

**Various Encroachments – 3 Millbank Avenue**

<b>Date:</b>	April 6, 2010
<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>	St. Paul's -Ward 21
<b>Reference Number:</b>	Te10029te.row

**SUMMARY**

---

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 agent of the owners of 3 Millbank Avenue to install various encroachments within the public right of way fronting 3 Millbank Avenue, which include a glycol heating system within the driveway, a wrought iron fence, automated gates, and key pad pedestal.

Although the fence and gates exceed the allowable height under the Municipal Code, they will not impact negatively on the public right of way. Also the key pad pedestal and glycol heating system within the driveway will not impact negatively on the public right of way; therefore Transportation Services recommends approval of these encroachments.

**RECOMMENDATIONS**

---

**Transportation Services recommends that Toronto and East York Community Council:**

1. approve the installation and maintenance of a wrought iron fence, automated gates, key pad pedestal and glycol heating system that will encroach within the public right of way fronting 3 Millbank Avenue, subject to the 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 wrought iron fence, automated gates, key pad pedestal and glycol heating system 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. obtain approval for associated work on private property from Toronto Building;
  - d. pay for the costs of preparing the Agreement and the registration of the Agreement on title;
  - e. remove the encroachments upon receiving 90 days written notice to do so; and
  - f. 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; and
  3. request Legal Services to prepare and execute the Encroachment Agreement.

### **Financial Impact**

There is no financial impact to the City as a result of this report.

### **ISSUE BACKGROUND**

The agent of the owners of 3 Millbank Avenue has requested permission to install and maintain various encroachments within the public right of way fronting 3 Millbank Avenue.

The encroachments consist of a glycol heating system within the driveway, a 1.52m high wrought iron fence with 1.83m high automated gates, and a 1.17m high key pad pedestal to operate the automated gates, within the public right of way fronting 3 Millbank Avenue.

### **COMMENTS**

## **Applicable regulation**

The construction and maintenance of fences within the public right of way are governed under criteria set out in the former City of Toronto Municipal Code Chapter 313, which provides for fences to be constructed to a maximum height of 1.0m fronting the property, if they are neither hazardous nor unsightly in appearance.

As there are no provisions within the former City of Toronto Municipal Code, Chapter 313, Streets and Sidewalks, for the glycol heating system, key pad pedestal, and automated gates within the public right of way, we are required to report to Community Council on this matter.

## **Reasons for approval**

Transportation Services has reviewed the request and determined that the installation of the wrought iron fence, automated gates, key pad pedestal, and glycol heating system will not impact negatively on the public right of way.

Details of the encroachment are on file with Transportation Services.

A photo of the property is shown on Appendix 'A'. The applicant's landscape proposal is shown on Appendix 'B'.

## **CONTACT**

Elio Capizzano, Supervisor, Right of Way Management  
Tel: 416-392-7878, Fax: 416-392-7465, E-mail: [ecapizza@toronto.ca](mailto:ecapizza@toronto.ca)

## **SIGNATURE**

---

Angie Antoniou  
Manager, Right of Way Management

## **ATTACHMENTS**

Appendix 'A' – Photo  
Appendix 'B' – Landscape Proposal

P:\2009\Cluster B\TRA\Toronto and East York\row\te10029te.row - mc