

**Ontario Land Tribunal**  
Tribunal ontarien de l'aménagement  
du territoire



**ISSUE DATE:** August 24, 2021

**CASE NO(S):**

PL210136

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

Applicant and Appellant: City Park (Lakeshore) Inc.  
Subject: Request to amend the Official Plan - Failure of the City of Mississauga to adopt the requested amendment

Existing Designation: Mixed Use  
Proposed Designated: Residential High Density and to change the maximum height permitted

Purpose: To permit retail and residential development

Property Address/Description: 1381 Lakeshore Road East

Municipality: City of Mississauga

Approval Authority File No.: OPA/0Z/20/018

OLT Case No.: PL210136

OLT File No.: PL210136

OLT Case Name: City Park (Lakeshore) 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: City Park (Lakeshore) Inc.  
Subject: Application to amend Zoning By-law No. 0225-2007 - neglect of City of Mississauga to make a decision

Existing Zoning: C4 (Mainstreet Commercial)

Proposed Zoning: RA5-Exception (Apartments - Exception)

Purpose: To permit retail and residential development

Property Address/Description: 1381 Lakeshore Road East

Municipality: City of Mississauga

Municipality File No.: OPA/0Z 20/018

OLT Case No.: PL210136

OLT File No.: PL210137

**Heard:** August 13, 2021 by telephone conference call (“TCC”)

**APPEARANCES:**

**Parties**

**Counsel**

City Park (Lakeshore) Inc.

Leo Longo

City of Mississauga

Michal Minkowski

Region of Peel

Rachel Godley

**MEMORANDUM OF ORAL DECISION DELIVERED BY R.G.M. MAKUCH AND  
C. HARDY ON AUGUST 13, 2021 AND ORDER OF THE TRIBUNAL**

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[1] This is the first Case Management Conference (“CMC”) to consider appeals by City Park (Lakeshore) Inc. against Mississauga City Council’s neglect/refusal to render decisions on its applications for official plan and zoning by-law amendments respecting the property known municipally as 1381 Lakeshore Road East. Such amendments would permit the development of an 8 to 15-storey condominium apartment building containing 242 residential units with three levels of underground parking and ground floor retail.

[2] The Affidavit of Service of the Notice of CMC is marked as Exhibit 1 in this proceeding.

[3] The Region of Peel has requested and was granted party status on consent.

[4] The following individuals were granted participant status on consent:

- Deborah Goss, President – Lakeview Ratepayers’ Association (“LRA”)
- Robert Boisvert

It is noted that the granting of participant status to the LRA is subject to it providing confirmation as to its corporate status.

[5] The parties have indicated that they propose to have discussions respecting the resolution of the various issues and have indicated that they are interested in a Tribunal-led mediation. It is noted that this case is a good candidate for Tribunal assisted mediation and the parties have been directed to make that request in writing to the Tribunal's Strategic Resolution Advisor.

[6] A second CMC is scheduled for **Wednesday, December 1, 2021** commencing at **9 a.m.** via TCC.

[7] Individual(s) are directed to **call 416-212-8012 or Toll Free 1-866-633-0848** on the assigned date at the correct time. When prompted, **enter the code 4779874#** to be connected to the call. It is the responsibility of the person(s) participating in the call to ensure that they are properly connected to the call and at the correct time. Questions prior to the call may be directed to the Tribunal's Case Coordinator having carriage of this case.

[8] The purpose of the next CMC is to get an update from the parties as to progress being made in their discussions towards resolution of the issues.

[9] The hearing will commence on **Tuesday, September 6, 2022 at 10 a.m.** Eight days have been set aside. The Tribunal will not sit on Monday, September 12, 2022.

[10] Parties and participants are asked to log into the video hearing at least **15 minutes** before the start of the event to test their video and audio connections:

<https://global.gotomeeting.com/join/938312261>

**Access Code: 938-312-261**

[11] Parties and participants are asked to access and set up the application well in advance of the event to avoid unnecessary delay. The desktop application can be downloaded at [GoToMeeting](https://app.gotomeeting.com/home.html) or a web application is available:

<https://app.gotomeeting.com/home.html>.

[12] Persons who experience technical difficulties accessing the GoToMeeting application or who only wish to listen to the event can connect to the event by calling into an audio-only telephone line: **Toll-Free 1-888-299-1889 or +1 (647) 497-9373**. The **Access Code** is as indicated above.

[13] Individuals are directed to connect to the event on the assigned date at the correct time. It is the responsibility of the persons participating in the VH to ensure that they are properly connected to the event at the correct time. Questions prior to the hearing event may be directed to the Tribunal's Case Coordinator having carriage of this case.

[14] These proceedings will be governed by Attachment "1" hereto.

[15] There will be no further notice.

[16] We are not seized but may continue with the case management of this matter scheduling permitting.

