



STAFF REPORT ACTION REQUIRED

Encroachment Agreement Request - KSD Enterprises Ltd. for Property Located at 655 Dixon Road

Date:	July 20, 2010
To:	Etobicoke York Community Council
From:	Helen C. Noehammer, P.Eng., Director, Development Engineering
Wards:	Ward 2
Reference Number:	P:\2010\Cluster B\TEC\EY10041 (AFS# 12607)

SUMMARY

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

The purpose of this report is to obtain authority from the Etobicoke York Community Council to document an Encroachment Agreement permitting KSD Enterprises Ltd. (the "Owner") to encroach on the City's watermain easement located at 655 Dixon Road with a proposed 525 mm private storm sewer (the "Services").

RECOMMENDATIONS

The Director, Development Engineering recommends that:

1. the Etobicoke York Community Council authorize the appropriate City Officials to document an Encroachment Agreement with the Owner on such terms and conditions as may be required by the Executive Director of Technical Services, including, but not limited to the following:
 - (a) The Owner prepare a Reference Plan which illustrates the location of the Services within the City's watermain easement;
 - (b) That the Owner indemnify the City against all claims for loss or damage which may occur to the proposed work as a result of a leak or break in the City's infrastructure. The Owner also indemnify the City against all claims for

loss or damage which may occur to the proposed Services for any future construction activity upon, or within the City easement, to repair, install, modify, or replace the existing City infrastructure by City staff or his contractors;

- (c) The Owner shall hold the City harmless for any and all damages or loss associated with future temporary closure of the parking stalls located within the easement to facilitate any maintenance or rehabilitation work within the easement;
- (d) The Owner will maintain the proposed Services in the condition as approved under the Site Plan Approval for the site in a state of good repair;
- (e) The Owner must revise Instrument No. EB288905 to reflect the current Reference Plan for the City's Easement which details all private encroachments, above and below grade, including the Land Registry Office's Parcel Register for this property. The Owner must submit documentation to the Technical Services Division staff demonstrating that this undertaking has been fully satisfied;
- (f) The Owner shall provide the City with a \$200,000.00 Letter of Credit as security for the repair of any damages that may occur to the City's infrastructure caused by the proposed Services. The City shall draw from the Letter of Credit to make the necessary repairs if the Owner fails to repair the damage to the satisfaction of the City.
- (g) The Owner shall provide a plan and profile engineering drawing of the existing City watermain and proposed private storm sewer. The drawing must contain the City Title Block, construction notes and details, refer City Design Standards were appropriate, to a scale of 1:200 horizontal and 1:100 vertical and be signed a Professional Engineer
- (h) The Owner shall provide the City within six months of completion of site servicing, as constructed drawings, including electronic versions, with as-built geo-referenced horizontal and vertical location of the proposed Services in a format satisfactory to the City. The as-constructed drawings shall be prepared and certified by a Professional Engineer or Ontario Land Surveyor.
- (i) The Owner shall be required to take out and keep in force or cause to be taken out and kept in force, until completion of the work, comprehensive general liability insurance, in a policy having a form and with limits satisfactory to the Treasurer, against claims for personal injury, death or property damage resulting from any accident or occurrence arising from the carrying out of the obligations of the Owner hereunder. Such insurance shall be at all times in an amount not less than \$5,000,000.00 per occurrence.

- (j) The Owner shall pay for inspection of the work by the City.
- (k) The Owner shall not assign, transfer, sublease, part with possession or dispose of all or part of this Encroachment Agreement or any privileges or interest as hereby granted to it without the prior written consent of the City which may be unreasonably or arbitrarily withheld, failing which the City shall be entitled to terminate this Easement Agreement.

FINANCIAL IMPACT

There are no financial implications.

DECISION HISTORY

There is no previous decision history.

ISSUE BACKGROUND

On June 13, 1964 the former Corporation of the Township of Etobicoke acquired an easement from the Province of Ontario registered as Instrument No. EB288905 for the operation and maintenance of a 300 mm watermain.

The current Owner has requested permission to encroach upon the City's easement in order to install the Services.

COMMENTS

Technical Services and Toronto Water staff is generally not supportive of encroachments on the City's sewer easements. However, given the nature of the request and the fact that no other locations are technically feasible, City staff have no objections. It is the City's intention to maintain the easement in a state of good repair. Should it become necessary to make repairs to the City's infrastructure, the City will not be held responsible for any damage caused to the Services.

The Owner's property is bisected by a Hydro One transmission corridor. The encroachment is located on the Owner's western property holdings. Should the owner sell the western property holdings the encroachment agreement may need to be terminated as each property is required to have its own service connections to City services. Currently, the proposed encroachment is an integral part of the storm sewer system which serves both the eastern and western portions of the Owner's property. The Encroachment Agreement and Site Plan Agreement will provide for removal of the encroachment, if necessary, should the ownership of the lands change.

CONCLUSIONS

This report has been prepared in consultation with Toronto Water staff and Toronto Water staff concur with this report's Recommendations, which would allow the encroachment, subject to the Owner satisfying the City's requirements detailed in the Recommendations.

CONTACT

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SIGNATURE

Helen C. Noehammer, P.Eng.
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ATTACHMENTS

Attachment '1' - Property Information Sheet – City Easement across 655 Dixon Road