Application to Encroach on Toronto Water Storm Easement at 5533 Steeles Avenue West

Date: December 10, 2012
To: Etobicoke York Community Council
From: Helen C. Noehammer, P.Eng., Director, Development Engineering
Wards: Ward 07 York West
Reference Number: P:\2012\Cluster B\TEC\EY12040 (AFS #19649)

SUMMARY

This staff report is regarding a matter for which the Etobicoke York 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 Policies or By-Laws.

The purpose of this report is to obtain Etobicoke York Community Council's authority to negotiate and enter into an Encroachment Agreement permitting Divana Holdings Inc. (the "Owner(s)"") to encroach on the City’s storm sewer easement located at 5533 Steeles Avenue West for the purpose of installing a 300 mm private storm service connection to the existing 600mm storm sewer (the "Services").

RECOMMENDATIONS

The Technical Services Division recommends that:

1. The appropriate City Officials be authorized and directed to negotiate and enter into an Encroachment Agreement with the Owner on such terms and conditions as may be required by the General Manager of Toronto Water and the City Solicitor;

2. The Owner shall indemnify the City against all claims for loss or damage which may occur to the sewer as a result of the Encroachment. The Owner shall also indemnify the City against all claims for loss or damage which may occur to the Encroachment as a result of any future construction activity upon, or within the City easement, to repair, install, modify, or replace the existing sewer by City staff or its contractors.
3. The appropriate City officials be authorized and directed to take the necessary action to give effect thereto;

4. In the event of sale of transfer of the Property, Legal Services be authorized to extend the Encroachment agreement to the new Owner(s), subject to the approval of the General Manager, Toronto Water;

5. The Owner shall provide the City in the form of a Letter of Credit equivalent to One Hundred and Twenty Percent (120%) of the cost of the project, as security to ensure the Services are constructed in accordance with specifications and to the satisfaction of the City. The Letter of Credit may also be used to reimburse the City for the repair and inspection of any damages that may occur to the City's infrastructure caused by the proposed Services.

6. The Owner shall be required to take out and keep in force or cause to be taken out and kept in force, until completion of the work, comprehensive general liability insurance, in a policy having a form and with limits satisfactory to the Treasurer, against claims for personal injury, death or property damage resulting from any accident or occurrence arising from the carrying out of the obligations of the Owner hereunder. Such insurance shall be at all times in an amount not less than $5,000,000.00 per occurrence.

7. The registered Owner(s) shall be responsible for any and all additional future costs associated with repairs and/or re-lining of the sewer should it become necessary as as result of the Encroachment;

8. The Owner to pay all applicable fees, including, but not limited to a legal administration fee of $564.72 plus HST.

FINANCIAL IMPACT

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

ISSUE BACKGROUND

On June 4, 1969 the former Corporation of the Borough of North York acquired an easement from the Province of Ontario registered as Instrument No. NY559877 for the operation and maintenance of a 600 mm storm sewer located on the south side of the property municipally identified as 5533 Steeles Avenue West (Attachment 1).

In conjunction with a site plan application (# 11 138235 WET 07 SA), the current Owner has requested permission to encroach upon the City's easement in order to install the proposed 300mm storm sewer connection. The proposed storm connection is required to satisfy the requirements of the City's Wet Weather Flow Management Guidelines.
COMMENTS

Technical Services and Toronto Water staff is generally not supportive of encroachments on the City's sewer easements. However, given the nature of the request and the fact that Toronto Water will not allow a connection to the existing 2,100mm diameter storm trunk sewer on Steeles Avenue West, City staff has no objections to the proposed encroachment subject to the Owner entering into an Encroachment Agreement on the terms and conditions satisfactory to the General Manager of Toronto Water and the City Solicitor. It is the City's intention to maintain the easement in a state of good repair. Should it become necessary to make repairs to the City's infrastructure, the City will not be held responsible for any damage caused to the proposed service connection.

CONTACT

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SIGNATURE

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Attachment:

Property Information Sheet – City Easement Across 5533 Steeles Avenue West