial realities in which this goal must be achieved are highlighted by the fact that this paper is being submitted just weeks after the TTC was forced to raise fares, asking users to once more dig into their pockets to sustain the system, as government funding for public transportation remains stalled at unacceptably low levels. Unfortunately, the TTC's desire to make its system fully accessible has been severely hampered by the failure of all levels of government to provide the funding that would make it possible.

-Toronto Transit Commission

Further, some submissions pointed to a troubling trend whereby responsibility for accessible transit is increasingly being shouldered by volunteer initiatives. Community Care Access Peterborough offers a service whereby volunteers provide transportation to medical appointments and quality of life activities, as well as a multi-handicapped vehicle that serves county residents. Peterborough CCAS notes that the van operates with a significant deficit each year because of the lack of support from the province, and that the deficit is covered by the fundraising initiatives of volunteers. While committed to providing this service, the organization notes, "we would like this recognized as an essential service and funded accordingly". Transportation Action Now stated that the province's Community Transportation Action Program (now discontinued) is a "blatant attempt to return the provision of paratransit service to the volunteer sector or to the status of a charitable service", and noted that, while these types of initiatives may work in small homogeneous rural communities where there are more volunteer drivers, for larger cities, these programs are completely inadequate to the level of need.

Several submissions pointed out that there are also substantial costs associated with the lack of accessible transit. For example, lack of access to transportation can prevent persons with disabilities from accessing education or employment.

How much money is lost in tourism because of inaccessible transportation? What about an ambulatory disabled student who cannot get to university because s/he is deemed ineligible due to restrictive criteria? What cost to seniors who cannot get around the city, or are limited to medical and therapy appointments only? What savings might result to health and safety if stairs were replaced by escalators in subways, high steps in buses and streetcars by low-floor vehicles?

-Transportation Action Now

The role and responsibility of the provincial and federal governments in ensuring sufficient funding for accessible transit was emphasized by several organizations. Transportation Action Now states that if paratransit services across the province do not have the money to run effective services, it is the province and city councils who are ultimately responsible. OCTA states that it considers that the local, provincial and federal governments must share responsibility for ensuring access to transportation, pointing out that there are numerous methods of creatively financing public transportation, as discussed above. Kingston Transit and Kingston Access Service point out that funding responsibilities should be extended to other concerned ministries, such as those responsible for health, and for social services. Transportation Action Now, on the other hand, notes that the Ministries of Education, Community & Social Services and Health & Long-Term Care spend nearly \$1 billion on transportation services each year to transport clients whom the TTC does not accommodate, and suggests that these funds would be much more effectively used if they were dedicated to improving paratransit and conventional services.

IX. STANDARDS

Ontario has no technical or service benchmarks aimed at creating standards for accessibility. The lack of standards makes it difficult for people to know what is required.

-Centre for Independent Living in Toronto

The Transit Survey conducted by the OHRC in 1999 revealed that levels of access to transit services for persons with disabilities, older persons, and families with young children varied widely across the province. The update to the Transit Survey conducted in the summer of 2001 indicated that this continues to be the case. Persons with disabilities, older persons, and families with young children should have equal access to existing transit services, regardless of their location in Ontario.

Standards also create certainty and clarity for transit providers. They can play an important role in motivating and sustaining improvements to transit accessibility. As one submission pointed out, rights should not be dependent on the goodwill of strangers.

The call for standards was a major theme in the responses to the OHRC's *Discussion Paper*. While respondents differed on how standards should be created and enforced, there was a broad consensus on the desirability of some type of standards for accessible transit services.

Currently, there are no standards for accessible public transit services in Ontario. There are some guidelines and standards in the *Building Code* that would apply

Transit Consultation Report

to subway or bus terminals. However, this applies mainly to physical disabilities, and only to new buildings, or to renovations in certain limited circumstances.

