

Ontario Municipal Board
Commission des affaires municipales
de l'Ontario



ISSUE DATE: August 18, 2015

CASE NO(S): PL140792

PROCEEDING COMMENCED UNDER subsection 22(7) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended

Applicant and Appellant:	7838794 Canada Inc.
Subject:	Request to amend the Official Plan - Failure of the City of Mississauga to adopt the requested amendment
Purpose:	To permit the redevelopment of the southwestern portion of the property
Property Address/Description:	2700 Aquitaine Avenue
Municipality:	City of Mississauga
Approval Authority File No.:	OZ 13 /013 W19
OMB Case No.:	PL140792
OMB File No.:	PL140792
OMB Case Name:	7838794 Canada Inc. v. Mississauga (City)

PROCEEDING COMMENCED UNDER subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended

Applicant and Appellant:	7838794 Canada Inc.
Subject:	Application to amend Zoning By-law No.0225-2007 – Neglect of application by the City of Mississauga
Existing Zoning:	"R4A-32" (Apartment Dwellings)
Proposed Zoning:	"RA5-Exception" (Apartment Dwellings)
Purpose:	To permit the replacement of three existing 3 storey rental apartment buildings with three rental apartment buildings with heights of 19, 22 and 25 respectively
Property Address/Description:	2700 Aquitaine Avenue
Municipality:	City of Mississauga
Municipal File No.:	OZ 13 /013 W19
OMB Case No.:	PL140834
OMB File No.:	PL140792

Heard: July 22, 2015 by telephone conference call

APPEARANCES:

Parties

Counsel

City of Mississauga

J. Mark Joblin

7838794 Canada Inc.

Mary Flynn-Guglietti

MEMORANDUM OF ORAL DECISION DELIVERED BY C. HEFFERON ON JULY 22, 2015 AND ORDER OF THE BOARD

BACKGROUND

[1] This is the third prehearing conference regarding this matter.

[2] 7838794 Canada Inc., which is also known as Carttera Property Redevelopment ("Carttera") proposes to redevelop the southwest portion of its property municipally known as 2700 Aquitaine Avenue ("subject lands") by replacing three of the existing 3-storey garden apartment rental units with three towers of 19, 22 and 25 storeys comprising approximately 614 rental dwelling units.

[3] A total of approximately 837 rental dwelling units are proposed on the entire property: 614 of these will be new; 223 of the existing rental dwelling units will be retained.

MATTER BEFORE THE BOARD

[4] Carttera has requested an amendment to the City of Mississauga Official Plan for the Meadowvale Neighbourhood Character Area to change the designation of the subject lands from "Residential High Density - Special Site 1" to "Residential High Density - Special Site."

[5] Carttera has further requested an amendment to City of Mississauga Zoning By-law No. 0225-2007 ("By-law") to change the zoning on the subject lands from "R4A-32" (Apartment Dwellings) to "RA5-Exception" (Apartment Dwellings).

PARTICIPANTS

[6] The Board has recognized the following twelve individuals as Participants to these proceedings: William Foote, Lesley Wormald, Rita Nugent, Jean Lloyd, Rick, Jonathan and Hermie Sanford, Joseph Alyre Cormier, Sean Farrell, Carol Bedford, and Eva and Humberto Junco. Other individuals seeking Participant status are asked to send a written motion giving reasons to the Board at least ten days prior to the first day of the hearing, which is scheduled to begin November 3, 2015.

[7] Mark Joblin, counsel for the City of Mississauga undertook to ensure that a copy of the final Procedural Order, a copy of which is appended as Attachment 1, has been received by each of the ten Participants.

FUTURE EVENTS

[8] A 10-day hearing into this matter is scheduled on **Tuesday, November 3, 2015 commencing at 10 a.m. at:**

**City of Mississauga
City Hall
300 City Centre Drive
Mississauga, ON L5B 3C1**

[9] No further notice is required.

[10] This Member is not seized.

"C. Hefferon"

C. HEFFERON
MEMBER

If there is an attachment referred to in this document,
please visit www.elto.gov.on.ca to view the attachment in PDF format.

