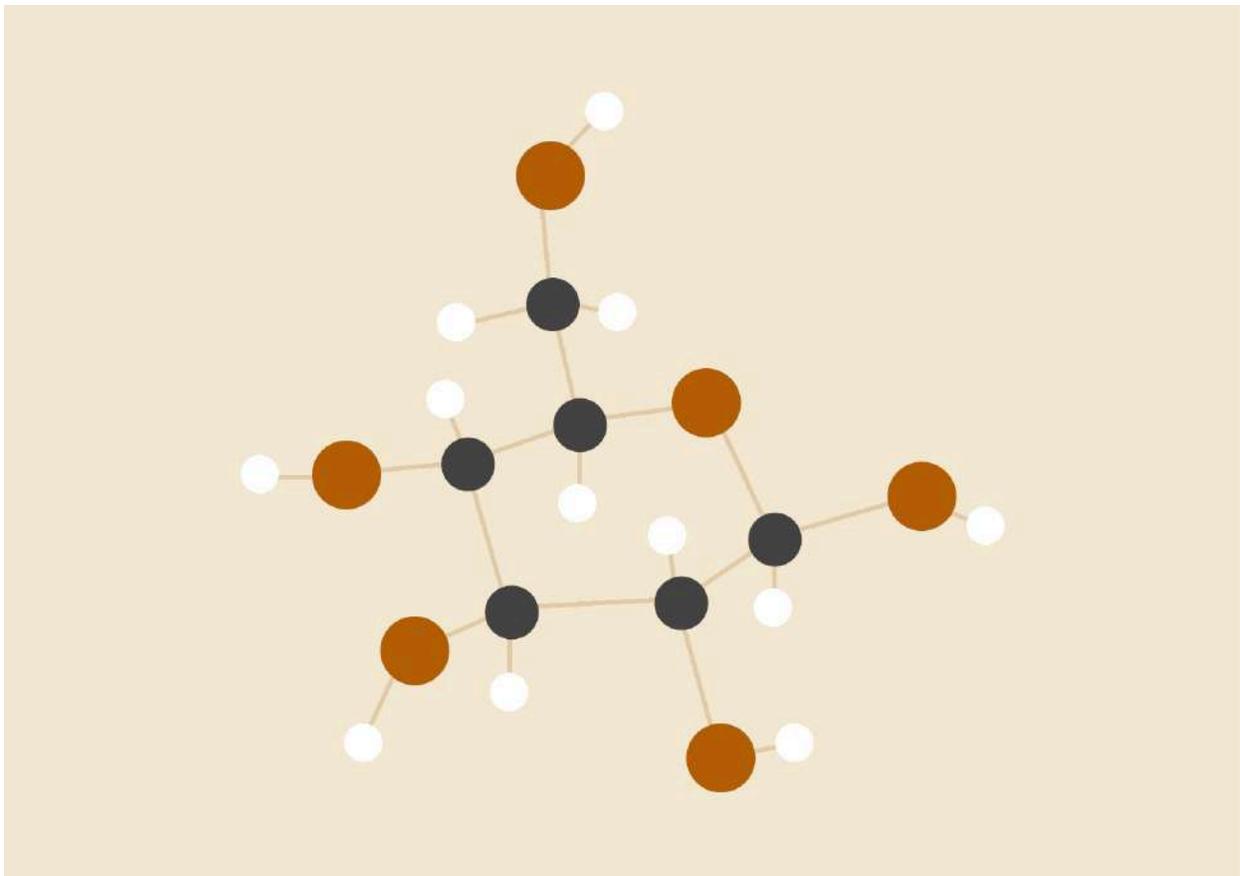


# ENVIRONMENTAL COMPLIANCE REPORT

*Prepared in response to ERO 025-0468: The Approval of the City of  
Mississauga official plan*

<https://ero.ontario.ca/notice/025-0468>



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## Introduction

When Facilities operate adjacent to a residential area, noise and other contaminant discharge levels are a concern<sup>1</sup>. Under Ontario law, those who cause or permit the discharge of a contaminant are as responsible as those who discharge the contaminant<sup>2</sup>. All land use planning and resource management agencies within the Province shall have regard for the implications of their actions respecting the creation of new, or the aggravation of existing, land use compatibility problems. No person shall use, operate, construct, alter, extend or replace anything that may discharge or from which may be discharged a contaminant into any part of the natural environment other than water, except under and in accordance with an environmental compliance approval<sup>3</sup>. Furthermore, a person shall not discharge a contaminant or cause or permit the discharge of a contaminant into the natural environment if the discharge causes or may cause an adverse effect<sup>4</sup>. **When there is a contravention of Ministry legislation, Ministry staff shall enforce compliance**<sup>5</sup>.