Many responses to the *Discussion Paper* pointed to the standards for accessible transit set in the United States by the *ADA*. This legislation sets out detailed standards and timelines for the accessibility of both conventional and paratransit services. For example, the *ADA* sets benchmarks for paratransit services, requiring that they have comparable hours of service, fares, geographic services areas, waiting times, and levels of service as conventional transit services, and that there be no prioritizing of trips. The passage of the *ADA* in 1990 has resulted in significant improvements to the accessibility of transit services in the United States, in a period of just over 10 years.

Although there are many in Canada who like to criticize the *Americans with Disabilities Act (ADA)*, any person with a disability who has travelled in the U.S. knows that the built environment is changing, slowly but surely to become more inclusive. And what is more exciting is that, in almost every case, the benefits go beyond the disability group for whom the changes were intended. Announcements and displays at shops and stations not only help the blind and deaf, but are also invaluable for orienting strangers and people who cannot read their location. Seniors are freer because ramps have been built and heavy doors electrified.

-Transportation Action Now

A number of respondents felt that significant progress on accessible transit would occur only when there were clear, enforceable, legislated standards in place. They therefore advocated the passage of an *ODA* that would contain many of the significant features of the *ADA*. Submissions described an effective *ODA* as setting out clear standards for accessible transit services, having timetables for implementation, and including an enforcement mechanism.

The importance of the involvement of persons with disabilities and older persons in setting any standards was also emphasized in several submissions. As the CILT submission pointed out, persons with disabilities know what is best for them.

Some transit service providers emphasized the importance of flexibility in any standards developed, in order to reflect the diverse needs of local communities. For example, Kingston Transit pointed out that it has a high population of seniors *per capita*, as well as a large percentage of wheelchair users *per capita*, compared to like-sized cities. Kingston Transit therefore recommended the use of local action plans, which could give cities the ability to set local targets, local priority setting, realistic time frames, and some flexibility with regard to funding capacity at the local level.

Standards may be appropriate, but it must be recognized that each community has different transportation services, which meet (or attempt to meet) the unique needs of the population in that area. Standards should consider and allow for flexibility by service providers to properly serve their communities.

-Toronto Transit Commission

Transit service providers also strongly stated that new standards must be accompanied by increased funding from government. Otherwise, transit service providers could find themselves unable to meet commitments to all of their users and stakeholders.

[L]egislated standards without funding will cause an undue hardship on the transit industry. If we accelerate the pace toward full accessibility without significant operating and capital financial support from all levels of government, we would be required to increase fares to a level that would ultimately be the demise of public transit as we know it today. Instead of enhancing the availability of transit for all, the exact opposite would be true. Our ability to respond to the economic, social and environment objectives would be compromised, and would contravene our vision of providing efficient, effective and affordable transit service that is available to all citizens in an environmentally friendly manner.

-Transit Windsor

A number of submissions contained suggestions for steps that could be taken in the absence of any legislated standards. CILT suggested that perhaps the Canadian Standards Association could be asked to do a study of what is needed, and produce guidelines and measurements. The Canadian Red Cross suggested that the OHRC could take a partnership role in facilitating the development of Accessibility Guidelines that would provide service providers with common, province-wide benchmarks or minimum service requirements on which to base conventional, complementary and paratransit service delivery for persons with disabilities and older Ontarians. It was suggested that these Guidelines would cover such issues as common build practices, attendant requirements when transporting persons with mental disabilities, accommodation requirements for walkers and wheelchairs, eligibility criteria, *etc.*

Since the consultation period on the *Discussion Paper* closed, the Ontario government has passed the *Ontarians with Disabilities Act* ("ODA"). The ODA differs significantly from the ADA. The focus of the ODA is on accessibility planning and standard setting. Section 14 of the legislation requires every public transportation organization in Ontario to prepare a yearly accessibility plan, addressing the identification, removal and prevention of barriers to persons with

Transit Consultation Report

disabilities in the organization's bylaws, policies, programs, practices and services. This accessibility plan must be made available to the public. While municipalities are required to take accessibility into account when purchasing goods or services (s. 13), no such requirement applies to transit services.

