

**Various Encroachments – 103 Grace Street**

<b>Date:</b>	September 23, 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>	Trinity-Spadina – Ward 19
<b>Reference Number:</b>	Te09077te.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 property owners to allow the maintenance of concrete steps, an iron fence 0.68 m in height surmounted on a concrete toe wall 0.28 m in height within the public right of way at 103 Grace Street.

Although the steps, iron fence and toe wall do not meet the required setback of 0.46 m under the former City of Toronto Municipal Code, they do not impact negatively on the right of way, Transportation Services recommends approval of these encroachments.

The owners 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 the iron fence 0.68 m in height surmounted on a concrete toe wall 0.28 m in height within the public right of way fronting 103 Grace 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 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;
  - d. pay a security tree deposit to Urban Forestry in the amount of \$1,396.00; 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; 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 103 Grace Street submitted an application requesting permission for the maintenance of an iron fence 0.68 m in height, surmounted on a concrete toe wall 0.28 m in height, immediately setback from the City sidewalk within the public right of way fronting 103 Grace Street.

Transportation Services has reviewed the request and determined that although the fence does not meet the required setback, it does not impact negatively on the public right of way. Transportation Services has no objection to the maintenance of the fence provided the owners submit a tree security deposit in the amount of \$1,396.00.

### **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, Streets and Sidewalks, 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 or a minimum of 2.1 m from the curb where no sidewalk is present.

There are provisions within the former City of Toronto Municipal Code, Chapter 313-50, Streets and Sidewalks, to allow for the maintenance of toe walls within the public right of way, provided they are set back 0.46 m from the rear edge of the City sidewalk.

### **Reasons for approval**

Notwithstanding that the iron fence and concrete toe wall do not meet the required setback of 0.46 m from the rear edge of the City sidewalk, Transportation Services has reviewed the request and determined that the encroachments do not impact negatively on the public right of way and can be permitted, provided that the owners enter into an encroachment agreement with the City of Toronto.

Details of the encroachment are on file with Transportation Services.

A photo of the property is shown on Appendix 'A'.

### **CONTACT**

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### **SIGNATURE**

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Angie Antoniou  
Manager, Right of Way Management

### **ATTACHMENTS**

Appendix 'A' - photo

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