Any person who willfully violates the EPA, does or omits to do anything to aid any person to violate the EPA, or abets any person in violating the EPA may be convicted of both provincial and criminal code offence as soon as they are aware of the likely consequences of their actions, among others, by reducing by a more than trivial<sup>6</sup> degree the attributes of property that are lawfully held by its owner<sup>7</sup>. Every public official who can do so, including municipal representatives, has a duty not to cause or permit the discharge of a contaminant if there is a theoretical possibility of an adverse effect.

Facilities that emit noise must obtain a provincial Environmental Compliance Approval<sup>8</sup>. The mandatory information, which must be supplied in all cases, is expected to describe the basic physical and operational characteristics of the noise/vibration

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<sup>1</sup> ML Ready Mix Concrete Inc. v Ontario (Environment and Climate Change), 2015 CanLII 78962 (ON ERT), at para 95, <<https://canlii.ca/t/gmbxk#par95>>

<sup>2</sup> Ontario v. Kansa General Insurance Co., 1994 CanLII 626 (ON CA), <<https://canlii.ca/t/6jzk>>

\*Leave to appeal to the Supreme Court REFUSED

<sup>3</sup> Environmental Protection Act, RSO 1990, c E.19, s 9, <<https://canlii.ca/t/2bz#sec9>>

<sup>4</sup> Environmental Protection Act, RSO 1990, c E.19, s 9, <<https://canlii.ca/t/2bz#sec14>>

<sup>5</sup> D-1 Land Use and Compatibility: <https://www.ontario.ca/page/d-1-land-use-and-compatibility>

<sup>6</sup> D-1-3 Land Use Compatibility: Definitions

<https://www.ontario.ca/page/d-1-3-land-use-compatibility-definitions>

<sup>7</sup> R. c. Ihejirika, 2023 QCCM 82 (CanLII) at para 449, <<https://canlii.ca/t/k27wk>>

<sup>8</sup> Noise in our environment - Noise Compliance: <https://www.ontario.ca/page/noise-our-environment>

source, as well as its relationship to the closest points of reception. The purpose of this information is to allow the determination of the potential noise or vibration impact. When a contaminant is discharged, the discharger may not know the full extent of the damage caused or likely to be caused. The purpose of the reporting requirement in s. 15(1) of the EPA is to ensure that it is the Ministry, and not the discharger or the municipality, who decides what, if any, further steps are required. Moreover, many potential harms may be difficult to detect without the expertise and resources of the Ministry<sup>9</sup>. Residences or facilities where people sleep (e.g. single- and multi-unit dwellings, nursing homes, hospitals, trailer parks, camping grounds, etc.). These uses are considered to be sensitive 24 hours/day<sup>10</sup>.

The mandatory information required to be submitted to the MECP should consist of data such as the description of the equipment/facility and operation, operating hours, land use zoning designation of the surrounding area, area location plan, location and distance to points of reception, relevant architectural and mechanical drawings and details of any noise and vibration control measures<sup>11</sup>.

Government Ministries, landlords, municipalities, and large corporations should be assumed to know the legal requirements under Ministry legislation that apply to the facility and should not have to be reminded of their legal obligations<sup>12</sup>.

## Legislative Authority

The primary legislative authorities for this Report are Sections 9(1), 14(1) and 179(1) of the *Environmental Protection Act*, RSO, 1990 (EPA)<sup>13</sup>, and Sections 122, 123(1), 429(1), and 430(1) of the *Criminal Code*<sup>14</sup>.

### The EPA States:

9 (1) No person shall, except under and in accordance with an environmental compliance approval,

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<sup>9</sup> *Castonguay Blasting Ltd. v. Ontario (Environment)*, 2013 SCC 52 (CanLII), [2013] 3 SCR 323, <<https://canlii.ca/t/g1038>>

<sup>10</sup> Sensitive Land Use: <https://www.ontario.ca/page/d-1-3-land-use-compatibility-definitions>

<sup>11</sup> Information to be submitted for approval of stationary sources of sound (NPC- 233) <https://www.ontario.ca/page/information-be-submitted-approval-stationary-sources-sound-npc-233>

<sup>12</sup> Compliance Policy Applying Abatement and Enforcement Tools, <https://www.ontario.ca/page/compliance-policy-applying-abatement-and-enforcement-tools>

<sup>13</sup> Environmental Protection Act, RSO 1990, c E.19: <https://canlii.ca/t/2bz>

<sup>14</sup> Criminal Code, RSC 1985, c C-46: <https://canlii.ca/t/2bz>

(a) use, operate, construct, alter, extend or replace any plant, structure, equipment, apparatus, mechanism or thing that may discharge or from which may be discharged a contaminant into any part of the natural environment other than water; or

14 (1) Subject to subsection (2) but despite any other provision of this Act or the regulations, a person shall not discharge a contaminant or cause or permit the discharge of a contaminant into the natural environment, if the discharge causes or may cause an adverse effect.

