

## **Encroachment Agreement for 71 Fenmar Drive**

<b>Date:</b>	March 6, 2007
<b>To:</b>	Etobicoke York Community Council
<b>From:</b>	Raffi Bedrosyan, P.Eng., Acting Director, Development Engineering
<b>Wards:</b>	Ward 7
<b>Reference Number:</b>	

### **SUMMARY**

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This staff report is about a matter for which the Etobicoke York Community Council has delegated authority from City Council to make a final decision.

The purpose of this report is to seek authority from Community Council to negotiate and enter into an encroachment agreement permitting the property owner to encroach on the City's sewer easement at 71 Fenmar Drive with an existing 200mm private watermain.

### **RECOMMENDATIONS**

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**The Technical Services Division recommends that:**

1. the Etobicoke York Community Council authorize the appropriate City Officials to negotiate and enter into an encroachment agreement with the owner of 71 Fenmar Drive on such terms and conditions as may be required by the Executive Director of Technical Services, including, but not limited to the following:
  - (a) Prepare a Plan of Survey which details the location of the private watermain within the easement;
  - (b) That the applicant indemnify the City against all claims for loss or damage which may occur to the proposed work as a result of a leak or break in the City infrastructure; that the Applicant also indemnify the City against all claims for loss or damage which may occur to the proposed work for any future construction activity upon, or within the City easement, to repair,

install, modify, or replace the existing City infrastructure by City forces or by contractors hired by City to carry out this work;

- (c) Hold the City of Toronto harmless for any and all damages or loss associated with future temporary closure of the proposed driveway entrance to the subject property to facilitate any maintenance or rehabilitation work within the easement;
- (d) That the applicant will maintain the proposed services in the condition as approved under the site plan approval for the site in a state of good repair; and,
- (e) The applicant must modify Instrument No. NY332310 to reflect the Plan of Survey for the Easement which details all private encroachments, above and below grade, including the Land Registry Office's Parcel Register for this property. The applicant must submit documentation to the Technical Services Division demonstrating that this undertaking has been satisfied.

## **FINANCIAL IMPACT**

There are no financial implications.

## **DECISION HISTORY**

There is no previous decision history.

## **ISSUE BACKGROUND**

On January 21, 1960 the Corporation of the Township of North York registered an easement agreement as Instrument No. NY332310 on lands known municipally as 71 Fenmar Drive for the operation and maintenance of a 1950 mm storm sewer and a 600mm sanitary sewer.

The current owner of 71 Fenmar Drive, Maroon Manor Development Inc., has requested permission to encroach upon the City easement in order to maintain an existing 200mm private watermain to service a proposed waste transfer station.

## **COMMENTS**

Technical Services staff have reviewed the proposal and have determined that the existing private watermain will not negatively impact the existing municipal infrastructure nor hinder its future maintenance. Technical Services staff are generally not supportive of encroachments on sewer easements, however, given that the encroachment is an existing encroachment that provides water service to the existing building, staff therefore have no objections. Should it become necessary to make repairs to the existing

municipal infrastructure, the City will not be held responsible for any damage caused to the private watermain.

## **CONCLUSIONS**

Technical Services has no objections to the proposed encroachment subject to the owners of 71 Fenmar Drive entering into an encroachment agreement on the terms and conditions satisfactory to the Executive Director of Technical Services, General Manager of Toronto Water and the City Solicitor.

## **CONTACT**

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## **SIGNATURE**

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Technical Services

Attachments:  
Property Information Sheet – City Easement Across 71 Fenmar Drive