



Sent on behalf of M. Rick O'Connor

April 17, 2023

Mr. Rich Donovan,

Accessibility for Ontarians with Disabilities Act – 2022/2023 Legislative Review

The attached document is being submitted to you on behalf of the City of Ottawa, in response to the request for public review of the *Accessibility for Ontarians with Disabilities Act, 2005* (AODA). This submission has also been provided via the AODA 4th review portal.

The City of Ottawa (the “City”) remains committed to the intent and goals of the AODA, as well as to the development and implementation of the O.Reg. 191/11: Integrated Accessibility Standards Regulation (IASR). The City strives to enable a consistent and realistic approach to achieving accessibility in Ottawa.

Implementation has been challenging in the context of the municipal tax system and ongoing budget pressures. However, the City appreciates the Provincial Government’s consultation efforts and the guidelines, resources and tools that are created to support the successful implementation of the IASR.

The attached document outlines the City’s position with respect to the AODA and makes recommendations that are both general and specific. The City’s submission is focused on operational challenges, the feedback received from the community, areas of concern that have emerged through implementation of the IASR in Ottawa and best practices implemented by the City that exceed the minimum standards prescribed by the AODA that should be adopted into legislation.

The Chair of the City's Accessibility Advisory Committee (AAC) has, in their governance capacity, reviewed the City's comments for the 2022/2023 Legislative Review, and supports the City's position, except for Recommendation 3. Although this recommendation seeks to extend the provincial practices allowed for libraries to include Archives services, the Chair of the AAC specifically felt that he could not agree with or support this recommendation. He feels that because the AODA speaks to finding ways to provide equitable access to records and information and creative solutions, not exemptions, he cannot support a recommendation to add another exemption in 2023.



We respect the chair's view and will continue to follow the province's lead in this regard and remain committed to meeting accommodation requests for information.

Thank you for the opportunity to comment on this particularly important legislation designed to bring us closer to the shared goal of full accessibility. I trust the comments provided herein will receive thoughtful consideration.

Sincerely,

M. Rick O'Connor, CMO | OMA

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City of Ottawa Response to the 2022/2023 AODA Review

The City is committed to the AODA and continues to work towards making Ottawa a barrier-free and inclusive city for all. With the development of comprehensive provincial legislation and with the support of our Accessibility Advisory Committee (AAC) and community stakeholders, the City is working to make accessibility and disability inclusion, a part of everyday business.

In addition to the important clause specific recommendations stated below, there are some clauses within the regulations that have been more challenging to implement. At times, the AODA and another provincial regulation are contradictory, or the AODA lacks clear guidance on the interpretation of certain defined terms. For example, when maintaining elements, such as underground utilities, are municipalities required to render the location back to its original state, or to render the location fully accessible? In addition, Ontario should create a preferred and appropriate treatment, or best practices, pertaining to areas of conflict such as the delineation between a pedestrian facility and a cycling facility, which are at the same level.

The private industry, and many Ontario residents in general, are still unaware of the AODA. We would ask that the Province invest in an ongoing public awareness and education campaign about the AODA, and more specifically, about the inclusion of service animals in private businesses. The City would also welcome any assistance the Province can provide in creating educational tools specific to the Business Improvement Areas (BIAs) to help enhance accessibility in the private sector for our residents and visitors. It would also be helpful if tools like the “Guide to Implementing the IASR,” created in 2012, would be updated to include more direction.

Overall, the City is pleased that the AODA and its associated regulation exist as they have assisted our corporation with developing meaningful trainings and providing direction to our policies and procedures, which ultimately engrains accessibility into our work culture, facilities, programs, and services. The legislation assists us in supporting Ottawa residents with disabilities and building an accessible city for all residents and visitors.

With that in mind, the staff and departments who specifically work to implement the IASR and who interact with Ottawa residents with disabilities on matters of accessibility have provided the following clause specific feedback about the AODA and its standards for your consideration.