179 (1) Where a conflict appears between any provision of this Act or the regulations and any other Act or regulation in a matter related to the natural environment or a matter specifically dealt with in this Act or the regulations, the provision of this Act or the regulations shall prevail.

**The Criminal Code States:**

122 Every official who, in connection with the duties of their office, commits fraud or a breach of trust, whether or not the fraud or breach of trust would be an offence if it were committed in relation to a private person, is guilty of

(a) an indictable offence and liable to imprisonment for a term of not more than five years; or

(b) an offence punishable on summary conviction

123 (1) Every person is guilty of an indictable offence and liable to imprisonment for a term of not more than five years or is guilty of an offence punishable on summary conviction who directly or indirectly gives, offers or agrees to give or offer to a municipal official or to anyone for the benefit of a municipal official — or, being a municipal official, directly or indirectly demands, accepts or offers or agrees to accept from any person for themselves or another person — a loan, reward, advantage or benefit of any kind as consideration for the official

(a) to abstain from voting at a meeting of the municipal council or a committee of the council;

(b) to vote in favour of or against a measure, motion or resolution;

(c) to aid in procuring or preventing the adoption of a measure, motion or resolution; or

(d) **to perform or fail to perform an official act.**

Influencing municipal official

(2) Every person is guilty of an indictable offence and liable to imprisonment for a term of not more than five years or is guilty of an offence punishable on summary conviction who influences or attempts to influence a municipal official to do anything mentioned in paragraphs (1)(a) to (d) by

- (a) suppression of the truth, in the case of a person who is under a duty to disclose the truth;
- (b) threats or deceit; or
- (c) any unlawful means.

429 (1) Every one who causes the occurrence of an event by doing an act or by omitting to do an act that it is his duty to do, knowing that the act or omission will probably cause the occurrence of the event and being reckless whether the event occurs or not, shall be deemed, for the purposes of this Part, wilfully to have caused the occurrence of the event.

430 (1) Every one commits mischief who wilfully

- (a) destroys or damages property;
- (b) renders property dangerous, useless, inoperative or ineffective;
- (c) obstructs, interrupts or interferes with the lawful use, enjoyment or operation of property; or
- (d) obstructs, interrupts or interferes with any person in the lawful use, enjoyment or operation of property.

Punishment

(3) Every one who commits mischief in relation to property that is a testamentary instrument or the value of which exceeds five thousand dollars

- (a) is guilty of an indictable offence and liable to imprisonment for a term

not exceeding ten years; or

(b) is guilty of an offence punishable on summary conviction.

## Objective

The objective of this report is to prevent the unlawful use, operation or construction of existing or proposed facilities that discharge or may cause the discharge of a contaminant that may cause an adverse effect.

## History and Intent

The obvious intent of the EPA is to control and eventually eliminate the discharge of contaminants that may cause adverse effects. The uncontrolled abuse permitted in the past by not only corporations but also by governments and individuals as well can no longer be tolerated. Governments, corporations, individuals and the courts can do nothing less than give to such legislation their greatest support. Mistakes, errors and abuses which were permitted to grow over more than half a century cannot be rationally eliminated by the mere passage of a statutory enactment<sup>15</sup>. **Zero tolerance enforcement and abatement by the Ministry is essential** and required by law<sup>16</sup>.

The EPA's priority is on environmental protection in light of the purposes of the legislation. Secondary factors ... are just that — secondary. They are subordinate to the overarching purpose of the legislation. The consideration of secondary factors is not an excuse for jeopardizing environmental integrity<sup>17</sup>, the environmental protection purposes of the Act and the associated need to minimize adverse effects, including both noise and loss of enjoyment of normal use of property<sup>18</sup>.

## Legal Test

The legal test for a violation of Section 9(1) of the EPA is the theoretical possibility of a contaminant discharge. There is no need for a properly qualified expert report.

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<sup>15</sup> Regina v. Ford Motor Co. of Canada Ltd., 1973 CanLII 1371 (ON CJ), <<https://canlii.ca/t/hv0lj>>

<sup>16</sup> Compliance Policy Applying Abatement and Enforcement Tools:  
<https://www.ontario.ca/page/compliance-policy-applying-abatement-and-enforcement-tools>

<sup>17</sup> ML Ready Mix Concrete Inc. v Ontario (Environment and Climate Change), 2015 CanLII 78962 (ON ERT), at para 126, <<https://canlii.ca/t/gmbxk#par126>>

<sup>18</sup> ML Ready Mix Concrete Inc. v Ontario (Environment and Climate Change), 2015 CanLII 78962 (ON ERT), at para 129, <<https://canlii.ca/t/gmbxk#par129>>

Proximity to a facility is sufficient to establish the theoretical possibility<sup>19</sup>.

