



Stronger Measures Essential for Effective Legislation

**Comments on the Manitoba
Accessibility Advisory Council's
Recommendations**

Executive Summary

October 1, 2012

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The Province of Manitoba released the first-ever provincial strategy on disability in 2001. Called [Full Citizenship](#), the strategy was based on a bold philosophy and vision. Both spoke to the need to “redesign our social, economic and physical infrastructures” to address the basic human right to equitable accessibility. Achieving this was seen to be an immense task requiring long-term commitment and strong government leadership.

Eight years later, still having made limited progress, the Province of Manitoba updated its disability strategy with the release of [Opening Doors Renews Manitoba’s Commitment to Manitobans with Disabilities](#). This document set out an equally bold objective of “making Manitoba a leader in the promotion and protection of the human rights of persons with a disability.”

On September 6, 2012, with a bold philosophy, vision and objective now clearly articulated, the Province of Manitoba released recommendations calling for new landmark legislation from its Accessibility Advisory Council (MAAC). These recommendations are hoped to provide the basis for legislation that will require the timely and systemic prevention and removal of the pervasive barriers that continue to confront persons with disabilities.

The government has provided a 45-day period for the public to provide comments on the report to Minister Jennifer Howard, the Minister Responsible for Persons with Disabilities. This period concludes on October 21, 2012.

The critical question now before the hundreds of thousands of Manitobans whose daily lives are affected by disabilities is “Will the MAAC’s recommendations lead to the strong and effective legislation that is now so long overdue?”

Barrier-Free Manitoba’s answer is unequivocal. The recommendations represent very important steps forward but they simply do not go far enough. The proposed legislation must incorporate a series of much stronger measures in order to realize the momentously important goal of making Manitoba a truly inclusive province.

Responses from Barrier-Free Manitoba

This is the Executive Summary of the 131-page response Barrier-Free Manitoba that presents the detailed case behind this call for stronger measures. Barrier-Free Manitoba has also prepared a shorter 25-page position paper that provides comment in response to each of the MAAC's recommendations. Both of documents have been submitted to Minister Howard and are posted on our website: <http://www.barrierfreemb.com>.

Important Steps Forward

The release of the MAAC's discussion paper provides reason for cautious optimism. The encouraging steps forward are:

Setting the Stage for Action

Now that MAAC's recommendations have been received, the public feedback due by October 21 is the last step required before the government can draft landmark legislation.

Cross-Sectoral Consensus

Consensus was reached on the need for the accessibility-rights legislation by all Council members, including those representing business, the municipalities and the City of Winnipeg.

Progress of the MAAC

The progress the MAAC made in moving from a very general discussion paper to a set of 43 detailed recommendations in six short weeks is nothing short of remarkable.

Several Critical Breakthroughs

Many of the MAAC's recommendations responded to essential foundations identified by Barrier Free Manitoba in May 2012. These will crucial to strong and effective legislation and include recommendations on:

- Strong, Resolute and Robust Language
- Independent Comprehensive Reviews
- Explicit Recognition of the Supremacy of the Human Rights Code

- Provincial Policy to Ensure Public Money is Not Spent to Create New Barriers
- Resourcing of the Disability Community to Enable Fair and Equal Participation

Stronger Measures Still Required

While the MAAC's recommendations do represent important steps forward, they simply do not go far enough. There are five areas where stronger measures are essential.

A Definite Target Date by Which to Achieve Full Accessibility

The core lesson learned from Ontario's experience since 2005 – when similar legislation was enacted – is the power of establishing full accessibility as the goal in the legislation and defining a target date by when this will be achieved. The cost of ignoring this lesson will fall on the hundreds of thousands of Manitobans affected by disabilities.

More Effective Penalties for Non-Compliance

The maximum \$25,000 fine recommended by the MAAC for parties guilty of flagrant non-compliance with the legislation is wholly inadequate. This limited penalty is inconsistent with fines under many other provincial statutes. This human rights legislation needs to be substantial and have serious 'teeth.'

Inclusive and Proactive Public Sector Leadership

The MAAC reversal in not recommending special leadership and reporting requirements for any public sector bodies is deeply concerning. It is fundamentally inconsistent with the special legal and public trust responsibilities of these bodies. This is another key lesson from the Ontario experience.