The government will develop guidelines for the preparation of accessibility plans. These guidelines may exempt organizations, including public transportation organizations, from their application.

Section 19 of the Act mandates the creation of an Accessibility Advisory Council, which shall advise the Minister of Citizenship on the implementation of the *ODA*, programs of public information, and accessibility of services provided or funded by the government.

The government has the power to adopt codes of conduct, guidelines, protocols or procedures as regulations, and to require compliance with them.

As well, any building project funded by a government funded capital program must meet or exceed the accessibility requirements of the *Building Code* and regulations.

While requiring transit providers to plan for accessibility, there are no provisions within the *ODA* requiring the implementation of plans, or the ultimate achievement of accessibility.

Section 3 of the *ODA* states that nothing in the Act, its regulations, or standards and guidelines set under it, diminishes in any way existing legal obligations to persons with disabilities. In other words, the *Ontario Human Rights Code*, including the duty to accommodate persons with disabilities and the undue hardship standard, as outlined in the OHRC's *Policy and Guidelines on Disability and the Duty to Accommodate*, continue to apply. The *Code* will continue to operate as the major enforcement mechanism for the rights of persons with disabilities.

The *ODA* has potential to assist in the creation of standards, through the power of the government to develop guidelines. Unless this power to create guidelines is exercised, however, the *ODA* is unlikely to result in the creation of the kinds of standards for accessible transit that have been envisioned in submissions to the OHRC. Without enforceable guidelines, services across Ontario will likely continue to exist as a patchwork, and access to transit will vary from municipality to municipality. Benchmarks for excellence and improvement in accessible transit services will not be available for the assistance of transit providers or patrons.

The requirement under the *ODA* for all transit providers to develop publicly available, annually updated, accessibility plans will mark a step forward in this area. A number of transit providers have already taken this step and have plans

in place, but several do not. It is essential that plans set out accountability structures and timelines, if they are to be effective.

X. ROLES AND RESPONSIBILITIES

The transit industry is committed to making its services fully accessible to persons with disabilities by continuing and, if possible, accelerating the process of transforming our fleets, facilities and employee skills. The key factor that will determine the pace of this transformation is the extent to which all levels of government recognize and act on their shared responsibility to work in partnership with us.

-Canadian Urban Transit Association/Ontario Community Transit Association

Accessible transit is a complex issue, with many players. For advances to be made, all players – transit providers, municipalities, senior levels of government, non-governmental organizations, and the OHRC itself – must rethink their roles and obligations, as well as work together collaboratively to find solutions. Improvements in accessibility will require senior levels of government to take leadership in setting standards, and providing funding. Transit providers must make full integration and accessibility a priority, and begin to plan for implementation. The OHRC must ensure that it is fulfilling its mandate in this area, not only in terms of its complaint system, but also in terms of public education, and by taking a facilitative role on this issue. As the Supreme Court of Canada has pointed out, accommodation is a shared responsibility.

In the *Discussion Paper*, the OHRC set out some suggestions on roles and responsibilities for transit providers and government. Specifically, the *Discussion Paper* suggested that:

- Transit service providers set a goal of full integration and accessibility, and begin developing and implementing plans to achieve this goal. This goal includes, not only accessible conventional transit services, but also paratransit services that are comparable to those received on the conventional system. This goal applies to *all* persons with disabilities, not only persons with mobility-related disabilities.
- Municipalities and provinces make stronger commitments to transit accessibility, including continuance and expansion of the Community Transportation Action Program (now discontinued), and exploration of creative financing options.
- Governments consider developing legislated standards, or universal design and shared accessibility guidelines for public transit.

Numerous submissions were received relating to roles and responsibilities, including comments on the suggestions outlined in the *Discussion Paper*, as well as new ideas. There were also several suggestions on possible ongoing roles for

the OHRC itself in the development of accessible transit services. These suggestions are set out below.