[17] It is so ordered.

*"R.G.M. Makuch"*

R.G.M. MAKUCH  
VICE-CHAIR

*"C. Hardy"*

C. HARDY  
MEMBER

**Ontario Land Tribunal**

Website: [www.olt.gov.on.ca](http://www.olt.gov.on.ca) Telephone: 416-212-6349 Toll Free: 1-866-448-2248

The Conservation Review Board, the Environmental Review Tribunal, the Local Planning Appeal Tribunal and the Mining and Lands Tribunal are amalgamated and continued as the Ontario Land Tribunal ("Tribunal"). Any reference to the preceding tribunals or the former Ontario Municipal Board is deemed to be a reference to the Tribunal.

## PL210136 – Attachment 1

**Ontario Land Tribunal**  
Tribunal ontarien de l'aménagement  
du territoire



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

Applicant and Appellant:	City Park (Lakeshore) Inc.
Subject:	Request to amend the Official Plan - Failure of the City of Mississauga to adopt the requested amendment
Existing Designation:	Mixed Use
Proposed Designated:	Residential High Density and to change the maximum height permitted
Purpose:	To permit retail and residential development
Property Address/Description:	1381 Lakeshore Road East
Municipality:	City of Mississauga
Approval Authority File No.:	OPA/0Z/20/018
OLT Case No.:	PL210136
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**PROCEEDING COMMENCED UNDER** subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

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Subject:	Application to amend Zoning By-law No. 0225-2007 - neglect of City of Mississauga to make a decision
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Proposed Zoning:	RA5-Exception (Apartments - Exception)
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Property Address/Description:	1381 Lakeshore Road East
Municipality:	City of Mississauga
Municipality File No.:	OPA/0Z 20/018
OLT Case No.:	PL210136
OLT File No.:	PL210137

## PROCEDURAL ORDER

1. The Tribunal may vary or add to the directions in this procedural order at any time by an oral ruling or by another written order, either on the parties' request or its own motion.

### Organization of the Hearing

2. The video hearing will begin on **September 6, 2022** at **10 a.m.** Should the Tribunal commence in person hearings in the meantime, consideration will be given to whether this hearing might proceed in that manner.
3. The parties' initial estimation for the length of the hearing is **eight (8)** days. The Tribunal will not be sitting on **September 12, 2022**. The parties are expected to cooperate to reduce the length of the hearing by eliminating redundant evidence and attempting to reach settlements on issues where possible.
4. A further CMC TCC will be convened at **9 a.m.** on **December 1, 2021** for the parties to provide the Tribunal with any updates respecting any aspect of this Procedural Order.
5. The parties and participants identified at the case management conference are set out in **Attachment 1**.
6. The issues are set out in the Issues List attached as **Attachment 2**. There will be no changes to this list unless the Tribunal permits, and a party who asks for changes may have costs awarded against it.
7. The order of evidence shall be as set out in **Attachment 3** to this Order. The Tribunal 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 the parties' consent, subject to the Tribunal's approval, or by Order of the Tribunal.

8. Any person intending to participate in the hearing should provide a mailing address, email address and a telephone number to the Tribunal as soon as possible – ideally before the case management conference. Any person who will be retaining a representative should advise the other parties and the Tribunal of the representative's name, address, email address and the phone number as soon as possible.
9. Any person who intends to participate in the hearing, including parties, counsel and witnesses, is expected to review the Tribunal's Video Hearing Guide, available on the Tribunal's website (<https://olt.gov.on.ca/appeals-process/video-hearing/>).

#### Requirements Before the Hearing

10. A party who intends to call witnesses, whether by summons or not, shall provide to the Tribunal 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 **May 6, 2022** and in accordance with paragraph 22 below. A party who intends to call an expert witness must include a copy of the witness' Curriculum Vitae and the area of expertise in which the witness is prepared to be qualified.
11. Expert witnesses in the same field shall have a meeting on or before **May 27, 2022** and use best efforts to try to resolve or reduce the issues for the hearing. Following the experts' meeting the parties must prepare and file a Statement of Agreed Facts and Issues with the Tribunal Case Coordinator on or before **June 10, 2022**.



12. An expert witness shall prepare an expert witness statement, which shall list any reports prepared by the expert, or any other reports or documents to be relied on at the hearing. Copies of this must be provided as in paragraph 13 below. 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 Tribunal may refuse to hear the expert's testimony.
13. 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 as in paragraph 13 below. A party who intends to call a witness who is not an expert must file a brief outline of the witness' evidence, as in paragraph 13 below.
14. On or before **July 15, 2022**, the parties shall provide copies of their witness and expert witness statements to the other parties and to the Tribunal Case Coordinator and in accordance with paragraph 22 below.
15. On or before **July 15, 2022**, a participant shall provide copies of their written participant statement to the other parties in accordance with paragraph 22 below. A participant cannot present oral submissions at the hearing on the content of their written statement, unless ordered by the Tribunal.
16. On or before **August 19, 2022**, the parties shall provide copies of their visual evidence to all of the other parties in accordance with paragraph 22 below. If a model will be used, all parties must have a reasonable opportunity to view it before the hearing.
17. On or before **August 12, 2022**, the parties may provide to all other parties and the Tribunal Case Coordinator a written response to any written evidence in accordance with paragraph 22 below.