Greater Transparency and Accountability

While setting out how committees it establishes report to the Council, the MAAC's recommendations did not contain any measures to ensure it's own public transparency and accountability. Without clear measures, the Council's early difficulties will only increase in complexity and gravity as new committees are established and the actual work of developing accessibility standards begins.

Early and Meaningful Progress on Implementation

Manitoba should plan now for early and meaningful progress in developing and implementing accessibility standards to demonstrate success and build momentum. Reviewing and revising standards that are already established elsewhere needs to be central in this plan to speed progress in the systemic prevention and removal of barriers.

Allowing the legislation to proceed without these stronger measures will mean the loss of this once-in-a-generation opportunity to achieve a fully inclusive province.

Do What is Right!

We recognize that there may be some well-meaning persons who would suggest that Barrier-Free Manitoba should settle for the important steps forward represented by the MAAC's recommendations: these recommendations are all that Manitobans with a disability can expect. We could hardly disagree more.

Our work is based on a very different set of assumptions. We believe that the government is truly serious about achieving its stated objective of making Manitoba a "leader in the promotion and protection of the human rights of persons with disabilities." We believe that the principles we have set out and positions taken in this document are absolutely essential to the development of strong and effective legislation. Furthermore, we believe that the robust legislation we are calling for is realistic, attainable and just good basic public policy. It's about doing what is right for all Manitobans.

We are cautiously optimistic. The MAAC made remarkable progress in six short weeks. We are hopeful that Minister Howard and senior government decision makers will make similarly remarkable progress over the next six months by incorporating the stronger measures in the legislation they choose to table for First Reading in the Legislative Assembly.

Please do what is right.

Barrier-Free Manitoba

Barrier-Free Manitoba is a non-partisan, non-profit, cross-disability initiative formed in 2008. Our work has focused and continues to focus on securing strong and effective provincial accessibility-rights legislation that requires the timely and systematic removal of existing barriers and the prevention of new ones.

- We believe that enacting such legislation is a basic matter of human rights.
- We believe that the removal of barriers is an entirely realistic and attainable duty.
- We believe that the removal of barriers is good basic public policy that will benefit everyone.
- We believe that enacting such legislation is about doing what is right and doing what is reasonable.

The seven-page brief we submitted at our first meeting with representatives of the Province of Manitoba in September 2008 set out the following nine basic principles for this legislation.

1. Cover all disabilities.
2. Reflect a principled approach to equality.
3. Move beyond the complaints-driven system to comprehensively address discrimination and barriers.
4. Establish a definite target date to achieve a barrier-free Manitoba.
5. Require the development of clear, progressive, mandatory and date-specific standards in all major areas related to accessibility that will apply to public and private sectors.
6. Establish a timely and effective process for monitoring and enforcement of the standards.
7. Incorporate ongoing leadership roles for the disability community.
8. Supersede all other provincial legislation, regulations or policies which provide lesser protections.
9. Not diminish other legal and human rights protections.

Over the past four years, the call for this legislation, along with the nine principles, has been endorsed by coalitions and groups representing more than one hundred thousand Manitobans. Endorsements have also come

from hundreds and hundreds of concerned citizens. (See our [website](#) for a list of endorsing coalitions and organizations.)

Prior to our comments on the MAAC's recommendations, Barrier-Free Manitoba has publicly released a total of nine substantive papers and reports related to provincial accessibility-rights legislation. These include:

1. A Barrier-Free Manitoba (September 2008)
2. Analysis of Accessibility Legislation Models – Public Interest Law Centre (April 2009)
3. Fair Access for All! Initial Response to Opening Doors (September 2009)
4. Accessibility Standards Legislation: A Strategic Options Paper – Bakerlaw (May 2010)
5. Accessibility Standards Legislation: Centralized or Dispersed Approaches – Bakerlaw (June 2010)
6. Response to Discussion Paper for Made in Manitoba Accessibility Legislation (December 2010)
7. Bill 47: An important Step Toward the Effective Promotion and Protection of the Human Rights of Manitobans with Disabilities (June 2011)
8. A Solid Foundation for Strong and Effective Legislation: Our Response to the Accessibility Advisory Council Discussion Paper on Accessibility Legislation (May 24, 2012)
9. Global Messages of Encouragement (June 5, 2012)

These past papers and reports, along with extensive information on accessibility legislation models in other jurisdictions, are also posted on our website.