1. Providers of Transit Services

Both transit providers and transit users endorsed the principles that transit providers should set as a goal the integration of riders with disabilities into a primary transit system accessible to all customers, and that patrons who could not use even a highly integrated primary or conventional system should have access to an effective parallel system.¹⁶

As well, many submissions supported the recommendations that transit providers engage in proactive planning and inclusive design. Both the Multiple Sclerosis Society of Canada, and the Ontario Society (Coalition) of Senior Citizens Organizations pointed out that demographics, and in particular, the aging of the population, make this type of planning especially urgent. The Ontario Federation of Labour emphasized the importance of ensuring the active involvement of users in the planning and implementation of accessible transit services, both because they bring a unique perspective to the issues, but also because their involvement will ensure that quality of service for all users remains a high priority.

The importance of inclusive design was reiterated as well. Not only is inclusive design in keeping with the principle of integration and full participation, it is also more cost-effective in the long run.¹⁷

Transit providers almost universally pointed out that, while increased accessibility is an important goal for them, public transit serves many stakeholders, and transit providers face many serious constraints, including financial ones. Any policies or programs aimed at improving transit accessibility must, they urged, take these complex issues into account.

2. Government

Senior levels of government must recognize their shared responsibility for ensuring equitable access to transit. Municipalities should not be left to accomplish this on their own.

-Ontario Community Transportation Association/Canadian Urban Transit Association

A recurring theme in submissions was the important role of senior levels of government in ensuring equitable access to transportation for persons with disabilities, older Ontarians, and families with young children.

In the past, the Province was actively involved in transit issues. Historically, the Province allocated significant funding to assist municipalities to provide services

Transit Consultation Report

to persons with mobility impairments. In 1993, the Ontario government required municipalities to provide full accessibility transit plans. As well, all new transit vehicles leased or purchased had to be low-floor, or equipped with Easier Access features.

Such initiatives were gradually abandoned until, at the time of the release of the *Discussion Paper* in February 2001, the Province had completely withdrawn from the field of accessible transit.

However, there are signs of a renewed interest in transit issues on the part of the Province. As mentioned elsewhere, the new *ODA* specifically addresses issues surrounding accessible transit. As well, the Province has recently committed new funding to public transit services in Ontario.

On the federal level, the most recent federal budget created a Strategic Infrastructure Foundation, to which \$2 billion will be allocated from any budget surpluses that arise. The money would go to roads, urban transit, and sewage works, and the TTC has already indicated that it will request funds from this Foundation.

It is clear that only limited progress can be made on accessible transit without the involvement of senior levels of government. Transit service providers, and municipalities, are operating within extremely limited budgets. Regardless of the willingness of transit providers to improve accessibility, budget limitations indicate that real improvements will become apparent only over a period of years, without assistance from government. As well, without coordination from senior levels of government, it is difficult to see how transit service providers can, on their own, tackle the issues of varying levels of accessibility across the province, or develop appropriate service standards.

It should be noted that the OHRC's *Policy and Guidelines on Disability and the Duty to Accommodate* recognize a positive duty on governments to ensure equitable access to services such as transit. The *Policy* states "Governments have a positive duty to ensure that services generally available to the public are also available to persons with disabilities. Governments should not be allowed to evade their human rights responsibilities by delegating implementation of their policies and programs to private entities."

A government that allows its public institutions to wither in the name of debt reduction does itself and its citizens great harm. In the end, this is false economy I do not believe that my government would rather see bright, talented and capable people on welfare than as productive taxpayers. When the political and moral will is in place, anything can be accomplished with organization.

- Centre for Independent Living in Toronto

Transit Consultation Report

Submissions focussed on two important roles for government in the provision of accessible transit: funding and standards. Both of these issues have been dealt with in depth elsewhere.

