

**IN THE MANITOBA HUMAN RIGHTS COMMISSION**

**A COMPLAINT OF DISCRIMINATION UNDER  
*THE HUMAN RIGHTS CODE OF MANITOBA***

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**COMPLAINANT:** THE ALZHEIMER SOCIETY OF MANITOBA

**RESPONDENTS:** THE CITY OF WINNIPEG AND  
THE WINNIPEG TRANSIT DEPARTMENT

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**COMPLAINT OF DISCRIMINATION**  
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**DESCRIPTION OF THE PARTIES**

1. The Alzheimer Society of Manitoba (“the Alzheimer Society”) is a non-profit, province-wide organization founded over 20 years ago. Its mission is to alleviate the individual family and social consequences of Alzheimer Disease and related disorders (“ADRD”), while at the same time supporting the search for a cure.

2. The Alzheimer Society achieves its mission through community awareness, education and support programs, and research funding. Its overall goal is to create an informed and supportive environment to enhance the quality of life for people affected by ADRD and their families.

3. The Respondent City of Winnipeg is responsible for public transportation within its limits. Section 163(1) of *The City of Winnipeg Charter* states that the City of Winnipeg has “exclusive authority to operate local fixed fare passenger transportation within the city”, with some limited exceptions.

4. The Respondent City of Winnipeg has delegated the administration, management and delivery of transit services to the Respondent Winnipeg Transit Department (“the Transit Department”). Section 35.1(9) of City Organization By-Law No. 7100/97 states that the responsibility of the Transit Department is:

To provide public transportation for the citizens of Winnipeg through regular transit, handi-transit and special transit services.

5. Handi-Transit is part of the Specialized Services Division that reports to the Director of the Transit Department. A copy of the organizational chart for Handi-Transit is attached as Schedule “A” to this complaint.

6. Handi-Transit is a vital part of public transportation in Winnipeg and is intended to be a parallel transportation system for those who cannot use regular transit because of a disability or impairment. The Respondents are responsible for establishing policies relating to the delivery of Handi-Transit services, including eligibility criteria.

### **NATURE OF THE COMPLAINT**

7. The Alzheimer Society alleges that the current Handi-Transit eligibility criteria are seriously flawed and discriminatory, in that they encompass only applicants who are legally blind or physically disabled. Individuals with cognitive impairments who cannot safely use the regular transit system, for instance as a result of Alzheimer Disease, are excluded.

8. The Alzheimer Society alleges that when establishing the eligibility criteria, the Respondents failed to appreciate or recognize that the effects of a cognitive impairment or disability on mobility may be just as debilitating.

9. The Alzheimer Society is not suggesting that all persons with a cognitive impairment automatically qualify for Handi-Transit. Not all individuals with ADRD, for example, will experience the same degree of impairment, and Handi-Transit may not be a viable alternative in every case. What the Alzheimer Society is saying is that an appropriate assessment mechanism must be put in place to ensure that all individuals needing Handi-Transit, regardless of the nature of their disability or impairment, have access to the service.

10. Persons with cognitive impairments belong to a group that has faced particular historic disadvantage as a result of being the least understood and least accepted members of society. The Alzheimer Society alleges that denying essential Handi-Transit services to these individuals results in further marginalization and isolation.

11. The Respondents are aware of the gap in service and that individuals with a legitimate and valid need for Handi-Transit may be falling through the cracks. Beginning in August, 2004, the Alzheimer Society has made repeated efforts to have the eligibility criteria amended to accommodate persons with cognitive impairments. The Alzheimer Society has met with City of Winnipeg Councillors and the Manager of Handi-Transit. In addition, it has sent written submissions and made presentations to the Director of Transit, the Standing Committee on Public Works, the City of Winnipeg's Access Committee and its Handi-Transit Advisory Committee. In addition, in May, 2005, counsel for the Alzheimer Society wrote to the Mayor and City Council, the Manager of Handi-Transit and the Director of the Public Works Department requesting that individuals with cognitive impairments be given access to Handi-Transit. Counsel for the Alzheimer Society also wrote to the lawyers for the Respondents between May and September, 2005 regarding this issue. To date, neither of the Respondents have made a commitment to amend the eligibility criteria.

