



May 15, 2014

Dear Local Accessibility Advisory Committees.

We are writing to you with respect to the issue of the proposed outsourcing of the Mobility Plus Appeal Panel. As many of you are aware, our group presented deputations to each municipality, and municipal Accessible Advisory Committees (AACs), to advise them of the York Region Transportation Department's recommendation to outsource the Mobility Plus Appeal Panel.

A large number of Accessibility Advisory Committee Members voiced their general concerns with Mobility Plus, and provided creative, forward-thinking ways on how to keep the Mobility Plus Appeal Panel in-house.

York Region Transportation recommended in a Report to Council on May 1, 2014, that York Region Council agree to the outsourcing of the Mobility Plus Appeal Panel. We did a deputation to the Committee the Whole on May 8, 2014 and provided them with an information package in support of our deputation. The package that was provided to the Committee of the Whole is included with this letter for your review. This package the following documents:

1. Letter outlining our concerns regarding the outsourcing of the Mobility Plus appeals panel
2. Medisys Presentation – September 2013 (received through MFIPPA)
3. York Region Transit and Medisys: A Corporate Health Partnership (received through MFIPPA)
4. Emails dated October 4, 2013 and November 11, 2013 (received through MFIPPA)
5. Review of Eligibility Appeals Process – Final Report (received through MFIPPA)
6. Review of Eligibility Appeals Process – Draft Report with comments (received through MFIPPA)
7. York Region Mobility Plus – Audit Report – August 2013 (received through MFIPPA)
8. Mobility Plus Application
9. \*Canadian Urban Transit Association Specialized Transit Eligibility Certification Programs – Overview of Canadian and U.S. Experience 2013 (further referred to as \*CUTA 2013 Report)
10. Letters and minutes from each municipality regarding the outsourcing of the Mobility Plus Appeal.

11. Letter from York Region Regional Clerk advising us of the outcome of our deputation of May 15, 2014.

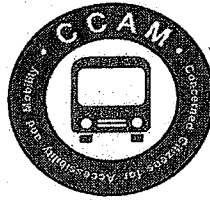
We understand that the AAC's will be changing members this fall, and you may no longer be in the role of advising the municipalities on disability-related issues. We would like to ensure that the good work that has been done to date with respect to the issue of outsourcing the appeal panel is not lost, and therefore we would respectfully request that you share this information and your concerns and recommendations with the new AAC. Also, if anyone is interested in continuing to help advise on issues with Mobility Plus, please feel free to contact our group as we welcome new members to support us in our endeavour to advocate for positive change for persons with disabilities who rely on York Region transit.

Thank you for all your hard work and your commitment to helping ensure persons with disabilities have access to the same services as a broad community. We have enjoyed meeting with you, and working with you over the last three years.

Sincerely,

Sheri Upper  
1-866-953-7357  
CCAM member

Kim McKinnon – Community Legal Worker  
905-508-5018  
CCAM member *and*  
The Community Legal Clinic of York Region



May 7, 2014

**Submission to Committee of the Whole regarding deputation of May 8, 2014**

**RE: MOBILITY PLUS ELIGIBILITY APPEAL PANEL**

This submission is being made to York Region Committee of the Whole, and copies being provided to each municipal Accessibility Advisory Committee and the York Region Accessibility Advisory Committee. A copy of this submission is also being provided to York Region Transportation Department.

This letter is in response to the York Region Transportation Services Committee recommendation to outsource the Mobility Plus Appeal Panel.

The following documents are included and referenced in this submission:

1. Medisys Presentation – September 2013 (received through MFIPPA)
2. York Region Transit and Medisys: A Corporate Health Partnership (received through MFIPPA)
3. Emails dated October 4, 2013 and November 11, 2013 (received through MFIPPA)
4. Review of Eligibility Appeals Process – Final Report (received through MFIPPA)
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9. Letters and minutes from each municipality regarding the outsourcing of the Mobility Plus Appeal.

