



## **STAFF REPORT ACTION REQUIRED**

### **Encroachment Agreement Request 37 Kingsdale Avenue**

<b>Date:</b>	June 3, 2010
<b>To:</b>	North York Community Council
<b>From:</b>	District Manager, Municipal Licensing & Standards – North York District
<b>Wards:</b>	Ward 23 - Willowdale
<b>Reference Number:</b>	IBMS No. 10- 124970

### **SUMMARY**

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This staff report is about a matter for which the Community Council has delegated authority from City Council 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**

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**Municipal Licensing and Standards has received the necessary clearances to recommend that:**

- 1. The North York Community Council approve the encroachment application for 37 Kingsdale 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 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**

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There are no financial implications resulting from the adoption of this report.

## **DECISION HISTORY**

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In November 2009, a Notice of Violation was issued by Transportation Services to the owner of 37 Kingsdale Avenue regarding the excess paving of a driveway, chain-link fence and stone wall. In February 2010, an application for an encroachment agreement was submitted by the owner and was circulated to Transportation Services and the applicable utilities.

## **ISSUE BACKGROUND**

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The property is a detached single family dwelling located in a fourth density (R4) zone located in the former City of North York (*Attachment 1*). The property is located on the south-east corner of Doris Avenue and Kingsdale Avenue.

The encroachment consists of a low stone wall constructed sometime around 1941; two sets of stone stairs; as wooden planter box; flagstone walkway and a 1.2 metre chain link fence (*Attachment 2*). The applicant advises that the encroachments are the result of the relocation of Doris Avenue which took place in 1995 (*Attachment 3*).

## **COMMENTS**

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Utilities and Transportation Services have provided clearance letters indicating that they have no objections to the application.

**CONTACT**

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**SIGNATURE**

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

**ATTACHMENTS**

1. Zoning Map
2. Plan Details
3. North York Planting Plan