



## STAFF REPORT ACTION REQUIRED

### Privacy Fence with Gates – 885 Dundas Street West

<b>Date:</b>	August 14, 2008
<b>To:</b>	Toronto and East York Community Council
<b>From:</b>	Manager, Right of Way Management, Transportation Services Toronto and East York District
<b>Wards:</b>	Trinity-Spadina - Ward 19
<b>Reference Number:</b>	Te08069te.row

#### SUMMARY

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

Transportation Services has assessed a request from the owners of 885 Dundas Street West for the maintenance of an existing 2.44 m high steel fence with gates that encroach within the public right of way adjacent to the laneway on the Claremont Street flank of 885 Dundas Street West.

Although the fence and gates exceed the allowable height under the Municipal Code, they do not impact negatively on the public right of way. Transportation Services recommends approval of these encroachments.

The owners will be given an opportunity to make a deputation before Community Council.

#### RECOMMENDATIONS

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**Transportation Services recommends that Toronto and East York Community Council:**

1. approve the maintenance of a 2.44 m high steel fence with gates that encroach within the public right of way adjacent to the laneway on the Claremont Street flank of 885 Dundas Street West, subject to the owners entering into an encroachment agreement with the City of Toronto, agreeing to but not limited to the following:

- a. indemnify the City from and against all actions, suits, claims or demands and from all loss, costs, damages and expenses that may result from such permission granted and providing an insurance policy for such liability for the lifetime of the Agreement in a form as approved by the Deputy City Manager and Chief Financial Officer and in an amount not less than \$2,000,000 or such greater amount as the Deputy City Manager and Chief Financial Officer may require;
  - b. maintain the fence and gates at their 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;
  - c. remove the fence and gates upon receiving 90 days written notice to do so; and
  - d. 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 owners of 885 Dundas Street West submitted an application requesting permission to maintain a 2.44 m high steel fence adjacent to the laneway at rear with gates that encroach within the public right of way on the Claremont Street flank of 885 Dundas Street West.

In support of their application the owners have explained that prior to building the fence with gates they had experienced many problems from drug abuse, vandalism and prostitution. The installation of fence has deterred individuals from carrying out these activities on their property.

### **COMMENTS**

#### **Applicable regulations**

The construction and maintenance of fences within the public right of way are governed under the criteria set out within the former City of Toronto Municipal Code, Chapter 313-33, Streets and Sidewalks, which provides for fences to be constructed to a

maximum height of 1.9 m on the flank of a property and up to a 1.0 m height in front of a property if they are neither hazardous nor unsightly in appearance. In addition, fences must be setback 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 no provisions within the former City of Toronto Municipal Code Chapter 313, Streets and Sidewalks, for fences at the rear of the property.

As there are no provisions within the Municipal Code to allow for the maintenance of fence with gates within the public right of way, Transportation Services is required to report to Community Council on this matter.

### **Reasons for approval**

Transportation Services has reviewed the application and determined that the 2.44 m high steel fence with gates that encroach within the public right of way adjacent to the laneway on the Claremont Street flank of 885 Dundas Street West do not impact negatively on the public right of way, even though the overall height of the fence is higher than what is allowed under the Municipal Code.

Details of the encroachments 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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Angie Antoniou  
Manager, Right of Way Management

### **ATTACHMENTS**

Appendix 'A' – photos

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