



## **STAFF REPORT ACTION REQUIRED**

### **Privacy Fence – 58-66 Tecumseth Street**

<b>Date:</b>	December 10, 2008
<b>To:</b>	Toronto and East York Community Council
<b>From:</b>	Manager, Right of Way Management, Transportation Services Toronto and East York District
<b>Wards:</b>	Trinity-Spadina – Ward 19
<b>Reference Number:</b>	Te09004te.row

#### **SUMMARY**

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This staff report is about a matter which Community Council has delegated authority from City Council to make a final decision.

Transportation Services has assessed a request from a representative of the Condominium Corporation for 58-66 Tecumseth Street to allow the ongoing maintenance of a 1.2 m high wrought iron fence that encroaches within the public right of way at 58-66 Tecumseth Street.

As a section of the fence partially obstructs the entrance to the adjacent public lane, which provides access to parking facilities for the residents at these addresses, it must be relocated approximately 1.0 m north, running perpendicular from the building wall to the City sidewalk.

Although the fence does not provide the required clearance of 0.46 m setback from the City sidewalk, it does not negatively impact the public right of way.

The owner together with any other interested parties will be given an opportunity to make a deputation before Community Council.

#### **RECOMMENDATIONS**

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**Transportation Services recommends that Toronto and East York Community Council:**

1. approve the maintenance of a 1.2 m high wrought iron fence within the public right of way at 58-66 Tecumseth Street, subject to the property owners entering into an encroachment agreement with the City of Toronto, agreeing to but not limited to the following:
  - a. indemnify the City from and against all actions, suits, claims, or demands and from all loss, costs, damages and expenses that may result from such permission granted;
  - b. maintain the wrought iron fence at their own expense in good repair and a condition satisfactory to the General Manager of Transportation Services and will not make any additions or modifications to the encroachment beyond what is allowed under the terms of the Agreement;
  - c. obtain clearances and/or sign offs from Toronto Hydro and satisfy any requirements that Toronto Hydro may have;
  - d. obtain clearances and/or sign offs from Bell Canada and satisfy any requirements that Bell Canada may have;
  - e. relocate the fence, 1.0 m north of the public lane to run perpendicular from the building wall to the City sidewalk;
  - f. remove the privacy fence upon receiving 90 days written notice to do so; and
  - g. accept such additional conditions as the City Solicitor or the General Manager of Transportation Services may deem necessary in the interest of the City; and
2. direct Legal Services and/or the General Manager of Transportation Services to extend the Encroachment Agreement to the new owner, in the event of sale or transfer to the property abutting the encroachment, subject to the approval of the General Manager of Transportation Services.

### **Financial Impact**

There is no financial impact to the City as a result of this report.

### **ISSUE BACKGROUND**

A representative of the Condominium Corporation for 58-66 Tecumseth Street has submitted an application requesting permission to maintain a 1.2 m high wrought iron fence within portions of the public right of way at 58-66 Tecumseth Street.

In support of their application a letter of appeal was submitted indicating the benefits that the fence provides, amongst which includes protection from trespassers to their property, littering, and the soiling of the boulevard by pets.

## **COMMENTS**

### **Applicable regulation**

The construction and maintenance of fences within the public right of way are governed under the criteria set out in Chapter 313-33 of the former City of Toronto Municipal Code, which provides for fences to be constructed to a maximum height of 1.9 m on the flank of a property and up to 1.0 m in height in front of a property if they are neither hazardous nor unsightly in appearance. In addition, fences must be set back 0.46 m from the rear edge of the City sidewalk.

### **Reasons for approval**

Transportation Services has reviewed the application and determined that the maintenance of the 1.2 m high wrought iron fence within the public right of way at 58-66 Tecumseth Street will not negatively impact on the public right of way. The fence should be permitted provided that the section running parallel to the public lane be relocated 1.0 m north of the lane, running perpendicular from the building wall to the City sidewalk. The Condominium Corporation will have to enter into an encroachment agreement for the fence and satisfy any requirements imposed by Toronto Hydro and Bell Canada. In addition, there are similar fences within the immediate area.

Details of the encroachment are on file with Transportation Services.

Photos of the property are shown on Appendix 'A'.

## **CONTACT**

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## **SIGNATURE**

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Angie Antoniou  
Manager, Right of Way Management

## **ATTACHMENTS**

Appendix 'A' – photos

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