18. The parties shall cooperate to prepare a joint document book which shall be shared with the Tribunal Case Coordinator on or before **August 26, 2022**.
19. Any documents which may be used by a party in cross examination of an opposing party's witness shall be password protected and only be accessible to the Tribunal and the other parties if it is introduced as evidence at the hearing, pursuant to the directions provided by the Tribunal Case Coordinator, on or before **August 31, 2022**.
20. A person wishing to change written evidence, including witness statements, must make a written motion to the Tribunal. See Rule 10 of the Tribunal's Rules with respect to Motions, which requires that the moving party provide copies of the motion to all other parties 15 days before the Tribunal hears the motion.
21. A party who provides written evidence of a witness to the other parties must have the witness attend the hearing to give oral evidence, unless the party notifies the Tribunal at least 7 days before the hearing that the written evidence is not part of their record.
22. The parties shall prepare and file a preliminary hearing plan (<https://olt.gov.on.ca/tribunals/lpat/lpat-process/hearing-plans/>) with the Tribunal on or before **August 26, 2022** with a proposed schedule for the hearing that identifies, as a minimum, the parties participating in the hearing, the preliminary matters (if any to be addressed), the anticipated order of evidence, the date each witness is expected to attend, the anticipated length of time for evidence to be presented by each witness in chief, cross-examination and re-examination (if any) and the expected length of time for final submissions. The parties are expected to ensure that the hearing proceeds in an efficient manner and in accordance with the hearing plan. The Tribunal may, at its discretion, change or alter the hearing plan at any time in the course of the hearing.

- 23.** All filing shall be electronic and in hard copy. Electronic copies may be filed by email, an electronic file sharing service for documents that exceed 10MB in size, or as otherwise directed by the Tribunal. The delivery of documents by email shall be governed by the *Rule 7*.
- 24.** No adjournments or delays will be granted before or during the hearing except for serious hardship or illness. The Tribunal's Rule 17 applies to such requests.

**No further notice is required.**

**These Members are not seized of the hearing in these appeals.**

**So orders the Tribunal.**

## ATTACHMENT 1

## LIST OF PARTIES

PARTIES		COUNSEL
1.	City of Mississauga	<p><b>Legal Services Division</b>  City of Mississauga  300 City Centre Drive  Mississauga, ON L5B 3C1</p> <p><b>Graham Walsh</b>, Deputy City Solicitor</p> <p>Email: <a href="mailto:graham.walsh@mississauga.ca">graham.walsh@mississauga.ca</a>  Tel: 905-615-3200 (ext. 3743)</p>
2.	City Park (Lakeshore) Inc.	<p><b>Aird &amp; Berlis LLP</b>  Brookfield Place  181 Bay Street, Suite 1800  Toronto ON M5J 2T9</p> <p><b>Leo F. Longo</b></p> <p>Email: <a href="mailto:llongo@airdberlis.com">llongo@airdberlis.com</a>  Tel: 416-865-7778</p>
3.	The Regional Municipality of Peel	<p><b>Property Law Group</b>  Region of Peel  10 Peel Centre Drive  Brampton, ON L6T 4B9</p> <p><b>Rachel Godley</b>, Legal Counsel</p> <p>Email: <a href="mailto:rachel.godley@peelregion.ca">rachel.godley@peelregion.ca</a>  Tel: 905-791-7800 (ext. 7189)</p>

PARTICIPANTS		REPRESENTATIVE
1.	Lakeview Ratepayers Association** <b>c/o Deborah Goss</b> , President	<a href="mailto:admin@lakeviewratepayers.com">admin@lakeviewratepayers.com</a>
2.	Robert Boisvert	<a href="mailto:robboisvert22@gmail.com">robboisvert22@gmail.com</a>

\*\* Subject to proof of current corporate status

## **ATTACHMENT 2**

### **ISSUE LIST**

NOTE: The identification of an issue does not mean that all parties agree that such issue, or the manner in which the issue is expressed, is appropriate or relevant to the determination of the Tribunal at the hearing. The extent to which these issues are appropriate or relevant to the determination of the Tribunal at the hearing will be a matter of evidence and argument at the hearing.

