

October 15, 2009



The Honourable Madeleine Meilleur
Minister of Community and Social Services
Hepburn Block
6th Flr., 80 Grosvenor St.
Toronto, ON M7A1E9

Dear Minister Meilleur:

RE: Proposed Built Environment Standard under the AODA

On behalf of the 760 non-profit housing provider organizations which form the membership of the Ontario Non-Profit Housing Association (ONPHA), we are pleased to provide you with our comments regarding the proposed Built Environment Standard under the *Accessibility for Ontarians with Disabilities Act, 2005*.

Through the operation of more than 160,000 non-profit housing units, our members provide housing for approximately 400,000 people in Ontario. This housing helps seniors, low-income families with children, the working poor, victims of violence and abuse, the homeless/hard-to-house and people living with developmental disabilities or mental illness, as well as those with physical disabilities - the very individuals the Act and its standards are designed to assist.

While ONPHA stands firmly with the government in its efforts to ensure Ontarians with disabilities are treated fairly and with dignity, we are concerned that non-profit housing providers will be unable to meet the requirements of the Built Environment Standard, resulting in large part from the current strict legislative and limited funding environments within which they must operate.

Below, we outline more specifically the challenges housing providers face and our recommendations on how best to meet these challenges.



1. Legislated Funding/Additional Cost

The majority of Ontario's non-profit housing providers are funded through provincial legislation under the *Social Housing Reform Act (SHRA)*. Funding under this Act is provided in accordance with a prescribed set of benchmarked revenues and expenses which, although indexed to CPI and sub-components of CPI, are insufficient to absorb the costs of implementing proposed new requirements such as the Built Environment Standard. Other non-profit housing providers receive their funding under the terms and conditions of operating agreements. This funding comes from your ministry, the Ministry of Health and Long-term Care, or block-funded payments from downloaded federal projects. Obtaining additional revenue through increased rents is not possible either. For one, the provisions of both the SHRA and the *Residential Tenancies Act (RTA)* restrict how much additional rent can be charged. And second, there exists a limited capacity of their low-income tenants to pay additional rents.

New non-profit housing projects, or those that are currently undergoing or have undergone substantial renovations recently, will also require additional funds to meet ongoing inspection and maintenance costs associated with new accessible systems. Additional funds are required to ensure that the short and long-term operational viability of these buildings will not be negatively impacted.

ONPHA's Recommendations:

In order to meet the requirements of the proposed Built Environment Standard, government funding to assist non-profit housing providers must increase. This will require amending the provisions under the SHRA that prescribe funding levels and a review of existing funding benchmarks and operating agreements. An alternative would be for the government to create an ongoing capital assistance program targeted specifically to meeting the requirements of AODA standards.

In order to ensure efficient use of funds, ONPHA also recommends that, as a next step, the government finance accessibility audits which will allow housing providers to establish accessibility targets and develop feasible implementation plans. These audits will also assist housing providers to target funding to the most critical compliance requirements.



2. Limited Technical Resources

A vast majority of housing providers are small in size and do not possess the in-house technical knowledge to implement the proposed standard. These providers will therefore need to employ outside consultants. In addition to increasing the costs of complying with the proposed standard, ONPHA is concerned that there are too few of these outside consultants who can provide the necessary expertise.

ONPHA's Recommendations:

ONPHA recommends that the Ministry provide new funding to the social housing sector's Asset Management Centre (AMC) so that it can train and/or hire technical experts who can help providers to comply with the proposed standard. Since the AMC also serves as a technical resource centre for the social housing sector, the Ministry should also fund the AMC so it can develop technical tools and resources that would support and assist housing providers as they implement the standard.

3. Timing/Implementation

The implementation timelines of the proposed standard are unrealistically short. This timeline is made even more complicated with the need to comply with additional standards under the AODA concurrently. ONPHA shares the concerns of other stakeholders that the requirements in one standard may be dependent upon or impacted by those in other standards.¹ We support a harmonized approach that looks at the full impact of compliance with the AODA and all of its standards. Housing providers need to have a complete picture of the requirements of the standards.