Recommendation 1: Amend the IASR to include ASL, LSQ and live captioning for all emergency-related communications across the province to enhance public safety in emergency communications

As you are aware, the COVID-19 pandemic has had a profound impact on people with disabilities and older adults across the province. Early in the pandemic, based on a significant amount of feedback from the community and our Accessibility Advisory Committee (AAC), it became apparent that not providing American Sign Language (ASL) and *Langue des signes québécoise* (LSQ) interpretation, as well as captioning during live emergency media updates created a significant barrier to Deaf residents.

Currently, section 12 of the IASR states that: “*every obligated organization shall upon request provide or arrange for the provision of accessible formats and communication supports for persons with disabilities*”. In addition to its obligations under section 12, if an obligated organization prepares emergency procedures, plans or public safety information and makes the information available to the public, the obligated organization shall “*provide the information in an accessible format or with appropriate communication supports, as soon as practicable, upon request.*”

Since 2020, the City has pre-emptively included ASL, LSQ and live captioning services for all live communications related directly to COVID-19. It has also included ASL and LSQ translations of COVID-19 related instructional videos, relaying critical information related to COVID-19 such as instructions for hand washing, mask wearing, and mental health support information. Combined, these efforts significantly contributed to reducing communication barriers for the Deaf community. These services are now included for all emergency-related communications at the City. Additionally, this practice was followed to relay emergency information regarding incidents of flooding, the convoy protests, and the derecho storm. As a result of feedback from the Deaf community, the City of Ottawa has prioritized this access to information and believes the Deaf and hard-of-hearing community across the province would also benefit from its inclusion.

Recommendation 2: Develop a new, client-focused approach to the accessible website provisions, which builds on the success of the AODA itself

Compliance with the web accessibility standards should be monitored through the development of foundational documents that demonstrate commitment to creating accessible content, such as an accessible web plan, policy, procedures, procurement process, and training programs.

To date, the City has successfully implemented all the applicable IASR requirements, with the exception of section 14, being the standards for Accessible Websites and Web Content, for which it provides regular updates to the Province through a Compliance Plan Agreement. Although the City remains committed to the direction of the IASR and the requirement to ensure all public facing websites and applications are WCAG 2.0 AA conformant, compliance with section 14 continues to be challenging for many of the City's websites. The nature of compliance statements themselves, as defined by the W3C, makes it almost impossible to make a full conformance claim. Since conformance claims are required on a page level-basis, and because web content changes continuously, claiming that a 15,000 plus page website like ottawa.ca and all other City web assets are fully conformant to WCAG may not be accurate at all times.

In a digital world, clients expect an experience that is personalized and require access to information in real-time. Information technology services provide an increasingly customized client experience, which the City strives to adapt to ever-changing client expectations. These expectations are on par with what they receive from commercial organizations and include visual supports, such as dynamic maps on websites. This is

an example of a tool that is challenging to make fully accessible. The City welcomes guidance from the Province on how to incorporate visual tools and interactive content in a manner that is accessible to everyone.

The nature of WCAG itself lends itself to various interpretations for some criteria, even among industry experts themselves. This creates a confusing environment for corporations that do not have internal staff familiar with web accessibility and are fully reliant on external consultants to provide this service. For example, vendors providing WCAG assessments utilize varying tools or methods for measuring conformance, and there can be quite a variance of interpretation between vendors.

In addition, it is recommended that the Province explore outreach opportunities or create a public awareness campaign to encourage the private sector to adopt the procurement provision of the IASR. The adoption of the accessible procurement provision by the private sector would result in a broader penetration of accessibility and would improve the consistency of application between the public and private sectors. Consistency of application would help meet public expectations that are now often frustrated by the division between the public and private sectors, particularly as it pertains to web products.

The City has found that the availability of fully conforming COTS (commercial off the shelf) or SaaS (software as a solution) options to be limited, while the availability of fully WCAG compliant, commercial software is even more so.