12. Further particulars of the complaint of discrimination are set out below.

### **HANDI-TRANSIT SERVICES**

13. Handi-Transit has been a part of the public transportation system in Winnipeg since 1977, and currently independent contractors provide the vehicles and drivers. Handi-Transit is available seven days a week and provides door-to-door service within the same geographical area served by the regular transit system. Registrants pay the same fee as that charged for regular bus service.

14. Handi-Transit trips may be booked up to one week in advance and up to 11:00 a.m. on the day the customer wishes to travel. Regular trips to the same location may be pre-booked in advance.

15. Trip requests are booked according to priority. Priority 1 trips are guaranteed and include such things as medical appointments, employment and

post-secondary education. Priority 2 trips are designated “high priority” and include support group meetings, essential shopping (groceries, prescriptions), personal business (banking, daycare), religious services, and compassionate purposes (attending a funeral, visiting ailing family member). Priority 3 trips are discretionary and encompass recreational activities, shopping, visiting, grooming appointments and dining out.

16. Attendants and companions are allowed to travel with a Handi-Transit registrants so long as they pay the regular fare. The Transit Department defines “attendant” as a person who travels with a Handi-Transit registrant to provide assistance during or after the trip, and its policy is to accommodate attendants on all trips. “Companions” are defined as persons travelling with a Handi-Transit registrant for social reasons. It is the Transit Department's policy that when room is available, companions, including children, will be accommodated.

### **THE ELIGIBILITY CRITERIA**

17. Individuals needing Handi-Transit are first required to complete an application form, and a copy of the most recent form in the possession of the Alzheimer Society is attached as Schedule “B” to this complaint. Applicants are eligible if they:

- (a) require the use of a wheelchair or scooter; or
- (b) are unable to step up or down a 35-cm/14 inch step unassisted (height of first step from ground of a regular transit bus); or
- (c) are unable to walk 175m/575 feet outdoors (approximate distance between 2 bus stops); or
- (d) have 20/200 vision or less (legally blind).

18. It is evident that the above criteria are geared exclusively towards mobility limitations as a result of a physical disability or impairment. They do not take into account the fact that while a person with a cognitive impairment may physically be able to walk the required distance or step up onto a curb, he or she

still needs Handi-Transit. For example, in the early stages of Alzheimer Disease, physical abilities are affected to a lesser degree than mental abilities such as memory, communication and concentration. Individuals may physically be able to walk to a bus stop, however due to the effects of their condition, they cannot navigate the public transit system safely.

19. The Alzheimer Society submits that the eligibility criteria must be modified to accommodate the needs of persons with cognitive impairments. This could be done by including questions such as whether the applicant is able to read information signs, correctly identify a bus stop, recognize landmarks, or problem solve in unexpected circumstances.

**PERSONS WITH COGNITIVE IMPAIRMENTS HAVE A LEGITIMATE NEED FOR HANDI-TRANSIT**

20. Individuals with ADRD experience a number of barriers that make utilization of the transit system difficult, if not impossible. ADRD affects vision, motor control, response to sensory stimulation, and creates confusion and memory loss. ADRD is a progressive condition, and as such, a person's needs and abilities change as time goes by. Attached as Schedule "C" to this complaint is an excerpt that describes the long and challenging journey that lies ahead of those facing ADRD.

21. In terms of ability to use the regular transit system, the following examples illustrate how mobility may be impaired by ADRD and why access to Handi-Transit is necessary.

22. Firstly, ADRD affects vision in a number of ways. The individual may experience visual spatial problems. Moreover, shadows may create the illusion of objects, space and movement in a way that can be very threatening. Glare may irritate the eyes, obscure details and may lead to disorientation. Persons with ADRD may experience problems with depth perception and may frequently

bump into things or stumble because they cannot accurately perceive changes in ground level.