A *prima facie* contravention of s. 9(1) of the EPA is established when the use, operations or construction of a facility emits a contaminant and that facility does not possess an environmental compliance approval, activity registration or director's letter<sup>20</sup>.

## Procedure

### Primary:

1. Using Google Maps, locate and obtain the municipal address of commercial properties which attract high levels of vehicle traffic<sup>21</sup>, human activity, or have been found to emit noise, odours or light (restaurant and bar patios, fast food restaurants, gas stations<sup>22</sup>, automotive services<sup>23</sup>, LCBOs etc..., car dealerships) and that are adjacent to sensitive land uses.
2. Search Access Environment using the municipal address for the existence of an environmental compliance approval, activity registry, or director's letter.
3. If an environmental compliance approval, activity registry, or director's letter does not exist in Access Environment, search the Environmental Registry<sup>24</sup> for an application to obtain an environmental compliance approval at that municipal address.
4. If no records exist or an application has been denied, there is a high probability that a *prima facie* violation of s. 9(1), 14(1) and 15(1) of the EPA.

### Secondary:

5. Use Google Street View to ascertain if any attempt has been made at abatement. This would indicate that the theoretical possibility of a contaminant discharge was known.
6. Through a municipal FOI request, obtain all documents regarding the approval of the property and all bylaw infractions reported, investigated or prosecuted.

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<sup>19</sup> JJ's Hospitality v. Kal Tire, 2020 ONSC 6198 (CanLII), at paras 59-63, <<https://canlii.ca/t/jb460#par59>>

<sup>20</sup> JJ's Hospitality v. Kal Tire, 2020 ONSC 6198 (CanLII), at paras 52-67, <<https://canlii.ca/t/jb460#par52>>

<sup>21</sup> ML Ready Mix Concrete Inc. v Ontario (Environment and Climate Change), 2015 CanLII 78962 (ON ERT), at para 123, <<https://canlii.ca/t/gmbxk#par123>>

<sup>22</sup> Hill v. Herd, 2025 BCCA 173 (CanLII), <<https://canlii.ca/t/kc9ql>>

<sup>23</sup> JJ's Hospitality v. Kal Tire, 2020 ONSC 6198 (CanLII)

<sup>24</sup> Environmental Registry of Ontario: <https://ero.ontario.ca/>

7. Through a provincial FOI request<sup>25</sup>, obtain from the MECP all NPC-233 and activity registration-related documents regarding the municipal address, all contaminant discharge or adverse effects reports, and all enforcement or abatement actions taken.
8. Obtain all documents registered on the title of the property<sup>26</sup>.

Due to the 45-day timeframe to submit comments, steps 6-8 were not performed.

## Data

All properties are adjacent to a sensitive land use. A maximum of 10 properties will be examined.

	Municipal Address	Business	24hr	Relevant ECA	Relevant Activity Registration	Directors Letter	Abatement
1	30 Eglinton Ave W Unit C14, Mississauga, ON L5R 3P5	Tim Hortons	Y	N	N <sup>27</sup>	N	N
2	3411 Mavis Rd, Mississauga, ON L5B 4E7	Tim Hortons Pioneer - Gas Station	Y	N	N	N	Y
3	2991 Erin Centre Blvd, Mississauga, ON L5M 6B8	Tim Hortons Midas	Y	N	N	N	N
4	4530 Erin Mills Pkwy, Mississauga, ON L5M 4L9	Esso Tim Hortons	N	N <sup>28</sup>	N	N	N
5	44 Britannia Rd E, Mississauga, ON L4Z	Tim Hortons	Y	N	N	N	N

<sup>25</sup> Freedom of Information request: <https://www.ontario.ca/page/freedom-information-request>

<sup>26</sup> Search land property records: <https://www.ontario.ca/page/search-land-property-records>

<sup>27</sup> An Activity Registration exists to operate a backup power generator: R-002-8537368619

<sup>28</sup> A Certificate of Approval for stormwater management exists: 7054-7MMMCJ