Ontario Municipal Board

A constituent tribunal of Environment and Land Tribunals Ontario
Website: www.elto.gov.on.ca Telephone: 416-212-6349 Toll Free: 1-866-448-2248

ATTACHMENT 1

PL140792

ONTARIO MUNICIPAL BOARD

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PROCEDURAL ORDER

The Board orders that:

1. The Board may vary or add to these rules at any time, either on request or as it sees fit. It may alter this Order by an oral ruling, or by another written Order.

Organization of the Hearing

2. A hearing has been scheduled for **Tuesday, November 3, 2015** at 10:00 am at City of Mississauga City Hall, 300 City Centre Drive, Mississauga ON L5B 3C1, 2nd Floor Hearing Room. All parties and participants shall attend the first day of the hearing.
3. The length of the hearing will be **10 days**. The Board will not sit on November 11, 2015. The length of the hearing may be shortened as issues are resolved or settlement is achieved.
4. The parties and participants identified at the prehearing conference are listed in **Attachment 1** to this Order.
5. The Issues are set out in the Issues List attached as **Attachment 2** to this Order. There will be no changes to this list unless the Board permits it. A party who asks for changes may have costs awarded against it.
6. The order of evidence shall be set out in the Issues List **Attachment 3** to this Order. The Board may limit the amount of time allocated for opening statements, evidence in chief (including the qualification of witnesses), cross examination, evidence in reply and final argument. The length of written argument, if any, may be limited either on consent or by Order of the Board.

Requirements Before the Hearing

7. All parties and participants (or their representatives) shall provide a mailing address, email address, and telephone number to the Board. Any such person who retains a representative (legal counsel or agent) subsequent to the prehearing conference must advise the other parties and the Board of the representative's name, mailing address, email address and phone number.
8. A party who intends to call witnesses, whether by summons or not, shall provide to the Board and the other parties a list of the witnesses and the order in which they will be called. This list must be delivered on or before **Tuesday, July 28, 2015**. For expert witnesses, a party is to include a copy of the curriculum vitae and the area of expertise in which the witness is proposed to be qualified.
9. Expert witnesses in the same field shall have a meeting before the hearing and prior to September 25, 2015 to try to resolve or reduce the issues for the hearing. The experts must prepare a list of agreed facts and the remaining issues to be addressed at the hearing, and provide this list to all of the parties.
10. An expert witness shall prepare an expert witness statement that shall include: an acknowledgement of expert's duty form, the area(s) of expertise, any reports prepared by the expert, and any other reports or documents to be relied on at the hearing. Copies of this must be provided as in section [13]. Instead of a witness statement, the expert may file his or her entire report if it contains the required information. If this is not done, the Board may refuse to hear the expert's testimony.
11. A participant must provide to the Board and the parties a participant statement on or before **Tuesday, September 22, 2015**, or the witness or participant may not give oral evidence at the hearing.

12. Expert witnesses who are under summons but not paid to produce a report do not have to file an expert witness statement; but the party calling them must file a brief outline of the expert's evidence and his or her area of expertise, as in section [13].
13. On or before **Friday, September 11, 2015**, the parties shall provide copies of their witness and expert witness statements to the Board, the other parties by e-mail (which may include by e-mail with a link to an online or virtual data room), with one hard copy to follow if requested by a party. A paper copy of any document proposed to be entered into evidence or relied upon shall be provided at the hearing unless ordered otherwise by the presiding Member.
14. On or before **Friday, October 9, 2015**, the parties shall provide copies of their visual evidence to all of the other parties. If a model is proposed to be used the Board must be notified before the hearing. All parties must have a reasonable opportunity to view it before the hearing.
15. Parties may provide to all other parties a written response (including reply witness statements) to any written evidence on or before **Friday, October 16, 2015**.
16. A person wishing to change written evidence, including witness statements, must make a written motion to the Board in accordance with the Board's Rules [34 to 38].
17. A party who provides the written evidence of a witness to the other parties must have that witness attend the hearing to give oral evidence, unless the Board and the parties are notified at least 7 days before the hearing that the written evidence is not part of their record.
18. Documents may be delivered by personal delivery, courier, facsimile, email or registered or certified mail, or otherwise as the Board may direct. The delivery of documents by fax or email shall be governed by the Board's Rules [26 - 31] on this subject. Documents delivered by email shall also be delivered in hard copy if requested by the receiving party. Material delivered by mail shall be deemed to have been received five business days after the date of registration or certification.
19. No adjournments or delays will be granted before or during the hearing except for serious hardship or illness. The Board's Rules 61 to 65 apply to such requests.

