

**Encroachment Agreement Request
329 Brooke Avenue**

Date:	August 20, 2008
To:	North York Community Council
From:	District Manager, Municipal Licensing and Standards, North York District
Wards:	Ward 16 - Eglinton-Lawrence
Reference Number:	IBMS No. 08-142610

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 329 Brooke Avenue, being a one-family detached dwelling sixth density zone (R6) for an encroachment agreement. The existing encroachments consist of a water fountain, gardens, nine trees, sprinklers and lighting on the City road allowance.

RECOMMENDATIONS

Municipal Licensing and Standards recommends 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 all applicable fees:

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 April 2008 and was circulated to Transportation Services, Enbridge, Bell Canada, Cable and Hydro.

ISSUE BACKGROUND

The encroachments on the City road allowance are as follows:

- (a) A water fountain located in the centre of the circular driveway measures 2.90 metres in length, 0.90 metre in width and 1.50 metres in height;
- (b) Gardens located at the front next to the water fountain and sides of the circular driveway;
- (c) Nine trees (Dawyck Purple Beeches) planted in the front gardens, 60 mm. wide;
- (d) Numerous sprinklers;
- (e) Lighting (eight), flush with grade.

COMMENTS

Transportation Services, North York District staff, as part of their review, have indicated that they have no objection to the encroachment.

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

CONTACT

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SIGNATURE

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

ATTACHMENTS

1. Site Plan
2. Landscape plan
3. Photographs