

**Encroachment Agreement Request
147 Elder Street**

Date:	June 2, 2009
To:	North York Community Council
From:	District Manager, Municipal Licensing and Standards, North York District
Wards:	Ward 10 - York-Centre
Reference Number:	IBMS No. 08-224152

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:

- 1. The North York Community Council approve the encroachment agreement for 147 Elder Street, subject to the following conditions:**
 - a) 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;
 - b) That the appropriate City Officials be authorized to take the necessary action to give effect thereto;
 - c) 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;

- d) 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;
- e) 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;
- f) 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;
- g) 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 November 2008 and was circulated to Transportation Services and the following Utilities: Enbridge, Bell Canada, Cable and Hydro.

ISSUE BACKGROUND

This 3-storey building is a residential care facility in a multiple family fourth density (RM4) zone in the former City of North York and it is located on the northeast corner of Elder Street and Pannahill Road (*Attachment 1*).

The existing encroachment beside the rear yard (*Attachments 2-7*) consists of a chain link fence that is 1.2 metres in height with privacy hedges that are approximately 2 metres in height that run along Pannahill Road for 13.1 metres. This fencing extends into the right-of-way 1.5 metres with a 1.8-metre wood fence along the west edge and along the east property line. It encloses approximately 19.7 square metres of City of Toronto right-of-way.

COMMENTS

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

Transportation Services, Road Operations, North York District staff, as part of their review, have indicated that they have no objections.

CONTACT

Michael Carey, Supervisor, Municipal Licensing and Standards, North York District
Tel: (416) 395-7012; Fax: (416) 395-7056; Email: mcarey@toronto.ca

SIGNATURE

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

ATTACHMENTS

1. Zoning map
2. Photograph of encroachment at 147 Elder Street – west view on Pannahill
3. Survey of 147 Elder Street
4. Site plan of 147 Elder Street
5. Photograph of encroachment at 147 Elder Street – east view on Pannahill
6. Main entrance 147 Elder Street
7. Side entrance at 147 Elder Street off Pannahill