



**STAFF REPORT  
ACTION REQUIRED**

**Privacy Fence - 338 Manning Avenue**

<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>	Te08065te.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 agent of the owner of 338 Manning Avenue to maintain an existing 1.4 m high wrought iron fence, set back 0.18 m from the rear edge of the City sidewalk, fronting 338 Manning Avenue.

Although the fence exceeds the allowable height and it does not meet the setback requirement under the Municipal Code, it does not impact negatively on the public right of way. Transportation Services recommends approval of this encroachment.

The owner 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 1.4 m high wrought iron fence, which is set back 0.18 m from the rear edge of the City sidewalk and encroaches within the public right of way fronting 338 Manning Avenue, subject to the owner entering into an encroachment agreement with the City of Toronto, agreeing to but not limited to the following:

- a. maintain the fence 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 encroachments beyond what is allowed under the terms of the Agreement;
  - b. remove the fence 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 338 Manning Avenue submitted an application requesting permission to maintain the existing 1.4 m high wrought iron fence, set back 0.18 m from the rear edge of the City sidewalk fronting 338 Manning Avenue.

The fence is consistent with those at the neighbouring houses, 334 and 336 Manning Avenue, both of which have an agreement with the City of Toronto for the encroachments on their properties.

### **COMMENTS**

#### **Applicable regulations**

The construction and maintenance of fences within the public right of way are governed under the criteria set out in Chapter 313-33 of the former City of Toronto Municipal Code, 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 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.

#### **Reasons for approval**

Although the fence exceeds the allowable height and it does not meet the setback requirement under the Municipal Code, it is consistent with other fences within the surrounding neighbourhood and it does not impact negatively on the public right of way. Transportation Services recommends approval of this encroachment.

Details of the existing fence 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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