



# Amalgamated Transit Union Local 569

March 8, 2017

Ms. Ruth Strong  
Sr. Negotiator, Labour Relations  
The City of Edmonton  
900, Century Place  
9803 – 102A Avenue  
Edmonton, AB T5J 3A3

Dear Ms. Strong:

**Re: Policy Grievance - Implemented Road and Cognitive Abilities Testing**

I am writing with respect to the group and policy grievance filed by the Union on February 22, 2017. As you know, this grievance takes issue with the City's recent road and cognitive testing policy. I can advise you that at this point the focus of the Union and the membership's concern is the cognitive abilities test. Our information is that as of March 5, 2017, of the 368 operators tested, 31 have failed the cognitive abilities test. Under the policy, that means that 31 members have been required to submit to a medical examination with someone who is not their own doctor and who they have not freely consented to seeing. Twenty-five of these operators successfully passed the road test. In addition, the data continues to show that the cognitive abilities test disproportionately affects the older population of operators.

As noted in the grievance, the Union's concerns are that the testing regime and the policy is an unreasonable intrusion on employee privacy, discriminates against the older operators within ETS and is also simply generally unreasonable in that the cognitive abilities test is not a reliable indicator of fitness to operate a vehicle. The Union's concerns about these issues have only intensified over time as more of its members have been affected. In addition, the Union has obtained information about the unsuitability of the DriveABLE test for regular or professional drivers. The test was developed as a predictive tool to use with persons who have already been diagnosed with a cognitive impairment. The City is using it as a tool to attempt to diagnose or identify cognitive impairment, in many cases with drivers who go on to pass a road test and in every case with professional drivers who have not otherwise been identified as posing a safety risk. The test was not designed for that purpose and has serious limitations when used in that way.

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Our operators are extremely upset about the ongoing testing, and with respect to the cognitive abilities testing in particular. Every day there is more stress and anxiety among the membership at being subjected to a test that does not actually assess their ability to operate a transit vehicle. In addition, every day, more operators have their privacy rights breached by a required medical exam with a doctor that they did not choose, in addition to the ongoing privacy concerns related to any medical issues that are identified in medical examinations.

Given the seriousness of the Union's concerns, the stress and anxiety among the membership and the irreparable harm that will be done by the ongoing breach of members' privacy rights, the Union cannot wait for this grievance to work its way through the ordinary grievance process to be heard in six or eight months, after all the operators have been tested and over a hundred operators are subject to privacy invasive medical examinations. The Union therefore requests the following:

1. The City immediately cease the cognitive abilities testing and medical examinations; and
2. The City agree to an expedited arbitration process, with a hearing to be conducted within two months. We can discuss the composition of the hearing panel or whether to have the hearing proceed by a single arbitrator, but in any event, whoever was on the panel would have to agree to be available for a hearing within the next two months, possibly on a weekend or weekends;

If the City will not agree to these things, the Union will have no choice but to immediately apply to Court for an injunction to restrain the use of the cognitive abilities testing until an arbitrator can rule on its compliance with the collective agreement. I look forward to hearing from you about this by the end of Monday, March 13, 2017.

Respectfully,



Mark Tettersington  
President/Business Agent

MT/jp

c: Eddie Robbar, Branch Manager  
Karen Campbell, Labour Relations