

# AODA: Blueprint for Exclusion Update 2014

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# Background

- Municipality decided to eliminate Para transit over lack of management and oversight.
- This became:
  - One woman toes to the casino” which then morphed into “one woman goes to the casino 10 times a day.”
  - “If “they” can afford to go shopping, they can afford to pay full taxi fare.”
  - “People with disabilities need to learn how to budget their money like everyone else and if they can’t afford the luxuries, they need to reconsider their lifestyle ...and move.”
  - “We can’t let anyone with a disability go anywhere they want.”
  - “if “they” can’t afford a taxi, call an ambulance.”
- In this municipality, as with other rural areas, taxi-based Para transit or specialized transportation is the most cost effective way to provide the ability to be independent.

# Ad Hoc Committee

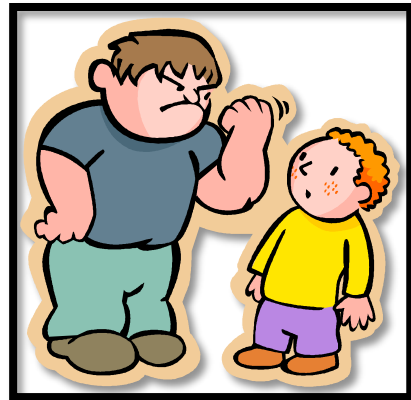
- “AODA is not a real law.”
- If we call specialized transportation “subsidized transportation we can get rid of the AODA.”
- “Many councillors don’t see any need for this type of service.”
- “If this committee doesn’t approve the transportation scheme, Para transit will stop immediately.”
- “Attempts to create an income based Para transit service.
- Attempts to restrict where people with disabilities can go: Para transit would only be for approved medical trips and the approval would only come after the end of the month when receipts were submitted.
- Committee was dissolved without warning after three meetings.

# Accessibility Advisory Committee

- Two members of the AAC were on the ad hoc committee, including the Chair of the AAC.
- This struggle to retain Para transit began in May of 2012.
- By December 2012 three members of the AAC, including the Chair, resigned over lack of respect, discriminatory remarks and information from meetings not being complete or missing from minutes.
- November 2012 the AAC sent a scathing report including recommendations to Council. (Community Service is responsible for Para transit).
- This report, the first time this had happened, was diverted to Community Services (who were advocating elimination of Para transit) and received as “information only.”
- This effectively bypassed the AODA which mandates an AAC reports to Council.

# 20<sup>th</sup> Anniversary of Day of Disability

- On the December 3, 2012, the 20<sup>th</sup> anniversary of the UN Day of People with Disabilities:
  - “If anyone files a human rights complaint, service will stop immediately.”



