



**STAFF REPORT  
ACTION REQUIRED**

**Encroachment Agreement Request  
23 Sunnydene Crescent**

|                          |                                                                          |
|--------------------------|--------------------------------------------------------------------------|
| <b>Date:</b>             | September 23, 2009                                                       |
| <b>To:</b>               | North York Community Council                                             |
| <b>From:</b>             | District Manager, Municipal Licensing and Standards, North York District |
| <b>Wards:</b>            | Ward 25 - Don Valley West                                                |
| <b>Reference Number:</b> | IBMS No. 09-101737                                                       |

**SUMMARY**

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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**

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**Municipal Licensing and Standards has received the necessary clearances to recommend that:**

- 1. The North York Community Council approve the encroachment agreement for 23 Sunnydene Crescent, 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**

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There is no financial impact anticipated resulting from the adoption of this report.

## **DECISION HISTORY**

The application for an existing encroachment was received from the property owner(s) in January 2009 and was circulated to Transportation Services, Urban Forestry and the applicable utilities.

## **ISSUE BACKGROUND**

This single family detached home is in a residential third density (R3) zone located in the former City of North York (*Attachments 1 and 2*).

The existing encroachment consists of brick walls, trees, shrubs, decorative rocks, low voltage lights, irrigation system and a driveway/passage gate (*Attachments 3, 4, 5 and 6*). The six staggered brick walls are approximately 1.5 metres in height, built on piers and they span the front yard. Almost all of the front boulevard/right-of-way is interspersed with the remaining encroachment items listed above. The driveway and pedestrian gates are approximately 1.5 metres in height and swing inwards.

## **COMMENTS**

Utilities have provided clearances letters indicating that they have no objections.

Transportation Services, Road Operations, have no objections.

Urban Forestry reports that removing the encroachment would have a more detrimental effect than leaving it as it is.

**CONTACT**

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**SIGNATURE**

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

**ATTACHMENTS**

1. Zoning map
2. Existing site plan front yard 23 Sunnyside Cres.
3. Photograph facing east on Sunnyside Cres
4. Photograph facing south on Sunnyside Cres
5. Photograph irrigation system
6. Photograph of low voltage lighting and pier support for brick wall.