

**Encroachment Agreement Request
372 Parkview Avenue**

Date:	April 27, 2009
To:	North York Community Council
From:	District Manager, Municipal Licensing and Standards, North York District
Wards:	Ward 23 - Willowdale
Reference Number:	IBMS No. 07-277455

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 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;
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 for the encroachment and the enclosed right-of-way area.

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 November 2007 and was circulated to Transportation Services and the following Utilities: Enbridge, Bell Canada, Cable and Hydro.

ISSUE BACKGROUND

This detached house was built in 1962, in a fourth density residential (R4) zone (*Attachment 1*). The house is on the northwest corner of Parkview Avenue and Estelle Avenue.

The encroachment consists of barn rail fencing in the front and side yard and board on board fencing around the back yard (*Attachments 2 and 3*). The area enclosed by the rear yard fence is approximately 31 square metres (*Attachments 4 and 5*).

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.

According to the owner, the fence replaced an existing fence that was in disrepair.

CONTACT

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SIGNATURE

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

ATTACHMENTS

1. Zoning map
2. Survey
3. Site sketch showing location of fences
4. Photograph of encroachment on Estelle Ave – view north
5. Photograph of front yard fencing - view east on Parkview