#### **Peel Region:**

1. Has the appellant submitted a Waste Management Plan in an acceptable form and content?
2. Has the appellant submitted a Traffic Impact Study in an acceptable form and content; particularly as it relates to the proposed access on to Dixie Road?
3. Has the appellant submitted a Functional Servicing report in an acceptable form and content; particularly as it relates hydrant flow testing?

#### **City of Mississauga:**

1. Is the proposed building height excessive?
2. Does the proposed building have an inappropriate built form?
3. Does the proposed building have any unacceptable adverse massing and shadowing impacts on adjacent properties and/or the Lakeshore Road Corridor?
4. Can a proposal of a lesser height, massing and density be transit supportive?
5. Does the proposed building provide an appropriate transition to the existing and planned area context?

6. Does the proposal adequately address the City's housing needs?
7. Does the proposal conform to the City of Mississauga Official Plan ("MOP"), including the Lakeview Local Area Plan of MOP and the Lakeview Local Area Plan Built Form Guidelines?
8. Should an "H" holding provision be imposed in any zoning by-law amendment? What "H" conditions would be appropriate?

**ATTACHMENT 3**  
**ORDER OF EVIDENCE**

1. City Park (Lakeshore) Inc.
2. Region of Peel
3. City of Mississauga
4. City Park (Lakeshore) Inc., in Reply (if necessary)



## Attachment to Sample Procedural Order

### Meaning of terms used in the Procedural Order:

A **party** is an individual or corporation permitted by the Tribunal to participate fully in the hearing by receiving copies of written evidence, presenting witnesses, cross-examining the witnesses of the other parties, and making submissions on all of the evidence. An **unincorporated group** cannot be a party and it must appoint one person to speak for it, and that person must accept the other responsibilities of a party as set out in the Order. Parties do not have to be represented by a lawyer and may have an agent speak for them. The agent must have written authorisation from the party.

**NOTE** that a person who wishes to become a party before or at the hearing, and who did not request this at the case management conference (CMC), must ask the Tribunal to permit this.

A **participant** is an individual or corporation, whether represented by a lawyer or not, who may make a written submission to the Tribunal. A participant cannot make an oral submission to the Tribunal or present oral evidence (testify in-person) at the hearing (only a party may do so). Section 17 of the Ontario Land Tribunal Act states that a person who is not a party to a proceeding may only make a submission to the Tribunal in writing. The Tribunal may direct a participant to attend a hearing to answer questions from the Tribunal on the content of their written submission, should that be found necessary by the Tribunal. A participant may also be asked questions by the parties should the Tribunal direct a participant to attend a hearing to answer questions on the content of their written submission.

A participant must be identified and be accorded participant status by the Tribunal at the CMC. A participant will not receive notice of conference calls on procedural issues that may be scheduled prior to the hearing, nor receive notice of mediation. A participant cannot ask for costs, or review of a decision, as a participant does not have the rights of a party to make such requests of the Tribunal.

**Written evidence** includes all written material, reports, studies, documents, letters and witness statements which a party or participant intends to present as evidence at the hearing. These must have pages numbered consecutively throughout the entire document, even if there are tabs or dividers in the material.

**Visual evidence** includes photographs, maps, videos, models, and overlays which a party or participant intends to present as evidence at the hearing.

A **witness statement** is a short written outline of the person's background, experience and interest in the matter; a list of the issues which he or she will discuss; and a list of reports or materials that the witness will rely on at the hearing.

An **expert witness statement** should include his or her (1) name and address, (2) qualifications, (3) a list of the issues he or she will address, (4) the witness' opinions on those issues and the complete reasons supporting their opinions and conclusions and (5) a list of reports or materials that the witness will rely on at the hearing. An expert witness statement must be accompanied by an acknowledgement of expert's duty.

A **participant statement** is a short written outline of the person's or group's background, experience and interest in the matter; a statement of the participant's position on the appeal; a list of the issues which the participant wishes to address and the submissions of the participant on those issues; and a list of reports or materials, if any, which the participant wishes to refer to in their statement.

### **Additional Information**

A **summons** may compel the appearance of a person before the Tribunal who has not agreed to appear as a witness. A party must ask a Tribunal Member or the senior staff of the Tribunal to issue a summons through a request. (See [Rule 13](#) on the summons procedure.) The request should indicate how the witness' evidence is relevant to the hearing. If the Tribunal is not satisfied from the information provided in the request that the evidence is relevant, necessary or admissible, the party requesting the summons may provide a further request with more detail or bring a motion in accordance with the Rules.

**The order of examination of witnesses** is usually direct examination, cross-examination and re-examination in the following way:

- direct examination by the party presenting the witness;
- direct examination by any party of similar interest, in the manner determined by the Tribunal;
- cross-examination by parties of opposite interest;
- re-examination by the party presenting the witness; or
- another order of examination mutually agreed among the parties or directed by the Tribunal.