



**STAFF REPORT
ACTION REQUIRED**

**Encroachment Agreement Request
40 Holland Park Avenue**

Date:	October 22, 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. 09-162191

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 40 Holland Park Avenue, subject to the following conditions:**
 - a) That the drainpipes beside the sidewalk be capped;
 - b) That the owner(s) apply and pay for the costs for a curb adjustment;
 - c) 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;
 - d) That the appropriate City Officials be authorized to take the necessary action to give effect thereto;

- e) 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;
- f) 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;
- g) That the agreement be for life;
- h) 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;
- i) 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 for an existing encroachment was received from the property owner(s) in August 2009 and was circulated to Transportation Services and the applicable utilities.

ISSUE BACKGROUND

This single family detached home is in a second density (R2) zone located in the former City of York (*Attachment 1 and 2*).

The existing encroachments consist of stone retaining walls, stone posts, a stone walkway, steps and metal fences. These are across the front of the right-of-way and on either side of the driveway (*Attachments 3, 4, 5, 6 and 7*).

COMMENTS

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

Transportation Services, Road Operations, North York District staff, as part of their review, have indicated that the drain pipes are to be capped, steps to be included in the agreement and the owner(s) must apply and pay for the costs of a curb adjustment.

CONTACT

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SIGNATURE

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

ATTACHMENTS

1. Zoning map
2. Survey
3. Wall details
4. Metal guard detail
5. Transportation photograph 40 Holland Park – Sept 10, 2009 – showing drainpipe east side beside sidewalk
6. Transportation photograph 40 Holland Park – Sept 10, 2009 – driveway
7. Transportation photograph 40 Holland Park – Sept 10, 2009 – east side and driveway for 38
8. Transportation photograph 40 Holland Park – Sept 10, 2009 – drainpipe west side beside sidewalk