Regarding COTS and SaaS solutions, the City recommends a clearer definition of the “not practicable” exception to help organizations fully understand their obligation under the IASR. While in full agreement that organizations such as the City must commit to solutions that are accessible, the reality is that the creation of internally built accessible solutions are not practical. The City requires the need to implement external solutions to fit the overall needs of clients. While committed to pushing vendors to meet the requirements, WCAG compliant solutions are not always readily available on the market. Other municipalities’ experiences have been similar to ours. As such, with the *Accessible Canada Act* also referencing the WCAG framework, it is our hope that this will narrow the gap.

These steps would demonstrate how the WCAG standards and other accessible web best practices, including incorporating people with disabilities into user-testing, are being imbedded into the organization’s core functions and culture.

Instead of a restrictive and absolute conformance to WCAG Standards, organizations could demonstrate a firm commitment to inclusivity to the Province and the community, while still utilizing WCAG as the criteria for which to measure meaningful progress.

Recommendation 3: Implement the Archives Association of Ontario's recommendation to make the following change to the IASR:

- article 12.5 (accessible formats and communications supports) will sunset this year;
- articles 18.2 and 19.3 (exemptions for libraries) should be removed and replaced as below;
- a new article 12.5, as follows:
 - obligated institutions may provide accessible formats for archival materials, special collections, rare books, and donations

The Archives Association of Ontario (AAO) represents archives and archivists in the province of Ontario. It supports and engages its membership through professional and institutional development opportunities, advocacy, and by providing access to the expertise of information specialists.

Each year, the AAO convenes an Institutional Issues Forum - an opportunity to network with institutional heads from across the province on issues affecting archives. At the most recent Forum, a significant gap with respect to the IASR was discussed in relation to Ontario's archival institutions.

Exemptions under the IASR exist for libraries respecting archival records and special collections in their holdings, but not for archives themselves, which in Ontario are generally separate and distinct from public libraries.

Likely, in the history of the development of the regulation, libraries were considered the natural holding place in communities for archives, because people believe that the archives of communities are within public libraries. While we understand that residents of Ontario are more familiar with their local libraries and not always their local archives, the City believes this exemption should be extended to Ontario's actual archives.

Though the role of archives is to make records available, archival materials and special collections often have intrinsic characteristics that are unique to their original format that may be lost when presented in an accessible format. The intrinsic characteristics present the researcher with high value content. We feel our proposed change will

therefore assist archives across the province in continuing to preserve and make available the authentic and reliable record.

Recommendation 4: Change the DOPS to state that all poles be placed at the back of the sidewalk or other path of travel

The City has had minimal implementation issues with the Design of Public Spaces (DOPS) standards. Having provincial guidance renders application much easier as we have legal requirements to point to with associated implications of non-adherence.

However, one area that staff struggles with is the placement of poles. The Ontario Traffic Manual (Book 12) states that poles cannot be located closer than 0.6 meters from the curb edge, and the IASR states that Accessible Pedestrian Signals (APS) poles “must be installed within 1.5 meters of the edge of the curb”. Therefore, across Ontario, APS poles must be placed within the range of 0.6 m-1.5 m of the curb to be compliant.

Many municipalities in Ontario have created their own accessibility standards that go beyond the IASR. As such, many municipal standards require that sidewalks and other paths of travel be a minimum of 1.8 meters wide and even suggest a best practice of 2 to 3 meters, where possible. Placement of an APS pole at 1.5 meters on a wider 1.8 or 2 meter sidewalk creates a barrier and defeats the purpose of trying to increase the clear width of a sidewalk.

Recommendation 5: Amend the IASR, as soon as possible, to mandate accessible transportation requirements for Private Transportation Companies (PTCs) as they do for taxis

If the Province cannot do this in the immediate future, then the City would recommend that the Province authorize municipalities to impose and implement an accessibility levy, to be applied to those PTCs that do not offer accessible vehicle-for-hire services.