## **BACKGROUND**

We were made aware of the recommendation to outsource Mobility Plus in November 2013 and presented a deputation to York Region Council recommending that they do not outsource this service.

York Region Council recommended that the matter be referred to consult with the York Region Accessibility Advisory Committee at their meeting in February 2014.

We requested to make deputations to each Accessibility Advisory Committee in each Municipality as well as the York Region Accessibility Advisory Committee. Our reason for doing this was two fold. One was to ensure that the AAC's were aware of such a drastic change to the operation of Mobility Plus and two to access valuable resources in the community who could come up with other possible solutions.

During the deputations one of the many suggestions raised was that the Mobility Plus service needs to be reviewed from start to finish, that being from the point of the initial application through assessment of eligibility to the appeal with special consideration of the eligibility criteria. By doing this review, this may prevent a number of applications even going to the appeal stage.

At the Committee of the Whole meeting held on May 1, 2014, York Region Transportation put forward a Report recommending that the current Mobility Plus Appeal Panel be dissolved and that York Region authorize the execution of an agreement to outsource to Medisys Health Group on an one year pilot basis. Attached to their Report were some of the Municipal recommendations pertaining to the issue of outsourcing the Mobility Plus Panel. We have included a copy of the other municipal minutes as they pertain to this issue.

## ANALYSIS

### i) # of Appeals and Overturn rate

Between 2010 and mid 2012, the Mobility Plus Panel reviewed 8 appeals. Out of the 8 appeals 1 was denied. That is an average of 87.5% of original decisions being overturned by the Mobility Plus Panel. In 2014, York Region indicated that the overturn rate thus far is 85%.

York Region describes in their May 1<sup>st</sup>, 2014 report that industry best practices indicate that an appeals process in which 20 to 30 percent of the original application decisions are overturned may reflect a healthy appeals process and effective eligibility process. One can only assume that the industry best practices projection is based on a large sample of appeal decisions, as opposed to the 8 appeal decisions that were made by the Mobility Plus Appeal Panel between 2010 and mid 2012. Therefore, the rate of 87.5% of decisions overturned on appeal between 2010 and mid 2012 cannot be compared to the industry best practices at this time.

The high overturn rate of the appeals, however, also could be attributed to problems with the eligibility process. If the original application and assessment were more comprehensive and clearly defined there would likely be fewer decisions appealed and thus a lower appeal rate. We again would urge that there be a review of the full service from eligibility to appeals.

In the CUTA Report 2013, they review various types of eligibility and application processes and speak to the AODA eligibility criteria and process requirements. We would like to suggest that this document be referenced with respect to any type of application or eligibility review.

In terms of the increase in the number of appeals, York Region indicates it has gone from 2 appeals in 2012 to 28 in 2013, and that this increase has caused concern in the current Appeal Panel members.

In a TTC Report dated November 23, 2011, they anticipate handling 60 appeals on a weekly basis., for this reason they have outsourced their appeal process to a third party Medisys. We understand that as of May 1, 2014, the current number of outstanding appeals for York Region is 3 which would not warrant the outsourcing of appeals in our opinion.

### **ii) AODA Regulations – 30 day deadline to hear appeals**

With respect to the AODA regulations of 30 days to hear an appeal and grant a decision, the AODA Policy states the following:

*If final decisions are not made within the 30 calendar days, the specialized transportation service providers will grant applicants temporary eligibility. The applicants have temporary eligibility until final decisions are made.*

Dillon Consulting, a consulting agency, was hired by York Region Transit to review the current eligibility appeal process. They, stated in their report that,

*“according to staff of the MCSS Accessibility Directorate, there is some flexibility for extending the process, if it is based upon extenuating circumstances (e. g. illness of appellant or inability to achieve an Appeals Panel quorum within the deadline date). (p. 038)”*

We believe the flexibility in the 30 day deadline as indicated above would adequately address the issue raised in the York Region Transportation Report.

