

City of Mississauga

# Corporate Report



<p>Date: May 26, 2022</p> <p>To: Chair and Members of General Committee</p>	<p>Originator's files: PO.16.CHE</p>
<p>From: Shari Lichterman, CPA, CMA, Commissioner of Corporate Services and Chief Financial Officer</p>	<p>Meeting date: June 15, 2022</p>

## Subject

**Authorization to enter into an Encroachment Agreement, City-owned lands adjacent to 6131 Cheega Court (Ward 9)**

## Recommendation

1. That the Commissioner of Corporate Services and Chief Financial Officer and the City Clerk, be authorized to execute an Encroachment Agreement (the "Agreement"), including all ancillary documents and subsequent amending and extension agreements, between The Corporation of the City of Mississauga (the "City") and Kimberly Hanson and Winston Hanson (the "Hanson's"), on terms detailed herein and in a form and content satisfactory to the City Solicitor as outlined in the corporate report dated May 26, 2022 from the Commissioner of Corporate Services and Chief Financial Officer entitled "Authorization to enter into an Encroachment Agreement, City-owned lands adjacent to 6131 Cheega Court".
2. That the Parks, Forestry Inspection fee, as set out in the City of Mississauga User Fees and Charges By-Law 0247-2021, in the amount of \$714.94, be waived.
3. That all necessary by-laws be enacted.

## Executive Summary

- At its meeting of May 15, 2019, by Recommendation GC-0263-2019, Council directed that staff work with Legal Services to enter into an encroachment agreement with the resident located at 6131 Cheega Court and that the agreement come back to General Committee for approval.
- The Agreement is to permit the use of city-owned lands for certain structures and improvements described as a chain link fence, timber retaining wall, lattice, garden edge pavers and shed.

- The Agreement is for a term of 5 years, commencing June 1st, 2022 and ending May 31, 2027 and the annual encroachment fee is in the amount of \$500 plus HST and payable on each anniversary date.

## Background

The City-owned lands are described under the *Land Titles Act* as PIN 13130-0059 (LT), legally described as Block 19, Plan 43M-496, subject to LT18864, and the *Land Titles Act* as PIN 13130-0062 (LT), legally described as Block D and H, Plan M-44, subject to LT18864 and LT23147 (the “City-owned Lands”), City of Mississauga, Regional Municipality of Peel, in Ward 9.

In 2013, the residents of 6131 Cheega Court (the “Property”) applied for and were denied an encroachment agreement to permit a shed, wood retaining wall and chain link fence on the City-owned Lands. The Property backs on to Lake Wabukayne Park and the area of encroachment falls within the ME12 (Meadowvale) area of the Mississauga Natural Areas Survey (NAS), classified as a Significant Natural Site and contributes to linkage function of Mullett Creek and is within Credit Valley Conservation (“CVC”) regulated area which prohibits development and altering of watercourse and wetlands.

By report dated April 16, 2019, the Commissioner of Community Services presented a report to the May 15, 2019 meeting of General Committee, for information. At its meeting of May 15, 2019, by Recommendation GC-0263-2019, Council directed that staff work with Legal Services to enter into an encroachment agreement with the resident located at 6131 Cheega Court and that the agreement come back to General Committee for approval.

## Comments

The encroachment involves a total area of approximately 160.88 square metres (1,731.70 square feet) (the “Encroachment Area”).

In accordance with the Encroachment By-Law, the encroachment fee is calculated based on the market value of the Encroachment Area. The City-owned Lands are zoned Greenbelt lands and accordingly, the market value of the Encroachment Area is the minimum amount of \$500, plus HST, per annum.

The Agreement grants the Hanson’s permission to maintain and use within the Encroachment Area, as shown on Appendix 2 attached hereto, certain structures and improvements described as a chain link fence, timber retaining wall, lattice, garden edge pavers and shed on the following terms and conditions:

- The Agreement is for a term of 5 years, commencing June 1<sup>st</sup>, 2022 and ending May 31, 2027

- The annual encroachment fee is in the amount of \$500 plus HST and payable on each anniversary date
- The encroachment area is not to be enlarged or altered without the prior written consent of the City
- The Hanson's are permitted to install plantings within the encroachment area, upon obtaining the City's prior written consent
- The Hanson's are to maintain the encroachment area in a good state of repair at their sole cost and expense
- General liability insurance to be secured naming the City as an additional insured on the Hanson's home insurance policy
- The Agreement will be registered on title to the Property.

Pursuant to User Fees & Charges By-Law 0247-2021, a per hour fee, per inspection is payable by the Hanson's. Forestry staff inspected the Property on a number of occasions, and the inspection fees payable by the Hanson's is estimated at \$714.94, plus HST, approximately. The Hanson's are not in agreement with the number of inspection's undertaken and have requested that the inspection fee be waived. As set out in Encroachment By-Law 0057-2004, as amended, the Commissioner of Community Services has delegated authority to "impose such terms and conditions to any application and/or encroachment agreement as the Commissioner may deem appropriate". The Commissioner of Community services supports that the inspection fee be waived, in this case.

In addition to payment of the annual encroachment fee in the amount of \$500.00, plus HST, the Hanson's are responsible for payment of the legal fee for preparation of the encroachment agreement, in the amount of \$859, plus HST and \$77.31, representing the Teraview Registration fee for registration of the Agreement on title to the Property.

Community Services and Legal Services staff have reviewed the terms of the Agreement and have expressed no concerns with the terms outlined therein.

## Financial Impact

The annual encroachment fee in the amount of \$500, plus HST shall be deposited to the Fees General, Work Utilities Inspector account number 525710-24347. The Legal fees in the amount of \$859, plus HST shall be deposited to the Legal Services Fees account number 525105-22705.

This report recommends that the Forestry Inspection fee in the amount of \$714.94, plus HST, be waived.

## Conclusion

That in accordance with Encroachment By-Law 0057-2004, as amended, it is appropriate to enter into an Encroachment Agreement with the Hanson's to formalize the use of City-owned Lands to permit a chain link fence, timber retaining wall, lattice, garden edge pavers and shed, and to register the Agreement on title.

## Attachments

Appendix 1: Approximate Location of the subject property

Appendix 2: Sketch illustrating the Encroachment Area



Shari Lichterman, CPA, CMA, Commissioner of Corporate Services and Chief Financial Officer

Prepared by: Susy Costa, Project Leader, Realty Services, Corporate Business Services