Government can have an important role in developing standards for accessible transit (whether legislated or otherwise), or in facilitating their creation, and in ensuring that they are implemented. Many submissions indicated that real progress in transit accessibility was unlikely without consistent standards, and that for maximum effectiveness, such standards should be legislated, enforceable, and have clear timelines. Progress is unlikely so long as the issue is left entirely to the discretion of local councils. As one submission pointed out, the *Municipal Act* does not even require that transit services be provided at all. Transit is a discretionary service that could be cancelled at the discretion of local councils.¹⁸

Legislating the inclusion of people with disabilities in society should be done not only because it is the right thing to do morally, but also because it makes good economic sense. We must use resources to help people participate rather than to exclude them.

Multiple Sclerosis Society of Canada

The other area where submissions indicated an important role for government was funding. Due to the financial limitations of most transit providers, significant advances in accessibility will not occur for many years unless government provides some resources towards this. As was pointed out in the *Discussion Paper*, there are many innovative ways in which this can be done, beyond direct funding.

If the TTC and other paratransit systems in Ontario do not have the money to run an effective service, it is the Province and the city councils who are finally responsible.

-Transportation Action Now

3. Ontario Human Rights Commission

The OHRC, of course, has an important role to play in advancing accessible transit services. Section 29 of the Ontario *Human Rights Code* gives the OHRC a very broad role in achieving the purposes of the *Code*.

29. It is the function of the Commission,

Transit Consultation Report

- (a) to forward the policy that the dignity and worth of every person be recognized and that equal rights and opportunities be provided without discrimination that is contrary to law;
- (b) to promote an understanding and acceptance of and compliance with this Act;
- (c) ...
- (d) to develop and conduct programs of public information and education and undertake, direct and encourage research designed to eliminate discriminatory practices that infringe rights under this Act;
- (e) to examine and review any statute or regulation, and any program or policy made by or under a statute and make recommendations on any provision, program or policy that in its opinion is inconsistent with the intent of the Act;
- (f) ...
- (g) to initiate investigations into problems based upon identification by a prohibited ground of discrimination that may arise in a community, and encourage and co-ordinate plans, programs and activities to reduce or prevent such programs;
- (h) ...
- (i) to enforce this Act and orders of the board of inquiry;
- (j) ...

The OHRC commenced work in the area of accessible transit with its 1999 transit survey and the 2001 *Discussion Paper*, and is continuing its work with this Consultation Report.

The submissions contained a number of recommendations as to how in future the OHRC could effectively continue its work in this area:

1. Re-examine the way in which transit related complaints are being handled.

Some submissions indicated that, in their view, the OHRC has not always handled complaints regarding transit as effectively as possible. For example, ARCH states that the OHRC has in the past decided not to deal with complaints regarding eligibility criteria for paratransit services, on the basis that complaints could be dealt with through the appeals processes set up by the transit providers.¹⁹ According to ARCH, however, so long as the transit providers are

applying discriminatory criteria to determine eligibility, no appeal process will effectively deal with this issue. Further, ARCH argued that the eligibility determination process itself fails to comply with OHRC's *Policy* with respect to individualized assessment of accommodation needs. The OHRC agrees with ARCH that it is important to use caution when exercising its discretion under section 34. A review of the OHRC's decisions under section 34(1) of the *Code* from 1997 forwards did not reveal any cases in which the OHRC decided to exercise its discretion not to deal with a complaint against a transit commission, although several applications for a section 34 decision were made by respondents.

ARCH also urged the OHRC to ensure that, where transit providers claim undue hardship as a defence for insufficient service, the standards set out in the *Policy and Guidelines on Disability and the Duty to Accommodate* with respect to undue hardship be thoroughly applied, so that transit providers are required to provide objective, quantifiable evidence for their claim.

2. Take on a strong public education role on this issue

Both ARCH and the Canadian Red Cross highlighted the important role that the OHRC can play in educating the public on their rights in the *Code* to accommodation in transit services, and that these rights are enforceable through the OHRC.

