



## STAFF REPORT ACTION REQUIRED

### Garbage Storage Area – 390 Danforth Avenue

<b>Date:</b>	June 1, 2010
<b>To:</b>	Toronto and East York Community Council
<b>From:</b>	Manager, Right of Way Management, Transportation Services
<b>Wards:</b>	Toronto Centre-Rosedale – Ward 29
<b>Reference Number:</b>	Te10061te.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 owner of 390 Danforth Avenue to maintain a fence in connection with a garbage storage area which will encroach within the public right of way on the Chester Avenue flank of 390 Danforth Avenue.

Given the maintenance of the fenced in garbage storage area will not impact negatively on the public right of way, Transportation Services recommends approval of the encroachment.

#### RECOMMENDATIONS

---

**Transportation Services recommend that City Council:**

1. approve the request to maintain the fenced in garbage storage area within the public right of way, subject to the property owner 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, cost, damages and expenses that may result from such permission granted and providing an insurance policy for such liability for the life time of the Agreement in a form as approved by the Deputy City Manager and Chief Financial Officer and in an amount not less than

\$2,000,000 or such greater amount as the Deputy City Manager and Chief Financial Officer may require;

- b. maintain the fence at their own expense in good repair and a condition satisfactory to the General Manager of Transportation Service 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 the Toronto Building;
  - d. pay for the costs of preparing and registration of the agreement on title; and
  - e. accept such additional conditions as the City Solicitor or the General Manager of Transportation Services may deem necessary in the interest of the City,
2. direct Legal Services and/or the General Manager of Transportation Services to extend the Encroachment to the new owner, in the event of sale or transfer of the property abutting the encroachments, subject to the approval of the General Manager of Transportation Services; and
  3. request Legal Services to prepare, execute and arrange to register the Encroachment Agreement on title.

### **Financial Impact**

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

### **ISSUE BACKGROUND**

The agent on behalf of the owner has submitted an application requesting permission to maintain the fence enclosing a garbage storage area immediately back of the sidewalk within the public right of way on Chester Avenue flank of 390 Danforth Avenue.

The enclosed area measures approximately 3.7 m by 2.6 m and is accessible from the building. The wood fence enclosing the space is approximately 2.0 m high with an additional access door to Chester Avenue. The installation is set back 1.05 m from the back edge of the sidewalk and is consistent with the existing patio area of the restaurant.

The property owner feels that the enclosure is necessary in that there is no lane way space for use and that this current arrangement is the only way they are able to store garbage in a clean and safe manner. Additionally, they are bounded by the property line along Chester Avenue which is situated at the building wall. The tenant of the building currently employs a private company to collect the garbage and recyclables on a daily

basis. The encroachment has existed for quite some time now without incident or complaints from both pedestrians and restaurant patrons.

## **COMMENTS**

### **Applicable regulation**

As there are no provisions within the former City of Toronto Municipal Code Chapter 313, Streets and Sidewalk, to allow for the maintenance of the fence enclosing a garbage storage area, we are required to report to Community Council on this matter.

### **Reasons for approval**

Transportation Services has reviewed the request and determined that the encroachment is minimal and the maintenance of the fenced in garbage storage area will not impact negatively on the public right of way.

Details of the encroachment are on file with Transportation Services.

Photos of the property are shown on Appendix 'A'.

## **CONTACT**

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

## **SIGNATURE**

---

Angie Antoniou  
Manager, Right of Way Management

## **ATTACHMENTS**

Appendix 'A' – photos of enclosure

P:\2010\Cluster B\TRA\Toronto and East York\row\te10061te.row - ss