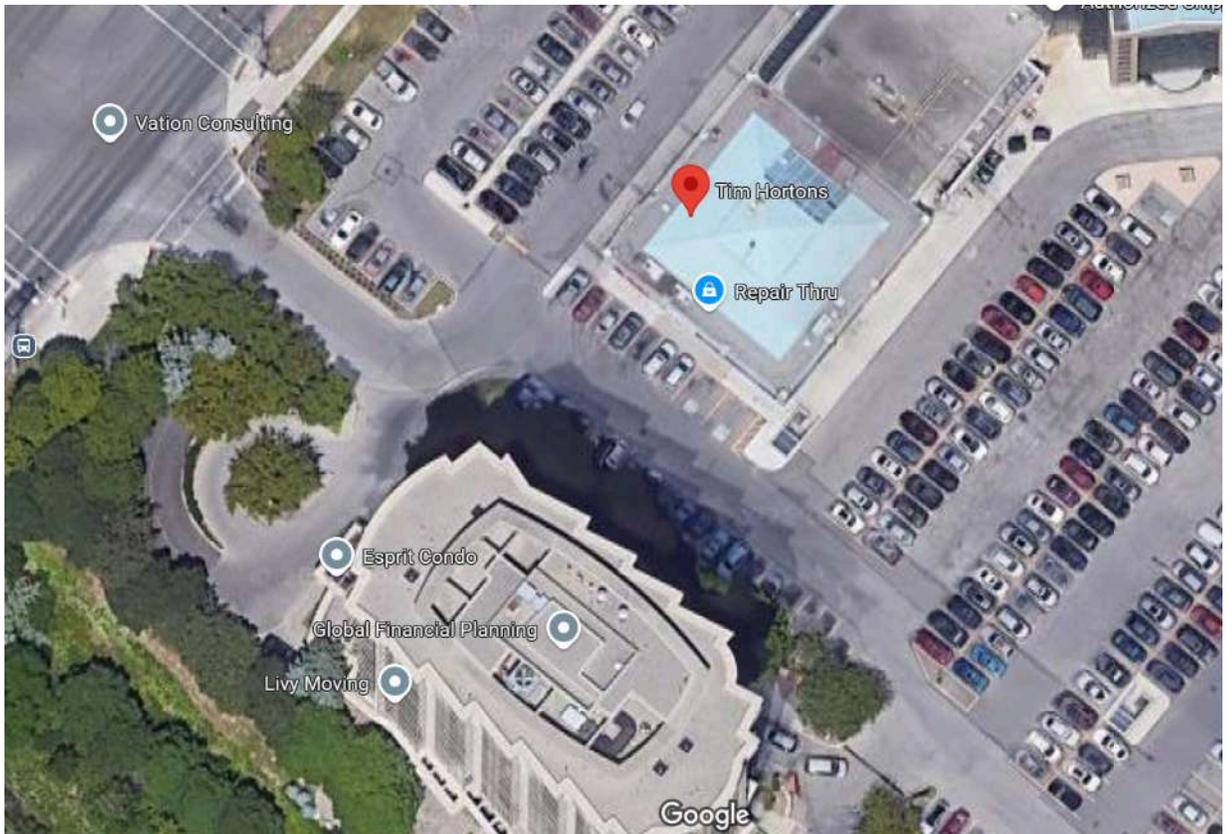
	1S8	Wendy					
6	144 Dundas St W, Mississauga, ON L5B 1H9	Tim Hortons	Y	N	N	N	N
7	2525 Thomas St, Mississauga, ON L5M 5J3	Jiffy Lube Shell	Y	N	N	N	N
8	5585 Winston Churchill Blvd, Mississauga, ON L5M 7P6	Esso	Y	N	N	N	N
9	6536 Winston Churchill Blvd, Mississauga, ON L5N 3W4	Petro Canada	Y	N	N	N	N
10	2520 Britannia Rd W, Mississauga, ON L5M 5X7	Esso Mr. Lube	Y	N	N	N	N