3. Standard setting

Some submissions indicated that the OHRC could play an important role in setting standards for accessible transit, particularly in the absence of action from senior levels of government.

For example, the Canadian Red Cross suggested that the OHRC could work with other stakeholders to create common, province-wide benchmarks or minimum service requirements for conventional and paratransit services.

4. Monitoring and information sharing

It was also suggested that the OHRC could continue to monitor progress in this area and share information with all parties.

Kingston Transit, for example, suggested in its submission that the OHRC could track and evaluate successes and best practices with accessible transit, and share this information with all parties. One way of doing this would be for the OHRC to continue carrying out regular transit surveys and making the results public.

5. Work with transit providers to increase accessibility

ARCH suggested that the OHRC make broad use of its powers under section 29 of the *Code* to work with transit providers to encourage compliance with human rights law and improvements in transit for older Ontarians and persons with disabilities.

XI. CONCLUSIONS AND RECOMMENDATIONS: MOVING TOWARD ACCESSIBLE TRANSIT SERVICES

As indicated throughout this Report, improving the accessibility of transit services is a complex endeavour, requiring the combined efforts of a number of parties. Set out below are the recommendations of the OHRC for moving towards more accessible transit services.

1. Transit Service Providers

The OHRC recognizes the multiple roles and obligations of transit providers, the complexity of the systems that they operate, and the severity of the financial constraints that they are experiencing. It is unrealistic to expect that transit providers will, without some outside assistance, be able to rapidly achieve maximally accessible, dignified transit options for all.

However, there are steps that transit services providers can and should be taking, even within current constraints, to move towards accessible transit services. Transit service providers should:

1. Set as a goal full integration and accessibility of services.

Full integration and accessibility, including both accessible conventional services, and comparable, dignified paratransit services, was endorsed as an objective by the submissions of both transit service providers and users.

2. Design inclusively when developing new policies, procedures, or programs, when creating new services, or building, renovating or purchasing new buildings or capital equipment.

For example, where new buses are being purchased, transit service providers should avoid reinforcing existing barriers by purchasing non-accessible buses, especially given the very lengthy life-span of such capital purchases. Issues of equality and access should be an important consideration whenever new policies, programs, services or facilities are

being developed. It is more difficult and costly to retrofit inaccessible facilities and services than to design inclusively at the outset.

3. Develop and maintain plans to achieve full integration and accessibility.

Organizations are required to take positive and progressive steps to achieve equality. The first step towards equal access to transit services is for transit providers to develop accessibility plans. Plans should set out the steps, short of undue hardship, that transit providers will take to achieve fully accessible transit services. Plans should be built on the principles of dignity, integration and participation, and individualization. They should include timelines, performance measures, and accountability. They should also be regularly reviewed and updated.

As noted in the transit survey update, a number of transit service providers have developed accessibility plans, or are in the process of doing so.

4. Ensure that the process of planning for and implementing accessibility is respectful of the dignity of persons with varying types of disabilities, older persons, and families with young children.

The process of accommodation, as well as the outcome, should be respectful of the dignity of the persons affected, and should take into account the importance of integration and full participation. As a number of submissions pointed out, persons with disabilities are well aware of limitations in the current system, and of their own needs. Any planning process should recognize that older persons, persons with disabilities, and families with young children are important stakeholders in the process.

5. Take all steps short of undue hardship to achieve integration and maximum accessibility.

It should be noted that, under the OHRC's *Policy and Guidelines on Disability and the Duty to Accommodate*, costs must be distributed as widely as possible within the organization so that no single department is burdened with the cost of an accommodation. The appropriate basis for evaluating costs is the budget of the organization as a whole, not the branch that is providing the service in question.

It should also be noted here that collective agreements, contracts, employee morale, and business inconvenience should not act as bars to the achievement of equality. These are not factors that can be considered when undue hardship is assessed. For example, if collective agreement provisions are found to act as a barrier to improving paratransit services,

this in itself would not be a defence for the transit service provider under the *Code*.

