



## STAFF REPORT ACTION REQUIRED

### Request for an Encroachment Agreement 400 Elm Road

<b>Date:</b>	May 7, 2007
<b>To:</b>	North York Community Council
<b>From:</b>	Bryan Byng, District Manager, Municipal Licensing and Standards, North York District
<b>Wards:</b>	Ward 16 - Eglinton-Lawrence
<b>Reference Number:</b>	IBMS No. 07-108911

#### **SUMMARY**

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This staff report is about a matter that the Community Council has delegated authority to make a final decision [provided that it is not amended so that it varies with City policy or by-laws].

The purpose of this report is to consider a request by the owner(s) of 400 Elm Road, being a one-family detached dwelling seventh density zone (R7), for an encroachment agreement. The proposed encroachment consists of a wooden fence on the City road allowance.

#### **RECOMMENDATIONS**

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**Municipal Licensing and Standards recommend that the Encroachment application be approved, subject to the following conditions:**

1. that the owner(s) enter into an Encroachment Agreement with the City to the satisfaction of the City Solicitor and the Executive Director of Municipal Licensing and Standards;
2. that the appropriate City Officials be authorized to take the necessary action to give effect thereto;
3. that no claims will be made against the City by the owner(s) for damages occurring to the area of the encroachment or its elements during snow removal;

4. that the life of the Agreement be limited to 10 years from the date of registration on title or to the date of removal of the encroachment at which time, the City may consider the Agreement for further extension, if requested by the applicant;
5. the indemnification to the City by the owner(s) of the encroachment for all liability relating in any way to the encroachment and providing of an insurance policy for such liability for the lifetime of the Agreement in a form as approved by the City Solicitor, in an amount no less than \$2,000,000.00 or such greater amount as the City Solicitor may require;
6. in the event of sale or transfer of the property abutting the encroachment, Legal Services be authorized to extend the Encroachment Agreement to the new owner, subject to the approval of the Executive Director of Municipal Licensing and Standards;
7. the owner(s) pay the following fees:
  - a. Application Fee of \$456.32 (paid).
  - b. Legal Administration Cost and Registration on Title, plus disbursements, including G.S.T.
  - c. One-time fee of \$430.49 plus G.S.T., totalling \$456.32.

### **Financial Impact**

There is no financial impact anticipated resulting from the adoption of this report.

### **DECISION HISTORY**

The application was received from the property owner(s) in February 2007 and was circulated to Transportation Services, Parks, Forestry and Recreation, and the following Utilities: Enbridge, Bell Canada, Cable, Hydro and the Toronto Transit Commission.

### **ISSUE BACKGROUND**

The encroachment on the City road allowance is as follows:

- (a) A wooden fence on the flankage side of Brooke Avenue measuring 1.8 metres in height and 2.9 metres onto the road allowance for a distance of 27.0 metres.

### **COMMENTS**

Utilities have provided clearance letters indicating that they have no objection.

Transportation Services and Park, Forestry and Recreation, North York District staff, as part of the review, have indicated that they have no objection.

### **CONTACT**

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## **SIGNATURE**

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Bryan Byng, District Manager  
Municipal Licensing and Standards  
North York District

## **ATTACHMENTS**

1. Survey
2. Site plan