In 2016, the AODA Transportation Standards Development Committee commenced its review and released its recommendations in 2017. The City’s feedback noted, “[The] review was silent on regulation for ride sharing services – or private transportation companies. In particular, it would be helpful to have provincial regulations in place to ensure equitable access to persons with disabilities to those services provided by geo-location (GPS), third-party technologies.” In addition, the General Manager of

Emergency and Protective Services sent a separate request to the Province to amend the IASR to include PTCs in the Regulation.

While the City has negotiated a voluntary per-trip surcharge (levy) to be paid to the City by licensed PTCs in order to expand accessible service options, municipalities have limited legislative tools to consistently ensure equity and access to these services.

Municipalities could then use these funds to offset costs for a number of programs supporting accessible transportation.

In addition, we are seeing many cases where drivers of PTCs refuse to pick-up residents who are blind because they do not want their service animal in their vehicle, despite the AODA and the *Blind Person's Act, 1990*. More needs to be done to compel this industry to stop discriminating against residents and visitors with vision and mobility disabilities, and to offer their full suite of transportation services to customers with disabilities. Residents and visitors to Ottawa do not deserve to be shut-out of a mode of private sector transportation due to gaps in the AODA.

Recommendation 6: That the Province consider adopting the same model as the Federal Government in creating both a Chief Accessibility Officer and an Accessibility Commissioner position, the latter being responsible for enforcement of the legislation

As noted in your March 1, 2023 interim report on the 4th review of the AODA:

“There was a strong sense amongst those consulted that there is no meaningful enforcement of the AODA. It should be noted this observation is consistent with the 3rd review of the AODA..., the 4th Reviewer heard consistent stories of frustration from PWD about lack of enforcement. In the words of one advocate: “Legislation is great, but if there is no enforcement, it’s not going to do anything.”

Ottawa residents often express frustration to the City about the lack of enforcement mechanism concerning AODA matters in the private sector. Residents do not wish to file a costly and lengthy human rights complaint and would like to have the ability to report non-compliance to the Province directly. They would like their issues assessed and addressed with businesses by the Province in a timely fashion. The City supports this approach, as it would decrease the use of municipal resources in dealing with such matters over which it has no jurisdiction. For example, City of Ottawa By-Law Services often explain to residents that businesses are not currently required to upgrade

accessible features, such as accessible washrooms, accessible parking, ramps, and automatic door openers in older buildings, unless they redevelop or renovate the building or facility.

Conclusion

The City of Ottawa remains committed to meeting and maintaining compliance with the AODA and all the applicable standards prescribed by the IASR. The recommendations included in this submission aim to improve the experience of all Ontario residents and visitors with disabilities.

The first three listed recommendations, to include ASL, LSQ and captioning for all emergency-related communications, to amend the approach to the accessible website provisions, and to include Ontario archives in clause 12 alongside Libraries, would provide clarity and enhance information and communications for Ontarians with disabilities.

Implementing the recommendation to adjust the DOPS to state that all poles be placed at the back of the sidewalk would allow municipalities to place poles in a more accessible location, reducing barriers for people with mobility disabilities and providing a consistent and predictable location for people who are blind or are partially sighted.

Including PTCs within the legislative framework would ensure these services are accessible to residents and visitors with disabilities and would prevent service providers from discriminating against customers who are dependant on service animals or who use mobility devices.

Additionally, enhancing the enforcement mechanism of the AODA would provide Ontarians with disabilities a direct line to the province to resolve instances of non-compliance, which would create a more accessible province for all.

Lastly, in addition to conducting a review of existing implementation resources for municipalities, the City respectfully requests that the Ministry launch a province wide AODA awareness campaign to remind private businesses of their obligations and inform residents of their rights as Ontarians with disabilities.

We trust that our feedback and recommendations will receive due consideration.

Should you require additional information or have any questions, please do not hesitate to contact [Lucille Berlinquette-Saumure](#), Program Manager, Accessibility.