

**Balcony – 124 Spencer Avenue**

<b>Date:</b>	March 9, 2009
<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>	Parkdale-High Park - Ward 14
<b>Reference Number:</b>	Te09037te.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 the representative of the owner of 124 Spencer Avenue to allow the maintenance of an existing metal balcony which encroaches within the public right of way fronting 124 Spencer Avenue.

As the encroaching balcony is situated well back of the pedestrian sidewalk and does not impact negatively on the public right of way, Transportation Services recommends approval of the encroachment.

**RECOMMENDATIONS**

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

1. approve the maintenance of a metal balcony fronting 124 Spencer Avenue, 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 metal balcony 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. remove the metal balcony upon receiving 90 days written notice to do so;
  - d. pay for the costs of preparing the Agreement and the registration of the Agreement on title; 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**

Transportation Services has assessed a request from the representative of the owner of 124 Spencer Avenue to allow the maintenance of a metal balcony that encroaches within the public right of way fronting 124 Spencer Avenue. The existing metal balcony measures 1.2 m in width by 2.5 m in length, with 1.07 m high steel railings and is situated 4.42 m above the level of the boulevard. It encroaches 0.8 m over the public right of way and is set back approximately 5 m from the back edge of the City sidewalk. The balcony is attached to the building wall and is supported by 2 steel columns that are fastened to an existing concrete verandah within the public right of way fronting 124 Spencer Avenue.

Toronto Fire Services has reviewed the application and advised they have no objections to the maintenance of the balcony.

### **COMMENTS**

#### **Applicable regulation**

As there are no provisions within the former City of Toronto Municipal Code Chapter 313, Streets and Sidewalks, to allow for the construction and maintenance of balconies 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 request and determined that the balcony is well set back from the City sidewalk and does not impact negatively on the public right of way and should be permitted, subject to the owner entering into an encroachment agreement with the City of Toronto.

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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