### **iii) Increase in denial rate**

We obtained the York Region Transit Mobility Plus – Audit Report August 2013 through a MFIPPA request. The Report itself addresses the increase in appeals. York Region Transit Management’s response to the increase in appeals is

*“due to clients being able to appeal a change to their travel status, for example, full access compared to Family of Services.” (page 11 – York Region Transit Mobility Plus Audit Report August 2013)*

We believe that one of the reasons for the increase in appeals is that York Region has placed a high number of riders on Family of Services who then appeal these decisions as they feel they are not able to use the conventional services. We believe in many of these instances, the riders affected cannot appreciate why suddenly their rider status is being changed. While the incentive could be about cost saving on the part of Mobility Plus, that reason is not sufficient to alter a person’s ridership and if there are legitimate reasons for doing so they need to be adequately explained to the person affected.

York Region has also described the reason for the increase in assessment and denials as resulting from responses from applicants on the application form. They state, "These particular questions asked in the application form are directly related to an individual's ability to board and ride a low-floor bus" (please see Application form).

### OTHER OPTIONS AND COSTS

a) The Region has stated that they are looking into internal process changes in the reviewing of the applications to hopefully reduce the number appeals. (page 11 – Auditors Report).

Q: Has this been done and what was the outcome of this? Has this impacted the number of appeals?

b) The recommendations from the Auditor are that the Region perform a cost/ benefit analysis on expanding the resources need for the current appeals process versus outsourcing to a third party. (page 11 – York Region Transit Mobility Plus Auditors Report August 2013). It is not evident in any report that we have received if this cost/benefit analysis has been completed.

Although the Region has provided us with a cost of advertising for members from May 2013 at \$12,220.0, we would like to suggest that advertising to local AAC's and local agencies is cost free and there are many forms of media that can be used to post this type of advertisement. It was also suggested at the Committee of the Whole meeting on May 1, 2014 that advertising be done through the Human Services Planning Committee and individual agencies. Perhaps these suggestions could be tried before outsourcing at a cost.

c) Back in 2012, York Region Transportation Department retained Dillon Consulting Limited to review the existing eligibility appeal process conducted by York Region Transit Mobility Plus. The purpose of the review was to:

- Review the effectiveness of the appeal process and conclude whether the process is fair and reasonable;
- Identify opportunities to extend the appeals process to include changing eligibility status (currently only applicable for applicants that are denied), and
- Review the appeals process for penalties a result from consistent no-shows and late cancellations.

There was a cost to York Region taxpayers to retain Dillon Consulting. We strongly urged that this document be reviewed when making any decisions regarding Mobility Plus service operations including eligibility criteria and appeals processes.

In the Toronto appeals, handled by Medisys, appellants can bring along a support person, advocate or lawyer to the appeal but lawyers who begin to question the process

may result in the appeal being held in abeyance. (page 043). This is of grave concern as it restricts the opportunity for full legal representation.

d) Dillon goes on to explain that at the time of their review, Mobility Plus Appeal Panel only heard appeals regarding denial of eligibility. However Dillon recommended that the appeals process be opened up to include appeals regarding other decisions, for example, automatically being put on Family of Services (as per Dillon recommendation page 047). Dillon goes on to explain that opening up the appeals process to a clients 'status' might be difficult to manage however, the recognize that YRT could face possible Human Rights Complaints if clients are not permitted to appeal their status.

York Region mentions in their report to the Committee of the Whole, dated May 1, 2014, that the CLCYR had posted flyers at to senior residential complexes regarding appeals processes and offering free legal advice regarding their Mobility Plus status. Part of the Community Legal Clinic of York Region's mandate includes community outreach. It is possible as inferred by York Region Transit, that education about the appeals process may have led to a higher number of appeals, however, advising people of their rights should not be looked upon negatively but rather something York Region would strive towards. CLCYR is of the belief, as are the members of CCAM, that those who are most vulnerable deserve the same rights as others, and one of those rights is access to legal services.

e) Legal Counsel for York Region addressed the Committee of the Whole on May 1<sup>st</sup>, 2014 and suggested that applicants for the Appeal Panel may not understand what is required of them, and they do not understand the eligibility and guiding principles of Mobility Plus. If the Appeal Panel members do not understand the eligibility criteria and guiding principles of Mobility Plus, one could also infer that the very same is not clear to the applicants and riders of the program as well. It is apparent that the eligibility, application and appeals process must be addressed and made more transparent.

