

Various Encroachments – 107 Atlantic Avenue

Date:	August 24, 2009
To:	Toronto and East York Community Council
From:	Manager, Right of Way Management, Transportation Services Toronto and East York District
Wards:	Trinity-Spadina - Ward 19
Reference Number:	Te09035te.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 the representative of the owners of 107 Atlantic Avenue to allow the ongoing maintenance of various encroachments amongst which include a guard rail, entrance to a loading dock, hydro metre, security cameras, flood lights, eaves, window sills, iron gates on windows, gas metre, and gas conduit that are attached to the building wall and extend over the public right of way on the rear and adjacent public lanes, the Snooker Street flank and fronting 107 Atlantic Avenue.

Other encroachments include various types of exhaust ducts, an air conditioning unit, and an outward swinging door, attached to the building wall in the rear public lane, and bollards within the public lane adjacent to 107 Atlantic Avenue this property.

Although exhaust ducts and air conditioning units are considered within the former City of Toronto Municipal Code, Chapter 313, Streets and Sidewalks, some do not meet the required vertical clearance of 2.7 m above the existing grade. Therefore, we are required to report on the matter.

With respect to the bollards and the outward swinging door, there are no provisions within the Municipal Code for their maintenance within the public lane. Therefore, we are required to report on the matter.

As the existing encroachments do not impact negatively on the public right of way, Transportation Services recommends their approval.

The owners 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 guard rail, entrance to a loading dock, hydro meter, security cameras, flood lights, eaves, window sills, iron gates on windows, gas meter, gas conduit, along with exhaust ducts, an air conditioning unit, an outward swinging door and two bollards that encroach within the public right of way on the rear lane, the adjacent lane, on the Snooker Street flank and fronting 107 Atlantic Avenue, 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 and providing an insurance policy for such liability for the lifetime of the Agreement in a form as approved by the Deputy City Manager and Chief Financial Officer and in an amount not less than \$2,000,000 or such greater amount as the Deputy City Manager and Chief Financial Officer may require;
 - b. maintain the encroachments 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. remove the encroachments upon receiving 90 days written notice to do so; and
 - d. 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 of 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

The representative of the owners of 107 Atlantic Avenue submitted an application requesting permission to install a landing, door and steps fronting 107 Atlantic Avenue. As these encroachments fall within the provisions of the former City of Toronto Municipal Code, Streets and Sidewalks, they were dealt with administratively.

During the course of our investigation, site inspection determined that additional encroachments exist at the following locations, which include:

- an outward swinging door that encroaches 1.0 m when open, 8 drain spouts encroaching 0.2 m to 0.6 m (located at various heights on the building wall), 8 exhaust ducts encroaching 0.18 m to 0.46 m (located at various heights on the building wall), an air conditioning unit, encroaching 0.64 m, 2.1 m above grade, a guard rail encroaching 0.2 m, a loading dock sill encroaching 0.2 m, a hydro meter encroaching 0.1 m, 2 security cameras encroaching 0.3 m and 0.22 m, a flood light encroaching 0.32 m, that are attached to the building wall within the public lane at rear of 107 Atlantic Avenue;
- a security camera, encroaching 0.26 m attached to the building wall, and 2 bollards encroaching 0.1 m upon the public lane adjacent to 107 Atlantic Avenue;
- a security camera encroaching 0.3 m attached to the building wall fronting 107 Atlantic Avenue; and,
- eaves encroaching 0.4 m to 0.27 m, a security camera encroaching 0.5 m, 2 flood lights encroaching 0.54 m and 0.38 m, 16 concrete window sills encroaching 0.1 m to 0.23 m, 4 sets of steel bars over the grade floor windows encroaching 0.11 m to 0.24 m, a gas meter encroaching 0.43 m, a gas conduit encroaching 0.17 m, 3 exhaust ducts encroaching 0.22 m, and a guard rail which extends 1.3 m onto the public right of way on the Snooker Street flank of 107 Atlantic Avenue.

COMMENTS

Applicable regulations

As there are no provisions within the former City of Toronto Municipal Code, Chapter 313, Streets and Sidewalks, to allow for the encroachment of the window sills, steel bars over the grade floor window, entrance to a loading dock, guard rail, eaves, security lights, security cameras, drain spouts, hydro meters, gas meters, gas conduits that are attached to the building wall and encroach within the public right of way, we are required to report to Community Council on this matter.

The maintenance of exhaust ducts and air conditioning units that encroach over the public right of way is considered under the criteria set out in the former City of Toronto Municipal Code, Chapter 313-50, Streets and Sidewalks, provided that a minimum

vertical clearance of 2.7 m from the grade is existing. As some of the exhaust ducts and the air conditioning unit do not meet this requirement, we are required to report to Community Council on this matter.

As the former City of Toronto Municipal Code does not provide for the maintenance of bollards and outward swinging doors which encroach upon the travelled portion of a laneway, we are required to report to Community Council on this matter.

Reasons for approval

Transportation Services has reviewed the application and determined that the encroachments do not impact negatively on the public right of way and they have been maintained on the building for many years with no conflicts and can be approved, subject to the owners entering in 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

Elio Capizzano, Supervisor, Right of Way Management
Telephone: 416-392-7878, Fax: 416-392-7465, E-mail: ecapizza@toronto.ca

SIGNATURE

Angie Antoniou
Manager, Right of Way Management

ATTACHMENTS

Appendix 'A' – photos

P:\2009\Cluster B\TRA\Toronto and East York\row\te09035te.row - gmh