

Air Conditioning Unit – Public Lane Flank of 291 Ontario Street

Date:	October 27, 2008
To:	Toronto and East York Community Council
From:	Manager, Right of Way Management, Transportation Services Toronto and East York District
Wards:	Toronto Centre-Rosedale – Ward 28
Reference Number:	Te08094te.row

SUMMARY

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 owners of 291 Ontario Street to maintain an air conditioning unit that encroaches within the public lane flank of 291 Ontario Street.

As the maintenance of the air conditioning unit does not impact negatively on the public right of way, Transportation Services recommends approval of this encroachment.

RECOMMENDATIONS

Transportation Services recommends that Toronto and East York Community Council:

1. approve the maintenance of an air conditioning unit that encroaches within the public lane flank of 291 Ontario Street, 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 air conditioning unit 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. pay for the costs of preparing the Agreement and the registration of the Agreement on title;
 - d. remove the air conditioning unit upon receiving 90 days written notice to do so; and
 - e. accept such additional conditions as the City Solicitor or the General Manager of Transportation Services may deem necessary in the interest of the City;
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; and
 3. request Legal Services to prepare and execute the Encroachment Agreement.

Financial Impact

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

ISSUE BACKGROUND

The agent of the owners of 291 Ontario Street has submitted an application requesting permission to maintain an air conditioning unit that encroaches within the public lane flank of 291 Ontario Street.

The air conditioning unit provides a vertical clearance of approximately 5.26 m above the level of the public lane and encroaches approximately 0.75 m within the public lane flank of 291 Ontario Street.

COMMENTS

Applicable regulation

The maintenance of encroaching air conditioning units can be considered under the criteria set out in Chapter 313, Streets and Sidewalks, of the former City of Toronto Municipal Code, which provides a minimum 2.1 m of clear sidewalk or boulevard to be available adjacent to the air conditioning unit and a minimum vertical clearance of 2.7 m.

As there are no provisions within the Municipal Code to allow for the installation of air conditioning units within a public lane, we are required to report to Community Council on this matter.

Reasons for approval

Transportation Services has reviewed the request and determined that the air conditioning unit does not impact negatively on the public right of way.

Details of the encroachment are on file with Transportation Services.

A photo of the property is shown on Appendix 'A'.

CONTACT

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SIGNATURE

Angie Antoniou
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ATTACHMENTS

Appendix 'A' – Photo

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