23. As a result of these difficulties, individuals with ADRD may not be able to cross the street to reach a bus stop, walk along an uneven sidewalk, board or disembark from a bus, walk along the central aisle of a bus, or recognize their bus stop. All of this may be exacerbated during the winter months with glare and reflections from ice and snow.

24. Secondly, individuals with ADRD experience a general decline in physical dexterity and coordination. They have a greater tendency to be clumsy, and are more likely to trip or fall. Experience shows that cuts, bruises or other injuries resulting from these incidents are slow to heal. In addition, individuals with ADRD may have poor balance and have difficulty getting up from a sitting position, they may shake or be unsteady on their feet, and they may experience physical weakness. For all of these reasons, accessing regular public transit may be downright dangerous.

25. Thirdly, it is characteristic of even mild ADRD that individuals experience difficulty travelling to new locations. In part, this is because of the effect on vision and motor control, but it is also due to memory loss and confusion. A person with ADRD may suddenly not know who they are, they may forget what they are doing or where they are going, and they may not remember how to get home.

26. From the above, it is clear that persons with a cognitive impairment affecting their mobility have a valid and legitimate need for Handi-Transit.

### **THE EFFECTS OF BEING EXCLUDED**

27. Handi-Transit provides freedom, autonomy and independence to persons with physical disabilities or impairments who cannot access regular

transit. Users of the service are afforded an opportunity to travel safely for a myriad of reasons, including medical appointments, social or recreational activities. On its face, the service reflects the principle of full inclusion of disabled persons and a recognition that persons with disabilities are vital and contributing members of society.

28. Individuals with cognitive impairments have the same needs when it comes to transportation, yet they are refused access to this essential service without justification. The denial of Handi-Transit sends a clear message this group is not deserving of an equal level of dignity, autonomy and respect. In essence, the Respondents' policy promotes a negative stereotype that individuals with cognitive impairments have little or nothing to contribute to society and it does not matter if they have access to public transportation.

29. The consequences of the Respondents' discriminatory policy are significant and profound. It places an onerous and unfair burden on already vulnerable individuals to find alternative transportation, and for those who cannot, they will be housebound. The denial of Handi-Transit increases the risk that persons with cognitive impairments will miss medical appointments, essential shopping or business trips, religious services, or visits with family. To a person with ADRD, the ability to maintain a level of independence and to participate in social and recreational activities can mean the difference between living at home or being placed in an assisted living residence.

30. The continued denial of Handi-Transit service to persons with cognitive impairments who cannot safely use regular transit is demeaning and an affront to human dignity. The Alzheimer Society submits that offering an essential service to one group of disabled persons while at the same time denying it to others is inconsistent with human rights principles and the law. The Respondents have a legal obligation to deliver Handi-Transit services in a non-discriminatory manner.

**JUSTIFICATION**

31. The Alzheimer Society alleges that there is no justification for the Respondents' discriminatory policy. There is no evidence that accommodating the needs of persons with cognitive impairments is not possible or would impose an undue hardship on the Respondents.

32. As the onus is on the Respondents to justify a discriminatory practice or policy, the Alzheimer Society respectfully requests an opportunity to provide further submissions on this point once it is aware of the Respondents' position.

**CONCLUSION**

33. The Alzheimer Society states that the Respondents have, individually and together, contravened sections 9(1), 9(2)(l), 9(3), and 13(1) of *The Human Rights Code*, and any other relevant and applicable provision of *The Human Rights Code* on a continuing basis since August, 2004, as described herein.

I certify that the foregoing information is correct to the best of my knowledge and I believe that the events described above constitute a continuing contravention of *The Human Rights Code*.

Complaint signed this 23rd day of October, 2005, at the City of Winnipeg, in the Province of Manitoba.

THE ALZHEIMER SOCIETY OF  
MANITOBA INC.

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Sylvia Furch Rothney  
Executive Director