## Selected Results

### 30 Eglinton Ave W Unit C14, Mississauga, ON L5R 3P5

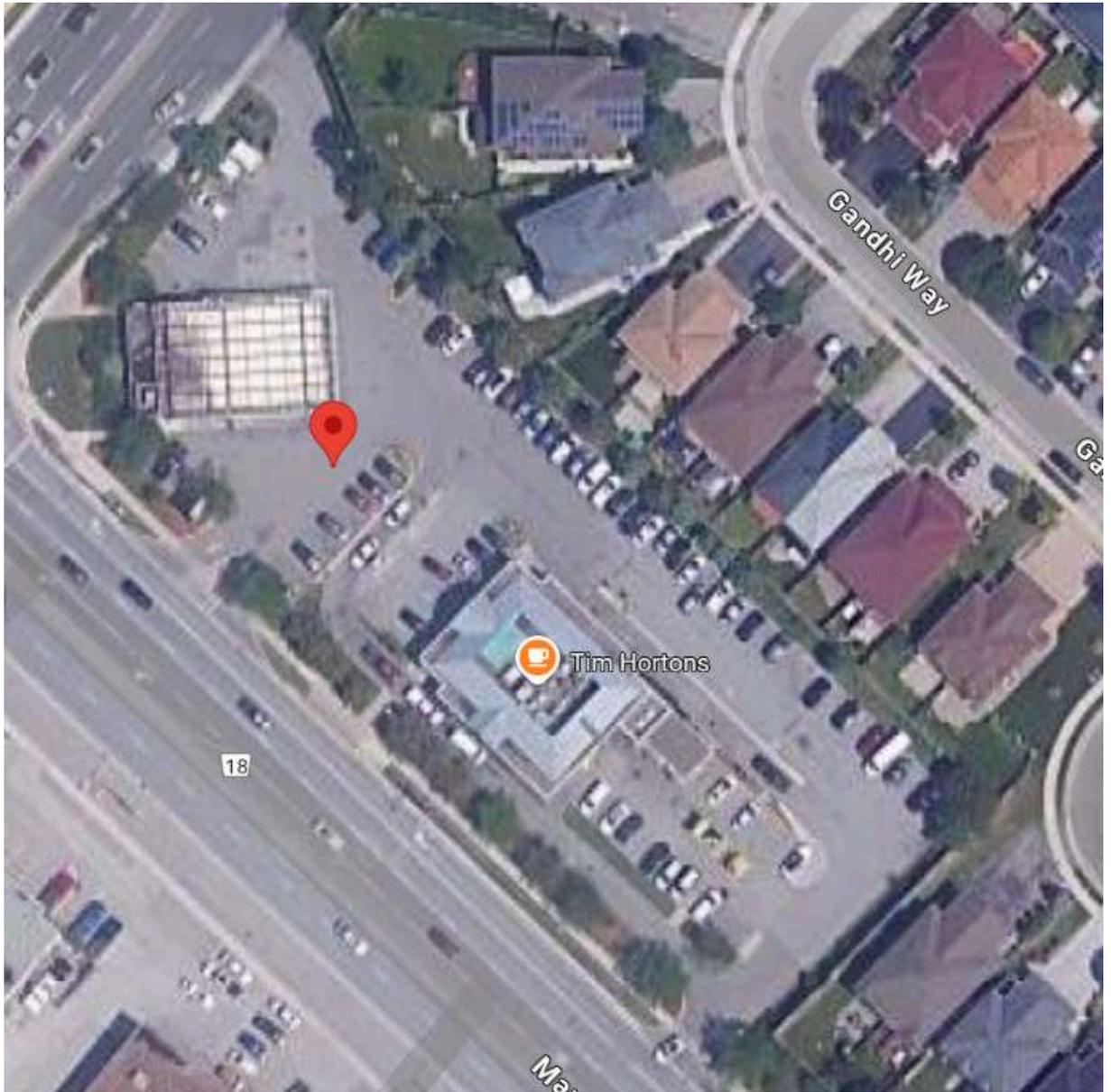
The 24-hour Tim Hortons is adjacent to The Esprit residential condominium. The theoretical possibility of sound directly or indirectly related to human activity of Tim Hortons customers using the parking area as a de facto patio, the playing of amplified music from vehicles, and motor vehicle noise could cause adverse effects to numerous Esprit residents who overlook the facility. No attempt at any noise abatement appears to have been made, or would be possible.

The existence of an activity registration to run a backup power generator at this address suggests that EPA compliance is known to the landowner/manager.



**3411 Mavis Rd, Mississauga, ON L5B 4E8**

The property is adjacent to several semi-detached residences.

