



## STAFF REPORT ACTION REQUIRED

### Encroachment Agreement Request 292 Hillmount Avenue

<b>Date:</b>	July 20, 2010
<b>To:</b>	North York Community Council
<b>From:</b>	District Manager, Municipal Licensing and Standards, North York District
<b>Wards:</b>	Ward 15 - Eglinton-Lawrence
<b>Reference Number:</b>	IBMS No. 10-163255

### SUMMARY

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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

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1. Municipal Licensing and Standards has not received the necessary clearances to recommend that the Encroachment Agreement request for 292 Hillmount Avenue be approved.

### FINANCIAL IMPACT

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

### DECISION HISTORY

The application for an existing encroachment was received from the property owner(s) in April 2010 and was circulated to Transportation Services, Forestry and the applicable utilities.

### ISSUE BACKGROUND

This single family detached home is in a sixth density (R6) zone located in the former City of North York (*Attachment 1*).

The existing encroachment consists of decorative border stone along both sides of the driveway, wrought iron fencing on top of a retaining wall beside the driveway, a walkway entering the driveway within the right of way, an irregular stone wall along the east property line and various bushes (*Attachments 2, 3 and 4*).

## **COMMENTS**

Transportation Services, Road Operations, North York District staff, as part of their review, have indicated that they object to decorative border curb stones, bushes and plants remaining within 2.1 metres of the curb.

The Forestry Division indicated that they have no objections.

Utilities have provided clearance letters indicating that they have no objections.

Should the recommendation not be accepted and the request approved, the conditions of approval should include:

- 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.

**CONTACT**

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**SIGNATURE**

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

**ATTACHMENTS**

1. Zoning map
2. Survey
3. Transportation photograph(s) 292 Hillmount Ave – May 13, 2010  
– facing north and east
4. Transportation photograph 292 Hillmount Ave – May 13, 2010  
– west curb