

**Encroachment Agreement Request  
19 Esgore Drive**

<b>Date:</b>	June 5, 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. 06-131412

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**SUMMARY**

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 19 Esgore Drive being a one-family detached dwelling, seventh density zone (R7), for an encroachment agreement. The existing encroachment consists of a walkway, concrete steps with walkway, hedges, and a wooden fence located on the City road allowance.

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**RECOMMENDATIONS**

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

1. that the owner(s) remove the hedge to a distance of 1.0 metre from the fire hydrant, to the satisfaction of Transportation Services, North York District;
2. that the owner(s) remove the walkway to 2.13 metres from the road edge of Esgore Drive, to the satisfaction of Transportation Services, North York District;
3. that the owner(s) remove the hedge to 2.13 metres from the road edge of the intersection of Esgore Drive and Felbrigg Avenue, to the satisfaction of Transportation Services, North York District ;
4. that the owner(s) remove the hedge to 2.13 metres from the road edge of Felbrigg Avenue, to the satisfaction of Transportation Services, North York District;

5. that the owner(s) remove the fence back 2.13 metres from the road edge of Felbrigg Avenue, to the satisfaction of Transportation Services, North York District;
6. 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;
7. that the appropriate City Officials be authorized to take the necessary action to give effect thereto;
8. 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;
9. 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;
10. 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;
11. 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;
12. 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 March 2007 and was circulated to Transportation Services and the following Utilities: Enbridge, Bell Canada, Cable and Hydro.

### **ISSUE BACKGROUND**

The encroachments on the City road allowance are as follows:

- (a) A walkway approximately 1.0 metre wide at the south-west side of the property;

- (b) Concrete steps approximately 1.82 metres in length with a walkway measuring 5.7 metres in length and 1.88 metres in width at the front entrance;
- (c) A hedge approximately 11.8 metres in length, varying between 1.0 metre and 2.0 metres in height, at the intersection of Esgore Drive and Felbrigg Avenue;
- (d) A hedge approximately 11.3 metres in length and 1.8 metres in height located 0.08 metre from the road edge of Felbrigg Avenue;
- (e) A wooden fence approximately 11.3 metres in length and 1.8 metres in height located 1.66 metres from the road edge of Felbrigg Avenue ;
- (f) The concrete stairs and two hedges on Felbrigg Avenue and Esgore Drive were previously addressed in an Encroachment Agreement registered on Title on May 3, 1997, as EO65509, which has since expired.

## **COMMENTS**

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

Transportation Services, North York District staff, as part of the review, have indicated that the hedge be removed to a distance of 1.0 metre from the fire hydrant and the walkway be removed to 2.13 metres behind the road edge of Esgore Drive. The hedge be removed 2.13 metres from the road edge of the intersection of Felbrigg Avenue and Esgore Drive. The hedge and wooden fence on Felbrigg Avenue be removed to 2.13 metres behind the road edge.

## **CONTACT**

Emilio Vettese, Supervisor, Municipal Licensing and Standards, North York District  
Tel: (416) 395-7013; Fax: (416) 395-7056; Email: [evettes@toronto.ca](mailto:evettes@toronto.ca)

## **SIGNATURE**

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

## **ATTACHMENTS**

1. Survey