



STAFF REPORT ACTION REQUIRED

Glycol Heating System and Retaining Wall – 742 Avenue Road

Date:	March 9, 2009
To:	Toronto and East York Community Council
From:	Manager, Right of Way Management, Transportation Services Toronto and East York District
Wards:	St. Paul's - Ward 22
Reference Number:	Te09030te.row

SUMMARY

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 owner of 742 Avenue Road to allow the maintenance of various encroachments within the public right of way including a glycol heating system and a concrete retaining wall which has been constructed immediately back of the City sidewalk rather than the required 0.46 m setback.

Although the concrete retaining wall does not provide the required setback from the back of the City sidewalk under the Municipal Code, the retaining wall, together with the glycol heating system, do not impact negatively on the public right of way. Transportation Services recommends approval of these encroachments.

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

RECOMMENDATIONS

Transportation Services recommends that Toronto and East York Community Council:

1. approve the maintenance of the concrete retaining wall together with the glycol heating system within the public right of way at 742 Avenue Road, subject to the

owner 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 retaining wall and the glycol heating system at his/her 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. pay for the costs of preparing the Agreement and the registration of the Agreement on title;
 - d. remove the encroachments upon receiving 90 days written notice to do so; and
 - e. accept such additional conditions as the City Solicitor or the General Manager of Transportation Services may deem necessary in the interest of the City;
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 of the property abutting the encroachment, subject to the approval of the General Manager of Transportation Services; and
 3. request Legal Services to prepare and execute the Encroachment Agreement.

Financial Impact

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

ISSUE BACKGROUND

The representative of the owner of 742 Avenue Road submitted an application requesting permission to construct and maintain a glycol heating system that extends under the driveway and a retaining wall within the public right of way at 742 Avenue Road.

In order to expedite this application, Construction Permit No. 348014 was issued authorizing the installation of the glycol heating system notwithstanding that Community Council's approval had not been received. The application was discussed with the Ward Councillor's Office who concurred with the issuance of the permit.

During the course of our inspection, it was determined that a concrete retaining wall had been installed within the public right of way, without prior approval or the benefit of a permit, immediately back of the City sidewalk. The wall runs perpendicular to the City

sidewalk extending towards the house along the northerly portion of the driveway servicing 742 Avenue Road. Transportation Services has no objection to the maintenance of this encroachment.

COMMENTS

Applicable regulation

The construction and maintenance of retaining walls are considered under the provisions of Chapter 313-50, Streets and Sidewalks, of the former City of Toronto Municipal Code, subject to meeting various criteria amongst which includes that installations must be set back a minimum of 0.46 m from the rear edge of the City sidewalk.

As there are no provisions within the Municipal Code for the maintenance of glycol heating systems within the public right of way, we are required to report to Community Council on this matter.

Reasons for approval

Transportation Services has reviewed the application and determined that the glycol heating system does not impact negatively on the public right of way and should be permitted. Notwithstanding that the concrete retaining wall does not meet the setback requirements and given the fact that the wall has existed for quite some time, Transportation Services has determined that the wall does not negatively impact on the public right of way. These encroachments should be permitted subject to the owner entering into an encroachment agreement with the City of Toronto.

Details of the encroachments 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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ATTACHMENTS

Appendix 'A' - photos

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