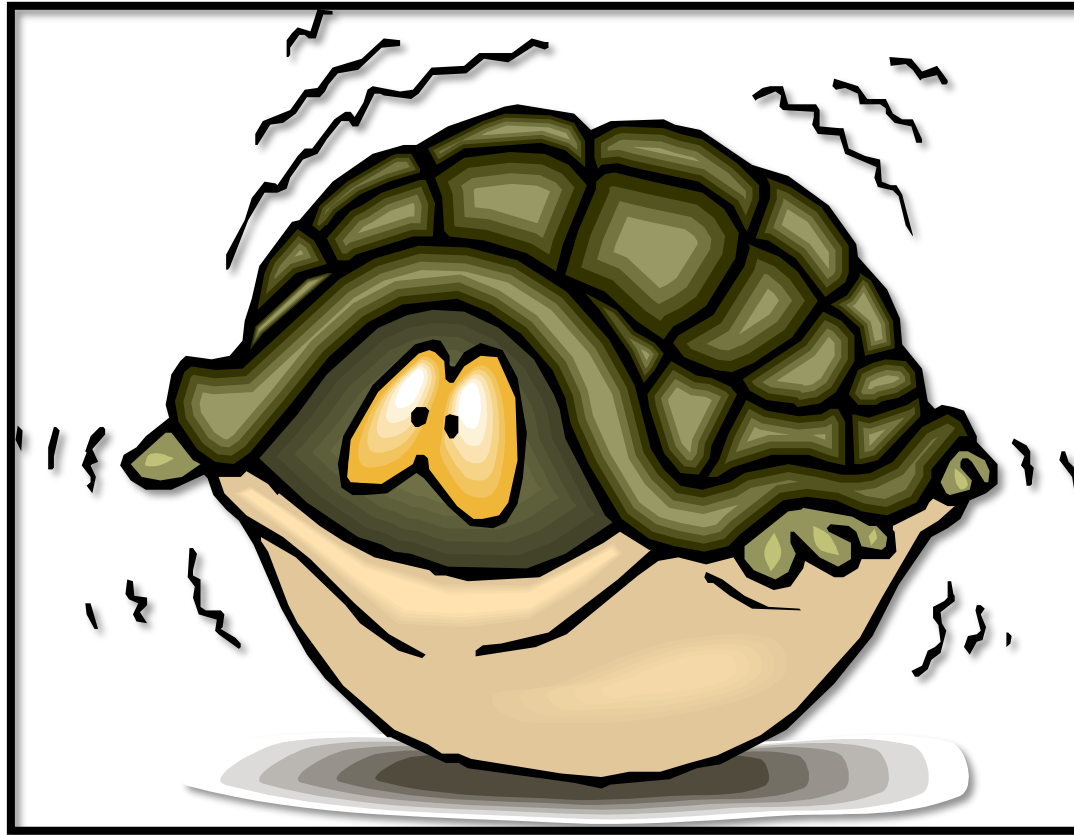
Who Ya Gonna Call....”



# Long List of Possibilities...

- The following were contacted for assistance:
  - Premier of Ontario.
  - Minister of Community Services.
    - Accessibility Directorate of Ontario.
  - Ontario Ombudsman.
  - Minister of Municipal Affairs.
  - Minister of Transportation.
  - Association of Municipalities of Ontario.
  - Media: CBC, CTV, Global, Toronto Star, Globe and Mail, The Post, and radio stations.
  - National organizations of and for people with disabilities.
  - National public transportation associations and unions.

# The Overwhelming Response.....





# Accessibility Directorate of Ontario

- Is the acronym ADO or “Adieu?”
- “Thank you for your feedback.”
- “AODA is not complaint based.”
- “Your feedback will be kept for statistical purposes.”
- November 2012: “All of your questions have been answered, we don’t need any more information.”

# Update....

- The Accessibility Advisory Committee is not advising the municipality on any AODA compliance.
  - January 1, 2014 section 72 of the IASR which provides for either same day service or the ability to book up to 3 hours prior to the end of the previous service day has not been implemented.
  - The current service provider does not have the capability to do either nor are there any plans to do so. (400 people using the service and only 3 accessible vans).
- The current service provider won the RFP despite having no experience with Para transit and no accessible vehicles.
- No communication between the municipality and the service provider, the service provider and customers and the municipality and customers.

# Holiday Service Cancelled!

- The Accessibility Advisory Committee eliminated holiday Para transit service...and didn't tell anyone.
  - Those trying to book trips to be with family on Thanksgiving and Christmas were told they had to use regular taxi service at regular fares. (costs of upwards of \$25 one way)
- There was NO consultation with those who use Para transit.
- No public meetings.
- No communication at all.

