



**STAFF REPORT
ACTION REQUIRED**

15 Stafford Street - Fence with Pillars and Retaining Wall

Date:	November 12, 2007
To:	Toronto and East York Community Council
From:	Manager, Right of Way Management, Transportation Services Toronto and East York District
Wards:	Trinity-Spadina – Ward 19
Reference Number:	Te07081te.row

SUMMARY

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

Transportation Services has assessed an appeal from the agent of the property owner of 15 Stafford Street for the maintenance of a 1.3 m high wrought iron fence, 1.45 m high brick pillars within portions of the public right of way fronting 15 Stafford Street, and a 0.5 m high brick retaining wall set back 0.4 m from the sidewalk on the Wellington Street West flank.

Although the fence and pillars exceed the allowable height and the retaining wall does not provide the allowable set back under the Municipal Code, they do not impact negatively on the public right of way. Therefore, Transportation Services recommends approval of the encroachments.

The owner will be given the opportunity to make a deputation before Community Council.

RECOMMENDATIONS

Transportation Services recommends that Toronto and East York Community Council:

1. approve the maintenance of the wrought iron fence, brick pillars and retaining wall within portions of the public right of way fronting 15 Stafford Street and on the Wellington Street West flank, subject to the property owner entering into an

encroachment agreement with the City of Toronto, agreeing to but not limited to the following:

- a. maintain the fence, pillars and retaining wall at his/her own expense in good repair and a condition satisfactory to the General Manager of Transportation Services and will not make any additions or modifications to the encroachment beyond what is allowed under the terms of the Agreement;
 - b. remove the fence, pillars and retaining wall upon receiving 90 days written notice to do so; and
 - c. accept such additional conditions as the City Solicitor or the General Manager of Transportation Services may deem necessary in the interest of the City; and
2. direct Legal Services and/or the General Manager of Transportation Services to extend the Encroachment Agreement to the new owner, in the event of sale or transfer of the property abutting the encroachment, subject to the approval of the General Manager of Transportation Services.

Financial Impact

There is no financial impact to the City as a result of this report.

ISSUE BACKGROUND

The agent of the property owner of 15 Stafford Street submitted an application requesting permission to maintain a 1.3 m high wrought iron fence with 1.45 m high brick pillars within portions of the public right of way fronting 15 Stafford Street and a 0.5 m high brick retaining wall set back 0.4 m from the sidewalk on the Wellington Street West flank.

COMMENTS

Applicable Regulation

The construction and maintenance of fences within the public right of way are governed under the criteria set out in the former City of Toronto Municipal Code Chapter 313-33, which provides for fences to be constructed to a maximum height of 1.9 m on the flank of a property and up to 1.0 m in height in front of a property if they are neither hazardous nor unsightly in appearance. In addition, fences must be set back 0.46 m from the rear edge of the City sidewalk or a minimum of 2.1 m from the curb where no sidewalk is present.

There are similar provisions within the Municipal Code to allow for the construction of retaining walls.

Reasons for approval

Transportation Services has reviewed the application and determined that the wrought iron fence, brick pillars and retaining wall do not impact negatively on the public right of way even though the overall height of the fence and pillars exceed the allowable height and the retaining wall does not provide the allowable set back under the Municipal Code.

Details of the encroachment are on file with Transportation Services.

Photos of the property are shown on Appendix 'A'.

CONTACT

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SIGNATURE

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ATTACHMENTS

Appendix 'A' – photos

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