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July 10, 2025

VIA ONLINE SUBMISSION

Municipal Services Office – Central Ontario
777 Bay Street, 16th floor
Toronto, ON M7A 2J3

Dear Sirs/ Mesdames:

Re: ERO No. 025-0468
New Mississauga Official Plan 2051
Written Submission from Sheridan Retail Inc. - Request to Remove the Price Setting Policies from the New OP

Please note that we are counsel for Sheridan Retail Inc. (“**SRI**”), the owner of the lands known municipally in the City of Mississauga (the “**City**”) as 2225 Erin Mills Parkway (the “**Property**”).

This letter is written in response to the City of Mississauga Official Plan 2025 (the “**New OP**”) which was adopted by council on April 16, 2025, and subsequently submitted to the Ministry of Municipal Affairs and Housing (“**MMAH**”) for its review and approval.

As explained in greater detail below, the New OP includes policies that require a minimum percentage of below market ownership housing in certain community nodes (mall sites) in the City including the Property (the “**Price Setting Policies**” or “**Affordable Housing Policies**”). These Price Setting Policies, which were passed during former Mayor Crombie’s leadership, were found to be illegal by the Ontario Land Tribunal (“**OLT**”).

SRI requests that the New OP be modified to remove the Price Setting Policies to ensure the delivery of much needed housing in the province of Ontario (the “**Province**”), including on the Property, and to ensure that the City does not exceed the authority granted to it by the Province.

Subject Property and Policy Background

The Property is approximately 12.12 hectares in size with frontage on Erin Mills Parkway, Lincoln Green Way, and Fowler Drive. The Property is occupied by a retail mall known as ‘Sheridan Centre’ or ‘Sheridan Village’, which is comprised of a multi-tenant commercial structure, several restaurants along the main building’s perimeter, and indoor and outdoor parking areas.

Both the current City Official Plan (the “**In-force OP**”) and the New OP identify the property as intended for intensification. Under the In-Force OP, the Property is located within the Community Node component of the City Structure, within an Intensification Area (Schedule 2, Intensification Areas), and within the

Sheridan Community Node Character Area (Schedule 9, Character Areas). Under the New OP, the Property is located within the Growth Node component of the City's Strategic Growth Areas, which are areas identified to be the focus for accommodating intensification and higher-density mixed use development in a compact built form. Applicable policies for the Growth Nodes, such as Policy 14.2.10.3. for the Property, provide for a maximum density of 3.75 FSI for individual properties and building heights of up to 18 storeys, though taller buildings are permitted provided certain policy tests are met on a site-specific basis. Both the In-Force OP and the New OP also designate the Property as "Mixed Use".

SRI has also begun partial redevelopment of the Property into two, 15-storey residential towers on the Property (the "**Proposed Redevelopment**"). The OLT approved SRI's official plan amendment application on June 26, 2025, and approved its zoning by-law amendment application in principle on January 22, 2025.

Although policy strongly supports the intensification of the Property, the Property is not within a Protected Major Transit Station Area ("**PMTSA**") and is therefore not subject to inclusionary zoning ("**IZ**") policies under the In-Force OP or New OP.

Consistent with this policy context, SRI has submitted a proposed Master Plan consisting of 16 residential buildings wrapping around the existing mall site, which will bring thousands of housing units for the community. However, the Price Setting Policies threaten the potential development of this Master Plan Community, as well as many other mall sites, and must be removed from the New OP.

The Price Setting Policies are Illegal According to the OLT

The Price Setting Policies (found in the New OP) are identical to the price setting policies found in OPA 115 (the "**OPA 115 Price Setting Policies**") which the OLT has confirmed are illegal.

OPA 115 is a previous amendment proposed by the City to its official plan to introduce certain policies that would apply to specific nodes that contain shopping malls, such as the Property, and included policies requiring that a minimum of 10% of housing units be provided as "below-market" for any development applications proposing more than 50 residential units.

Despite the OPA 115 Price Setting Policies being rejected by the Tribunal in [*Calloway REIT \(Mississauga\) Inc. v Mississauga \(City\)*, 2023 CanLII 83079 \(ON LT\)](#) (the "**Decision**"), the City has reinserted the same price setting policies in the New OP. The New OP must be modified to remove the Price Setting Policies in Chapter 14, including policy 14.2.10.5. which applies to the Property.