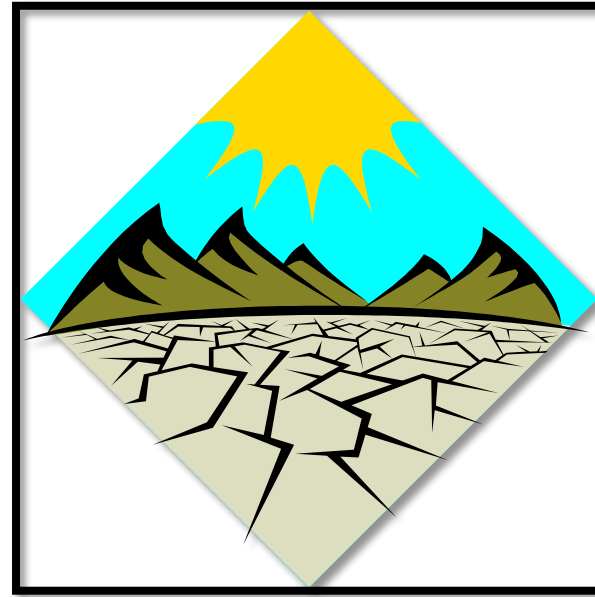
# Service Provider asks to Nullify Contract

- March/April 2014 the service provider, after only 8 months of the contract, has gone to the County to ask for more money.
- The winner of the contract had access to the same information as other bidders.
- The current service provider had no accessible vehicles, one driver and an answering machine.
  - How did they win the contract when experience, accessible vehicles, dispatch and trained drivers were part of the RFP criteria?
- AAC and County now considering raising the amount people with disabilities will pay for specialized transportation from \$7.00 per ride to \$10.
  - This violates the RFP and contract which states that the fare is to remain at \$7.00.
- This is the same problem the County had with the previous service provider: they kept asking for more money or to raise the fares.
  - Why is this being allowed to happen again?

# Attempt to Charge Booking Fees

- In April 2014, the service provider stated that if a trip were booked after 1PM in the afternoon for the next day, there would be a \$15 booking fee/penalty.
  - Stated that this was approved by the County.
  - After contacting the County, County denied that this was even discussed.
- How many people who are not AODA Consultants challenged this oppressive penalty?
- Violates article 71 of the IASR in that it prevents us from booking up to 3 hours prior to the end of the previous business day unless we have an extra %15.
- Violates article 72 of the IASR in that it is a policy that restricts travel to those who can afford the penalty/booking fee.
- Violates article 11 of the OHRC as it is another layer of discrimination.
- How do people with disabilities know what the truth is and what other “incidental” penalties have we paid?

# Identifying the Cracks



# No Training for AAC Members

- People who are members of the Accessibility Advisory Committees don't receive any training or any identification about what their responsibilities are as a member.
- They are mandated to advise and make recommendations to Council on the compliance with the Accessibility for Ontarians with Disabilities Act and its subsequent standards.
- AAC members MUST think about the big picture and NOT just their own needs.
- Article 7 of the IASR mandates AODA and Ontario Human Rights Code training for both AAC members and members of Council on their relationship to their AAC and how the two are supposed to work together.
  - To date, April 2014, there has been no training for either the AAC or Council.

# Good Role Models

- Based on a presentation at one of the ADO's forum days in 2013, Orangeville does have a great system for implementing the AODA and its subsequent standards.
  - Includes collaboration with the community including people with disabilities.
  - Working well with Council.
  - Council respects work of the AAC.
- The presentation was a model of open communication and collaboration.
- A Councillor from Orangeville offered to come and assist the municipality in this case study but the municipality has not taken any offers of assistance or collaboration.
- No independent conference for AAC members.
  - Only opportunity to network is the Ministry held one day forums that showcase biased progress toward AODA compliance.
- Is a network web page but no real collaboration among many municipalities and AAC's.



# No Collaboration from ADO

- A representative of the ADO did come and do a 10 minute presentation as a delegation to the Community Services Committee.
- They reinforced everything that had been presented to that committee, the ad hoc committee and Council about AODA and compliance.
- One Councillor asked: “is there any law that says we have to provide Para transit.”
- The representative advised them to consider this move carefully and referred them to the Ontario Human Rights Code.
- The response from the committee was pleasurable validation that they could stop Para transit at any time because there is no law that says they have to provide it.
- This has been the only public interaction from the ADO.