2. Senior Levels of Government

Significant advances in transit accessibility cannot be made without the involvement of senior levels of government. The two key components for advancing transit accessibility are standard setting, and funding.

The OHRC therefore welcomes the recent initiatives of the Ministry of Transportation, and the Ministry of Citizenship in the area of transit. The announcement of new funding for transit services, as well as the focus on transit in the recently passed *ODA*, mark positive steps in this area, and a welcome opportunity for change.

The OHRC would encourage the Ministry of Transportation to consider accessibility issues, and in particular, the urgency and impact of many of the issues raised in this Report, when considering further transit funding initiatives.

The *ODA* provides an opportunity to develop standards and timelines for transit accessibility. The OHRC considers this a very important step forward. The OHRC encourages the new Accessibility Directorate to develop guidelines for transit service providers.

3. Ontario Human Rights Commission

The submissions received in the course of this consultation reaffirm the importance of equal and accessible transit services to ensuring equal rights and opportunities for Ontarians who have disabilities, are older, or have young children. The OHRC will continue to forward accessible transit services, through its mandate under section 29 of the *Code*.

In particular, the OHRC will:

1. Ensure that relevant OHRC policies are applied in all transit-related complaints.
2. Develop a communications tool on human rights and transit for the general public, e.g., a leaflet outlining human rights in transit services.
3. Work with transit service providers to ensure that they have access to appropriate tools for understanding their human rights obligations as transit providers.
4. Communicate the results of this transit consultation to government stakeholders, including the Ministry of Transportation, the Ministry of Citizenship, and the new Accessibility Directorate.

Transit Consultation Report

5. Update the transit survey results within the next five years, and share the results, including progress and best practices, with transit service providers, stakeholders, and the public.

APPENDIX: ORGANIZATIONS THAT PROVIDED INPUT

Advocacy Resource Centre for the Handicapped

Canadian National Institute for the Blind, Ontario Division

Canadian Red Cross, Ontario Zone

Canadian Pensioners Concerned, Ontario Division

Canadian Urban Transit Association

Centre for Independent Living in Toronto

Cochrane District Community Care Access Centre

Community Care Peterborough

Environmental Illness Society of Canada

GO Transit

Kidney Foundation of Canada, Greater Toronto Area Renal Social Workers' Group

Kingston Access Services

Kingston Transit

London Transit

Multiple Sclerosis Society of Canada, Ontario Division

OC Transpo

Ontario Community Transportation Association

Ontario Federation of Labour (CLC)

Ontario Society (Coalition) of Senior Citizens' Organizations

Scarborough Community Care Access Centre

Thunder Bay Transit

Transit Consultation Report

Toronto Transit Commission

Transportation Action Now

Windsor Transit

As well, the OHRC would like to thank the numerous individuals who provided submissions. To protect their privacy, the OHRC has chosen not to list their names.

ENDNOTES

¹ Please see the Ontario Human Rights Commission's *Policy and Guidelines on Disability and the Duty to Accommodate* (March 2001) at section 3.1.1 available online at www.ohrc.on.ca. The *Policy* defines what "dignity" means in the human rights context: "Human dignity encompasses individual self-respect and self-worth. It is concerned with physical and psychological integrity and empowerment. It is harmed when individuals are marginalized, stigmatized, ignored or devalued. Privacy, confidentiality, comfort, autonomy, individuality and self-esteem are important factors as well as whether an accommodation maximizes integration and promotes full participation in society." (This definition draws from the Supreme Court of Canada's decision in *Law v. Canada (Minister of Employment and Immigration)*, [1999] 1 S.C.R. 497, online: Supreme Court of Canada <http://www.lexum.umontreal.ca/csc-scc/en/index.html> (date accessed: 4 August 2000)).

