



**STAFF REPORT
ACTION REQUIRED**

**Encroachment Agreement Renewal Request
388 Broadway Avenue**

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| Date: | April 1 , 2010 |
| To: | North York Community Council |
| From: | District Manager, Municipal Licensing and Standards, North York District |
| Wards: | Ward 25, Don Valley West |
| Reference Number: | IBMS No. 09-111761 |

SUMMARY

This staff report is about a matter that the Community Council has delegated authority to make a final decision, provided that it is not amended so that it varies with City policy or by-laws. The subject matter is an application for an encroachment agreement.

RECOMMENDATIONS

Municipal Licensing and Standards, North York District has received the necessary clearances for the renewal application to recommend that:

- 1. The North York Community Council approve the existing encroachment agreement for 388 Broadway Avenue, subject to the following conditions:**
 - a) That the owner(s) enter into an Encroachment Agreement with the City, to the satisfaction of the City Solicitor and the Executive Director of Municipal Licensing and Standards;
 - b) That the appropriate City Officials be authorized to take the necessary action to give effect thereto;
 - c) That no claims will be made against the City by the owner(s) for damages occurring to the area of the encroachment or its elements during snow removal;
 - d) The indemnification to the City by the owner(s) of the encroachment for all liability relating in any way to the encroachment and providing of an insurance policy for such liability for the lifetime of the Agreement in a form as approved

- by the City Solicitor, in an amount no less than \$2,000,000.00 or such greater amount as the City Solicitor may require;
- e) That the life of the Agreement be limited to 10 years from the date of registration on title or to the date of removal of the encroachment at which time, the City may consider the Agreement for further extension, if requested by the applicant;
 - f) In the event of sale or transfer of the property abutting the encroachment, Legal Services be authorized to extend the Encroachment Agreement to the new owner, subject to the approval of the Executive Director of Municipal Licensing and Standards;
 - g) The owner(s) pay all applicable fees.

FINANCIAL IMPACT

There is no financial impact anticipated resulting from the adoption of this report.

DECISION HISTORY

The application renewal for an existing encroachment was received from the property owner(s) in February 2009 and was circulated to Transportation Services.

ISSUE BACKGROUND

This single family detached home is in a seventh density (R7) zone located in the former City of North York (*Attachment 1*) and has been previously addressed by an Encroachment Agreement registered on title on March 4, 1998 as approved by North York Community Council.

The existing encroachment consists of steps, walkway, and retaining wall onto the City of Toronto right-of-way for a distance of approximately 4.48 meters or an area approximately 27 square meters.

COMMENTS

As this is an application for renewal and no additional alternations were made to the existing encroachment, the clearances that were provided by the utilities in the original application apply.

Transportation Services, Road Operations, North York District staff, as part of their review, have indicated that they have no objections as long the stones are secured where loose.

CONTACT

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SIGNATURE

Bryan Byng, District Manager
Municipal Licensing and Standards
North York District

ATTACHMENTS

1. Zoning map
2. Survey
3. Transportation photograph 388 Broadway Ave
– February 2, 2010 – view north fronting 388 Broadway Ave
4. Transportation photograph 388 Broadway Ave
– February 2, 2010 – view west of front yard
5. Transportation photograph 388 Broadway Ave
– February 2, 2010 – view of front yard deteriorating retaining wall
6. Transportation photograph 388 Broadway Ave
– February 2, 2010 – view front yard steps from driveway to home