# The AODA Audit Process

- The municipality was audited but the audit is a snapshot of what is in place, not what is being planned/eliminated.
- So on paper, at that time, the municipality had a functioning Para transit service that appeared to meet the AODA at that point in time.
- Nothing was done, despite the ADO knowing what was going on in the municipality.
- Lack of collaboration even among the ADO staff and municipalities/organizations.
- Audits would appear to be useless in identifying opportunities for education and assistance.
- Disconnect even within the ADO.

# Complete Breakdown



# First Review of AODA

- In the first review of the AODA was in 2010.
- Just before the Customer Service Standard release.
- Huge problems that still have not been addressed:
  - Lack of harmonization.
  - The cost.
  - Lack of training and education.
  - Lack of compliance and enforcement.

# Lack of Harmonization

- The report identified the following areas which can be considered a breakdown in collaboration:
  - The committees did not work together nor did they communicate with each other.
  - Deadlines are therefore not harmonized nor are the standards themselves.
- Comment: There is no view of the big picture. The standards are viewed and implemented in isolation of each other.
  - No sense that it is an inclusive community that “we” are building.
  - “The cheese stands alone.”
  - Is it any wonder then, that there is little or no collaboration between people with disabilities, the government, municipalities or organizations?

# The Cost

- The report identifies that there is no strategy for budgeting or helping organizations budget and plan to implement the AODA and its subsequent standards.
- Take the example of Information Communication:
  - Implies that alternate format must be provided even if the original content is accessible.
  - Why create something “differently accessible” if the content is accessible?
  - Audio formats may require licensing of the format and the synthesized voice. Who is going to pay for this?
  - How can municipalities and organizations budget for the production of alternate format?
    - Can have 1 document in 100 formats; or,
    - 100 documents that are accessible.
- There are also infrastructure costs for employment, transportation and open spaces/built environment.

# Lack of Training and Education

- The report identifies the lack of training and education as part of the problem in implementing the AODA and its subsequent standards.
- No training for AAC members or Councils on how they are to work together or what the legislated mandate of the AAC is.
- No inclusion of universal/accessible design in the Ontario educational curriculum so that graduates are employable when they graduate without additional cost to employers for training.
  - As the CRPD gains momentum this will put Ontario graduates at a global disadvantage.
- No training for staff (municipal) on the legislated obligations of AODA.
  - Systemic discrimination can continue to fester unattended.
- Lack of public awareness that Ontario has the goal and vision of being an inclusive community. (Good things grow in Ontario like advertising).

# Lack of Compliance and Enforcement

- This is, at the moment, as illustrated by this case study and those brought to the attention of the media, the biggest hurdle for the AODA and people with disabilities.
- The “belief” of people with disabilities was that there was now a framework for bringing violations of their human rights to the ADO...a government agency that could assist in sorting out the existing systemic discrimination and help.
  - This has proved to be false. The AODA and its subsequent standards have only improved the lives of people with disabilities in municipalities and organizations that were headed in that direction.
    - Those municipalities and organizations that do not believe in equality for people with disabilities can continue to go on “business as usual” with no consequences...and no assistance/guidance to move them from that point.
  - Those who do not believe in equality are waiting for 2025 when “all this will be over and we can go on with life.”
    - No sense of the costs “IF” there are substantive revisions to the AODA and its subsequent standards to further define and identify barriers.
    - No sense of what they will face if this “doesn’t go away.”



# Help in the form of the CRPD?

- Where do we go from here when there is no help from the ADO?
- For many countries, the United Nations Convention on the Rights of People with Disabilities is a starting point toward human rights reform and laws.
- In Ontario, the CRPD becomes the clarification of the standards and the human rights that are embodied in both federal and provincial legislation.
- As a country that ratified the CRPD (in 2010) Canada has an obligation to ensure that the articles of the CRPD are upheld.
  - Of course there is a huge disconnect between the Ministry responsible for reporting on Canada's progress toward the CRPD and the lack of compliance and enforcement of the AODA.
- Each piece of the human rights “puzzle” must fit together and not continue to exist in isolation of each other.
- In the end, those of us with disabilities may have to ask for a formal investigation by the UN to bring the compliance and enforcement issues to the world stage.