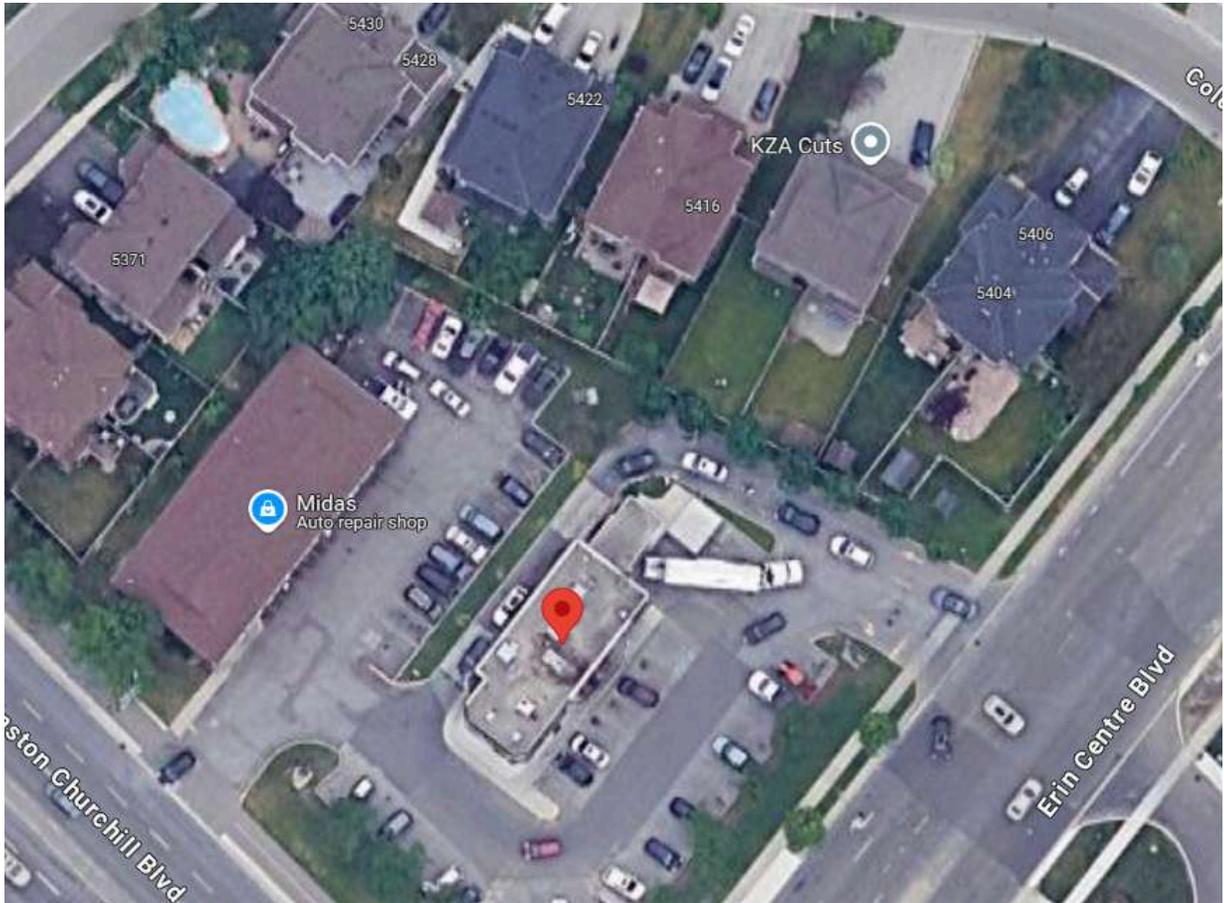


The abnormally high fence to which a sign has been affixed that says “NO LOITERING” and “NO MUSIC” is irrefutable evidence that the property owner and Tim Hortons are aware of the possibility of contaminant discharges that may cause adverse effects from the sound related directly or indirectly from the human activity that is encouraged directly adjacent to sensitive land uses.



**2991 Erin Centre Blvd, Mississauga, ON L5M 6B8**

The property is adjacent to several semi-detached residences. An oversized refrigerated truck is on the property. The refrigeration unit would be audible to several of the residences.