In the Decision, the Tribunal reviewed and analyzed expert evidence and concluded or accepted the following:

- the OPA-115 affordable housing policies are not permitted by the Planning Act (paragraph 113);
- the affordable housing (or price setting) policies in OPA-115 are *ultra vires* the Planning Act as these policies neither follow the scheme of the Planning Act nor do they satisfy the statutory requirements of s. 16 (1) (a.1) of the Planning Act (the subsection relied on by the City as a basis for the OPA-115 residential use policies), including the requirement of "practicability" (paragraph 115);

- the only statutory provision under the Planning Act that provides the ability to require mandated affordable housing to be provided within a residential use is section 16(5) of the Act—the inclusionary zoning (“IZ”) policies (paragraph 116);
- the City’s interpretation of section 16(1)(a.1) of the Act would give it unlimited authority to create policies including mandated availability of affordable housing at the mall sites which makes the specific direction of s. 16(5) redundant. Notably, if the City’s proposition and interpretation is to be accepted, the City could demand inclusion of affordable housing units outside of PMTSAs, which is not permitted under IZ (paragraphs 103 and 106);
- the OPA-115 affordable housing policies are “tantamount” to IZ but without any of the prerequisites of IZ policies, such as study and update requirements, and without the rigour and detail required under IZ policies and regulations (paragraphs 120 to 124);
- any finding of *ultra vires* against OPA-115 affordable housing policies does not prevent the establishment of goals, objectives and policies that support or encourage affordable housing, voluntary contributions by applicants in support of affordable housing, negotiated settlements between the City and applicants for in-lieu arrangements to support affordable housing, and more (paragraph 114); and
- despite feasibility changing with time sensitive parameters, the City proposed to mandate a fixed and static minimum (10%) requirement (paragraph 92).

The City subsequently brought a request to review the Decision pursuant to section 23 of the *Ontario Land Tribunal Act*, which was dismissed by the Chair of the OLT, and therefore the Decision continues to apply.

Despite the OLT’s determination that the OPA 115 Price Setting Policies are illegal, the City has brazenly decided to include the same policies under the New OP.

The Ministry must modify the New OP to remove the Price Setting Policies as failing to do so would indicate that municipalities can require below market price setting or affordable housing and effectively undermine the provincial government’s detailed IZ regime and its key policy objective of delivering substantial new housing supply. In these circumstances, protecting the provincial interest requires modifying the New OP to remove the Price Setting Policies.

The Price Setting Policies Would Exacerbate the Housing Crisis

As further outlined below, the Price Setting Policies have real-life consequences for our client and many other mall sites as its application would make the development of the Property infeasible, which would in turn exacerbate the provincial housing crisis by negatively impacting the supply and affordability of new homes.

The Price Setting Policies require 10% of housing units to be below market for each development application proposing more than 50 residential units, which is more than double the maximum 5% requirement permitted under the inclusionary zoning regulation (see section 3(1)5. of O. Reg. 232/18: INCLUSIONARY ZONING). Per the expert evidence led in the OLT Hearing for OPA 115, this is an

extremely onerous requirement that will make it infeasible to build new homes at the Property and other mall sites in the City.

Notably, the Price Setting Policies are more unfeasible today than when the OLT considered the policies in 2023. The challenges of building new housing in Ontario, including deteriorating market conditions and higher interest rates and labour and material costs. At a time when many development projects are being cancelled due to rising costs, the City's attempts to force developers to lower housing prices to below market rates, is even more egregious.

The Price Setting Policies are also inconsistent with the Province's policy objectives of building more new homes, including its goal of 1.5 million homes by 2031. The Price Setting Policies will have an opposite than intended effect as fewer development projects will proceed given the infeasibility, and this lack of new housing supply will therefore drive-up prices. To lower home prices and/or provide more affordable housing units, the government must continue to focus on increasing the housing supply so it can meet the growing demand, which can be achieved through minimizing 'red tape' and reducing the 'added costs' with building new development.

The Ministry has Previously Removed Price Setting Policies

The Ministry previously made the decision to remove affordable housing requirements from OPAs, including with respect to Toronto's OPA nos. 644, 653 and 692 (which arose from conversion requests) by *encouraging* affordable housing rather than *requiring* it. However, most of those policies applied to lands within PMTSAs and resulted from land use changes permitting residential development for the first time. In this case, the Price Setting Policies must be removed as the Property is outside of a PMTSA, is already designated Mixed Use, and the Price Setting Policies have already been determined to be illegal.

Conclusion

On behalf of SRI, we ask the Ministry to modify the New OP prior to approval as identified above by removing the Price Setting Policies. Our client appreciates your consideration of these matters and welcomes the opportunity to discuss these comments with Ministry staff and other stakeholders.

Sincerely,
SHERIDAN RETAIL INC.



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