# Complete Lack of Collaboration

- No partnership between the ADO and the AAC's.
- No partnership between the ADO and Council's or staff.
- All other Ministries and MP's or MPP's point to the ADO and say "that comes under AODA, it has nothing to do with us."
- People with disabilities not consulted or communicated with in many cases.
- The audit and reporting process seems to be in isolation from the rest of the ADO.
- No mechanism for people with disabilities to bring possible violations of the AODA to the attention of , well anyone.
- No compliance or enforcement of the AODA.
  - Website of who has been fined so far and what the violation is/was would be helpful.

# Help?!



# Moving Forward

- As “AODA Consultants” or those who are working in the area of the Accessibility for Ontarians with Disabilities Act, we must be aware of how the layers of human rights legislation work and are available to us.
- We have to keep repeating the human rights laws and the articles of the CRPD until someone “gets it.”
- As people with disabilities, we can’t stop identifying violations of our human rights and the AODA...until someone “gets it.”
- There is so much confusion and misinformation about what the AODA is and what it requires.
  - We have to be the voice of knowledge and reason.
  - We have to see the bigger picture and provide that context.
- It is not “all up to us” but we ARE often the first point of contact and context.

# AODA Ombudsman?

- The Ombudsman's office has no jurisdiction over either municipalities or AODA.
- There is a MUSH initiative to have Municipalities, Universities, Schools and Health based institutions come under the Ombudsman umbrella for investigation.
  - Currently the Ombudsman has to be invited to investigate ,these areas.
- Should AODA also come under the Ombudsman's office?
  - Would it make sense, given the chaos and non-compliance issues to have a separate AODA Ombudsman's office and investigative teams?
  - Would this provide opportunity to further isolate AODA compliance?
  - Inclusive community/society includes all Ministries and entities in Ontario. Everyone is accountable.
- Estimated that over 59 percent of OHRC complaints are disability based.
  - Can the OHRC effectively handle the volume?
  - Little or no experience with AODA standards/focus is on the HR code.

# Resources – 1

- Karlen Communications AODA webpage:  
<http://www.karlencommunications.com/AODA.html>
- First Review of the AODA:  
[http://www.mcsc.gov.on.ca/en/mcsc/publications/accessibility/charles\\_beer/what\\_review\\_heard\\_implementation.aspx](http://www.mcsc.gov.on.ca/en/mcsc/publications/accessibility/charles_beer/what_review_heard_implementation.aspx)
- Convention on the Rights of People with Disabilities:  
<http://www.un.org/disabilities/default.asp?id=259>
- Incheon Strategy:  
<http://www.unescap.org/sdd/publications/IncheonStrategy/Incheon-Strategy.pdf> (not sure if this document is accessible or not)

# Resources – 2

- UN Enable: Convention on the Rights of People with Disabilities: <http://www.un.org/disabilities/default.asp?id=259>
- Canadian Charter of Rights and Freedoms: <http://www.efc.ca/pages/law/charter/charter.text.html>
- Canadian Human Rights Commission, duty to Accommodate: <http://www.chrc-ccdp.ca/eng/content/duty-accommodate>

# Resources – 3

- Ontario Human Rights Code: [http://www.e-laws.gov.on.ca/html/statutes/english/elaws\\_statutes\\_90h19\\_e.htm](http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_90h19_e.htm)
- OHRC Duty to Accommodate: <http://www.ohrc.on.ca/en/policy-drug-and-alcohol-testing/duty-accommodate>
- OHRC: Undue Hardship Standards: <http://www.ohrc.on.ca/en/guidelines-accessible-education/undue-hardship-standard>
- OHRC: Conflicting Human Rights Framework: <http://www.ohrc.on.ca/en/balancing-conflicting-rights-towards-analytical-framework>
- Accessibility for Manitobans with Disabilities Act: <http://web2.gov.mb.ca/bills/40-2/b026e.php>



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