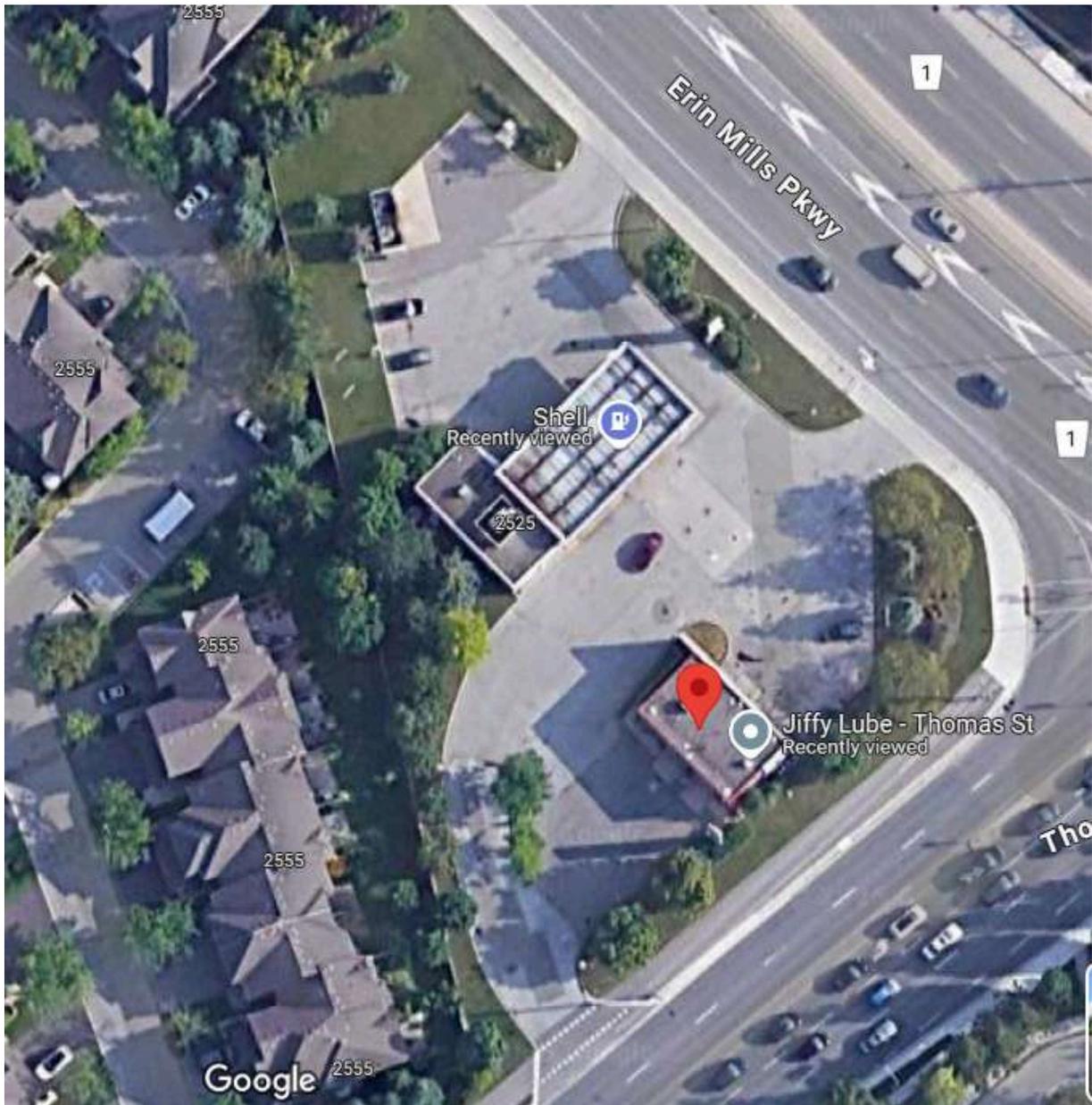


All work bay doors are wide open, which would cause all shop-related noise (lifts, pneumatic tools, compressors, breaking/setting tire beads, etc) to enter the natural environment and may cause an adverse effect to the adjacent sensitive land uses.



2525 Thomas St, Mississauga, ON L5M 5J3

The property is adjacent to several single-family residences.



The bay doors of the Jiffy Lube (previously Pennzoil) are wide open, allowing all shop-related noise to enter the natural environment, which may cause an adverse effect.



No noise abatement appears to have been considered.



## Conclusion

Given that the activities on these properties have been found to discharge contaminants, it is reasonable to conclude that these specific and similar properties are also discharging contaminants that have the theoretical possibility of causing adverse effects. None of the examined properties has an ECA, activity registration or a directors' letter relevant to sound, light or odour and therefore do not comply with the EPA.

There appears to have been a systemic failure by numerous property owners, tenants,

the City of Mississauga and the Ministry to uphold their duties or to preform the official act to not approve the use, operation or construction of any thing that may discharge or from which may be discharged a contaminant into any part of the natural environment without an environmental compliance approval, or to cause or permit the discharge of a contaminant into the natural environment, if the discharge causes or may cause an adverse effect. This suggests a culture within the City of Mississauga that encourages breaches of trust, corruption, and wilful mischief for the financial benefit of large corporations.

The approval of this official plan can not be considered until a forensic audit for EPA compliance of all properties that are adjacent to, or otherwise may cause adverse effects to sensitive land uses has been completed.

## Key References

1. Environmental Registry of Ontario: <https://ero.ontario.ca/>
2. Access Environment:  
<https://www.accessenvironment.ene.gov.on.ca/AEWeb/ae/GoSearch.action?search=basic&lang=en>
3. D-1-3 Land Use Compatibility: Definitions:  
<https://www.ontario.ca/page/d-1-3-land-use-compatibility-definitions>
4. D-1 Land Use and Compatibility:  
<https://www.ontario.ca/page/d-1-land-use-and-compatibility>
5. Compliance Policy Applying Abatement and Enforcement Tools:  
<https://www.ontario.ca/page/compliance-policy-applying-abatement-and-enforcement-tools>
6. Information to be submitted for approval of stationary sources of sound (NPC-233):  
<https://www.ontario.ca/page/information-be-submitted-approval-stationary-sources-sound-npc-233>
7. Noise in our environment: <https://www.ontario.ca/page/noise-our-environment>
8. Environmental Protection Act, RSO 1990, c E.19, <<https://canlii.ca/t/56dxr>>