Application to Encroach on Toronto Water Sewer Easement Located at 27 Dacre Crescent

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<td>To:</td>
<td>Etobicoke York Community Council</td>
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<td>From:</td>
<td>Michael D'Andrea, Director, Water Infrastructure Management</td>
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**SUMMARY**

To obtain Community Council’s authority to negotiate and enter into an Encroachment Agreement with the registered owner of the Property (the “Owner(s)”) to permit the Owner’s wooden deck (the "Encroachment") to encroach on the City’s sewer easement (the "sewer") located on the Property.

**RECOMMENDATIONS**

Toronto Water staff recommends that the Encroachment Application be approved, subject to the following conditions:

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

2. The Owner(s) 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(s) 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 sewer to repair, install, modify, or replace the existing sewer by the City 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 or 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(s) shall pay all additional applicable fees, including, but not limited to a "one time" fair market land appraisal fee of $24,300.00, net and a legal administration fee of $564.00 plus HST.

FINANCIAL IMPACT

There are no financial implications.

ISSUE BACKGROUND

In 1950, the City (The Village of Swansea) acquired an Easement Agreement by Instrument No. 479263 for the purpose of installing and maintaining a storm and sanitary sewer along the southerly twelve feet of the Property (Attachment). Toronto Water staff ("Staff") have become aware that a wooden deck encroaches within the City easement. The total area of encroachment is 30 square metres. Staff are willing to allow the Encroachment to remain provided that the Owner(s) enters into an Encroachment Agreement with the City.

COMMENTS

Toronto Water staff are generally not supportive of encroachments onto sewer easements. However, staff are agreeable to the encroachment remaining subject to the Owner(s) of the Property entering into an Encroachment Agreement on the terms and conditions satisfactory to the General Manager of Toronto Water and the City Solicitor. Should it become necessary to make repairs to the sewer, the Owner(s) acknowledge that the City will not be held responsible for any damage caused to the Encroachment.

In addition, the property owner has occupied 30 square metres of land for which the City of Toronto has easement rights. Therefore, a fair market appraisal was undertaken and determined the encroachment value to be $24,300.00 net.

CONTACT

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SIGNATURE

Michael D'Andrea, M.E.Sc., P.Eng
Director, Water Infrastructure Management
Toronto Water

Attachment: City easement crossing 27 Dacre Crescent

Staff report for action on Encroachment Agreement Request – 27 Dacre Crescent