

**Encroachment Agreement Request
1 Clovelly Avenue**

Date:	March 9, 2009
To:	North York Community Council
From:	District Manager, Municipal Licensing and Standards, North York District
Wards:	Ward 15 - Eglinton - Lawrence
Reference Number:	IBMS No. 08-104755

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 subject matter is an application for an encroachment agreement.

RECOMMENDATIONS

Municipal Licensing and Standards has received the necessary clearances to recommend 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. 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;

5. That the life of the Agreement be limited from the date of registration on title or to the date of removal of the encroachment;
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 January 2008 and was circulated to Transportation Services and the following Utilities: Enbridge, Bell Canada, Cable and Hydro.

ISSUE BACKGROUND

This semi-detached house was built in 1997, with a third storey addition in 2003, in a second density residential zone (R2) in the former City of York (*Attachments 1 and 2*). The majority of the side/flankage and front yards are located within the City of Toronto right of way. The encroachments on the City of Toronto road allowance are generally described, as follows (*Attachments 3, 4, 5 and 6*):

- (a) All fencing, parking access and yard access gates located beside and along Winona Drive and Clovelly Avenue;
- (b) All fencing in the rear yard perpendicular to Winona Drive up to the lot line;
- (c) All fencing in the side/flankage yard attached to the house;
- (d) Stairs to the rear porch located in the rear and flankage yard;
- (e) Various hedges and trees located in the front, side/flankage and rear yards;
- (f) A row of ornamental stones along the curb and beside the walkway in the front and side yards;
- (g) Three rows of stone pavers located all along Clovelly Avenue and Winona Drive.

COMMENTS

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

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

CONTACT

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SIGNATURE

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

ATTACHMENTS

1. Aerial view
2. Zoning map
3. Site plan
4. Photograph from north end at Clovelly and Winona.
5. Photograph showing the sidewalk on the west side of Winona looking south.
6. Photograph from south end by 646 Winona.