Under the AODA, penalties for non-compliance within stipulated timelines are too high and could force non-profit housing providers to close their doors.

ONPHA's Recommendations:

The Ministry must take a harmonized approach that looks at the full impact of compliance with the AODA and all of the accessibility standards. This will assist housing providers and others to effectively manage their implementation plans.

Regarding the penalty provisions of the Act, ONPHA also recommends that the province permit relief from fines if housing providers are making best efforts to comply with the standards. The review of the AODA by Mr. Charles Beer should include a review of the fines under the Act with a view to providing flexibility to their application.

¹ London Transit on behalf of the Ontario Transit Industry "An approach to the Harmonization of AODA Standards" (September 2009)



4. Flexibility

As currently drafted, the proposed Built Environment standard does not allow sufficient flexibility for housing providers to meet the needs of their tenants on an individual basis. Because individual accessibility needs vary widely, it is not practical to implement a “one size fits all” strategy in all affordable housing units throughout Ontario. The “one-size-fits-all” strategy also seems to be in conflict with the recent rental housing policy of the Ontario Human Rights Commission and the Ontario Human Rights Code which clearly states that there is a duty to accommodate the needs of individuals.

ONPHA's Recommendations:

The proposed Built Environment Standard should allow non-profit housing providers with the flexibility to respond to tenant requests for individual accessibility modifications. Potential conflicts with the Human Rights Code and rental housing policy of the Ontario Human Rights Commission should be clarified and resolved.

5. New Housing Units

It is understood that there will be an increased cost to develop new affordable housing under the proposed Built Environment Standard. As mentioned earlier, a harmonized implementation schedule must be developed so that these additional costs are identified in any new housing programs created by the government. These additional costs must not prohibit housing providers from accessing new housing programs.

The Ministry must ensure that the costs of achieving accessibility do not put the future development of affordable housing units in jeopardy. Currently there are over 130,000 individuals on waiting lists who must wait anywhere from 5 to 21 years for affordable housing. Any reduction in the development of new units will only make these waiting times worse.

ONPHA's Recommendation:

Any new affordable housing programs offered by the provincial government must include funding to meet the higher costs associated with compliance with all standards under the AODA.

**Additional Comments:**

ONPHA strongly supports the decision that the Built Environment Standard will not require existing buildings to be retrofitted to meet the new standard at this time. The standard instead will focus on a “go-forward” basis. Requiring all non-profit housing providers to meet the proposed requirement in their existing buildings is not feasible. In addition to prohibitive costs, the built-form of the older buildings simply cannot be modified to meet the requirements of the proposed standard without a full-scale rebuilding of the structure itself. In these cases compliance would mean undertaking a full scale rebuild which in turn will require government funding. In other cases where the built form can be modified it will likely be more complicated. A longer compliance timeline will be needed. Interestingly, when ONPHA attended a recent stakeholder meeting to discuss the standard, the Ministerial direction regarding retrofit and private dwellings was not mentioned.

Non-profit housing providers support the intent of the legislation, its standards and the 2025 accessibility target. They understand, better than most, the necessity to move forward to meet this target to make Ontario’s built environment more accessible. However, most will be financially unable to meet the specific requirements of the proposed Built Environment Standard without the implementation of ONPHA’s recommendations.

ONPHA would be pleased to offer its assistance to the Ministry as it proceeds to finalize the Built Environment Standard.

Sincerely,

Hugh Lawson
President

- cc. The Honourable Dwight Duncan, Minister of Finance
The Honourable Jim Watson, Minister of Municipal Affairs and Housing
Brian Teefy, Senior Policy Advisor - Housing, Office of the Minister, MMAH
Dana Richardson, Assistant Deputy Minister (Acting), Housing Division, MMAH