On March 2014, Council of the Town of Newmarket, as part of their recommendations, introduced the concept of a Mobility Plus Advisory Committee. This Committee would advise on all issues concerning any changes to the structure of the Mobility Plus service. Since the Committee would be very knowledgeable on Mobility Plus issues, we would recommend that they also expand their role to advise and train future and existing Appeal Panel members.

Currently, it would appear that Mobility Plus staff provide training to the Appeal Panel members. We would caution against this based on information obtained during a deputation by a current Appeal Panel member. This member described his training by York Region Mobility Plus staff to include looking for tags on mobility devices, as some individuals may have purchased the devices to bring to the appeal and influence the decision. We do not support this method of decision-making as every hearing should be heard without bias. Also, the same deputant shared that a potential rider had been followed into a retail store and videotaped by a Mobility Plus staff member to determine eligibility for ridership. This does not seem to be an appropriate, or fair way to determine eligibility.

f) Another recommendation of Dillon Consulting is that there be at least five or six panel members to select from, as it would allow for rotation of members and back up of members if needed.

In the Report from Transportation dated May 1, 2014, it states that 8 applications for Mobility Plus Appeal Panel members were submitted but only resulted in 5 possible candidates. Although we appreciate that there are a standard set of questions for the applicants, we question how applicants' answers are analyzed to determine suitability for the Panel. We raise this question as a direct result of a deputant, Peter Pallotta, stating that he had previously applied to be a Mobility Plus Appeal Panel member and was denied.

Q: Is there a standardized evaluation process used to review the applicants' answers?

York Region referenced a document from 2013 (CUTA Report 2013) as it relates to individuals who conduct appeals and the importance of them being well versed in:

- Skills required to ride transit
- Level of accessibility and scope of services of the conventional transit system
- Ability of people with different disabilities to perform different tasks
- Service policies of the specialized transit systems

We are of the belief that if there is a review of the eligibility and application process, and the pool of Appeal Panel members is broadened, there is little concern of the appeals growing to an uncontrollable amount and not having the steady source of Appeal Panel members to hear them.

g) Dillon consulting goes on to discuss the potential of contracting out the Appeal Panel Process. Dillon states that this practice currently exists in Toronto due to the high number of appeals, However, it is generally a relatively uncommon practice among specialized transit operators. York Region currently does not have a high number of appeals (3 outstanding to date).

## **RECOMMENDATIONS**

That York Region does not dissolve the Regional Municipality of York Mobility Plus Appeal Panel and does not rescind the Mobility Plus Eligibility Appeal Panel Terms of Reference AND Council does not authorize the execution of an agreement between the Region and Medisys Health Group, to conduct Mobility Plus Appeals.

That York Region Council review all municipal correspondence regarding the issue of out sourcing Mobility Plus Appeal Panel and establishing a Mobility Plus Advisory Committee to review and advise on all materials related to any future recommendations of outsourcing the Appeal Panel and advise on any future changes to the structure of Mobility Plus.



That Council request and review York Region's Accessibility Advisory Committees comments from the consultation that was expect to take place around February 19, 2014. This consultation was recommended by York Region Council at its November 21<sup>st</sup>, 2013 meeting.

That there be a review of Mobility Plus Services, from the eligibility criteria, the application process and the selection and training of Mobility Plus Appeal Panel members. That in this review, the enclosed documentation be used as a resource to determining best practices.

We thank you for attention to this very critical matter and look forward to a healthy and accessible para transit service in York Region.