This Member is not seized.

So orders the Board.

ATTACHMENT 1**LIST OF PARTIES****Carttera Management Inc. - 7838797 Canada Inc.**

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City of Mississauga

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LIST OF PARTICIPANTS

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ATTACHMENT 2**ISSUES LIST**

- 1) Does the subject proposal for amendments to the City's Official Plan and Zoning By-law to permit the replacement of three existing 3-storey rental apartment buildings with three high density residential apartment buildings (the "Subject Proposal") have appropriate regard to the matters of provincial interest set forth in Section 2 of the *Planning Act*, is the Subject Proposal consistent with the Provincial Policy Statement (2014) pursuant to Section 3 of the *Planning Act*, and does the Subject Proposal conform with the Growth Plan for the Greater Golden Horseshoe given the location and context of the subject lands?
- 2) Does the Subject Proposal conform with or maintain the intent of all of the relevant and applicable policies of Mississauga Official Plan and the Meadowvale Neighbourhood Plan of the City of Mississauga, including, but not limited to, Section 19.5.1 of Mississauga Official Plan and the criteria to be met regarding site specific official plan amendments, in particular considering the proposed density and urban design (including but not limited to the number and location of buildings, height, massing, bulk, scale)?
- 3) Does the Subject Proposal represent an appropriate level of intensification for the subject lands and does the proposed density and intensification conform with or maintain the intent of Mississauga Official Plan?
- 4) Would the site plan for the Subject Proposal, including proposed access and pedestrian realm, function appropriately and efficiently having regard to the location and context of the subject lands including the abutting Lake Aquitaine and Aquitaine Trail, and the current and planned character of the immediate area?
- 5) Does the Subject Proposal represent appropriate urban design in addressing the number of buildings, height, density, massing, bulk, scale and building location in an appropriate fashion, having regard for the site and the character of the surrounding lands?
- 6) Does the Subject Proposal provide for an appropriate transition in built form, massing and character given the location and context of the subject lands?
- 7) Would the Subject Proposal result in excessive shadowing on the abutting trail system and adjacent outdoor amenity spaces?

- 8) Would the Subject Proposal result in an unacceptable number of trees being lost on the subject lands?
- 9) If some degree of residential intensification is approved by the Board for the subject lands, are there other conditions which should be imposed, and should these conditions include requirements for a contribution pursuant to Section 37 of the *Planning Act*?

ATTACHMENT 3
ORDER OF EVIDENCE

In Chief

1. Cartterra Management Inc. – 7838797 Canada Inc.
2. City of Mississauga

In Reply

3. Cartterra Management Inc. – 7838797 Canada Inc.

ATTACHMENT 4
ACKNOWLEDGMENT OF EXPERT'S DUTY

Case Number	Municipality
PL140792	City of Mississauga

1. My name is.....(*name*)
I live at the(*municipality*)
in the.....(*county or region*)
in the(*province*)
2. I have been engaged by or on behalf of.....(*name of party/parties*) to provide evidence in relation to the above-noted Board proceeding.
3. I acknowledge that it is my duty to provide evidence in relation to this proceeding as follows:
 - a. to provide opinion evidence that is fair, objective and non-partisan;
 - b. to provide opinion evidence that is related only to matters that are within my area of expertise; and
 - c. to provide such additional assistance as the Board may reasonably require, to determine a matter in issue.
4. I acknowledge that the duty referred to above prevails over any obligation which I may owe to any party by whom or on whose behalf I am engaged.

Date.....
Signature