² Ontario Human Rights Commission, *A Time for Action: Advancing Human Rights for Older Ontarians* (June 2001) available online at www.ohrc.on.ca at 58-60.

³ According to information available on the Statistics Canada Web Site (<http://www.statcan.ca>), 12.5 percent of Ontario's population was age 65 or older in 1999. It is estimated that the number of Ontarians aged 65 or older will double over the next four decades.

⁴ Yves Bussière, "Aging of the Populations and Paratransit Demand in Quebec" (2001) *Horizons*, Vol. 4, No. 2, at 20.

⁵ *Ontarians with Disabilities Act, 2001*, S.O. 2001, c. 32, Royal Assent December 14, 2001, ss. 1, 2, 3, subsections 8(1), (2), (5), (6), ss. 19, 20, 27, 33, 34 and Schedule proclaimed in force February 7, 2002.

⁶ Some taxi livery services use accessible taxis; others use standard taxis to transport persons who have ambulatory disabilities. Taxi scrip services allow persons with disabilities to use taxi services at a reduced rate.

⁷ Ontario Human Rights Commission, *Policy and Guidelines on Disability and the Duty to Accommodate* (March 2001), at section 3.1.3, available online at www.ohrc.on.ca.

⁸ Transportation Research Board, *Communicating with Persons with Disabilities in a Multimodal Research Environment: A Synthesis of Transit Practice*, (2001) .

⁹ Canadian Urban Transit Association, *Transaction 2001*.

¹⁰ Canadian Urban Transit Association and Ontario Community Transportation Association submission to the OHRC.

¹¹ Section 14 of the Ontario *Human Rights Code* allows special programs to be implemented that might otherwise be considered to be discriminatory under the *Code*. Section 14 defines a special program as a program that is 1) designed to relieve hardship or economic disadvantage; or 2) designed to assist disadvantaged persons or groups to achieve equal opportunity; or 3) likely to contribute to the elimination of the infringement of rights protected under the *Code*.

¹² This issue is currently before a Human Rights Board of Inquiry in *Neusch and Davey v. Disabled and Aged Regional Transit System, Regional Municipality of Hamilton-Wentworth, and Ministry of Transportation*.

¹³ Transportation Research Board, *ADA Paratransit Eligibility Certification Practices: A Synthesis of Transit Practice*, (1998).

¹⁴ Section 10(1) of the *Code* provides the following definition of disability:

- (a) any degree of physical disability, infirmity, malformation or disfigurement that is caused by bodily injury, birth defect or illness and, without limiting the generality of the foregoing, includes diabetes mellitus, epilepsy, a brain injury, any degree of paralysis, amputation, lack of physical co-ordination, blindness or visual impediment, deafness or hearing impediment, muteness or speech impediment, or physical reliance on a guide dog or other animal or on a wheelchair or other remedial appliance or device,
- (b) a condition of mental impairment or a developmental disability,
- (c) a learning disability, or a dysfunction in one or more of the processes involved in understanding or using symbols or spoken language,

- (d) a mental disorder, or
- (e) an injury or disability for which benefits were claimed or received under the insurance plan established under the Workplace Safety and Insurance Act, 1997.

Section 10(3) states that “The right to equal treatment without discrimination because of disability includes the right to equal treatment without discrimination because a person has or has had a disability or is believed to have or to have had a disability”.

¹⁵ Canadian Urban Transit Association, *supra*, note 8.

¹⁶ For example, the submissions of OCTA/CUTA, Multiple Sclerosis Society of Canada, ARCH, Cochrane District CCAS, and the Scarborough CCAS.

¹⁷ Submission of the Ontario Society (Coalition) of Senior Citizens Organizations.

¹⁸ Submission, Transportation Action Now.

¹⁹ Section 34(1) of the *Code* states that, where it appears to the Commission that the complaint is one that could or should be more appropriately dealt with under another Act, the Commission has the discretion not to deal with the complaint.