

Date: 2020-09-01

Subject: **Execution of Encroachment Agreement**

Secondary Title: **Execution of Encroachment Agreement with the Coptic Orthodox Patriarchate of Alexandria the Church of Archangel Michael and Saint Tekla, 12061 Hurontario Street, – Ward #6 (Escribe# Community Services-2020-131 and Realty File #EN10104)**

Contact: Kristine Thususka, Senior Real Estate Coordinator, 905-874-2985

Report Number: Community Services-2020-131

Recommendations:

1. That the report titled: **Execution of Encroachment Agreement with the Coptic Orthodox Patriarchate of Alexandria the Church of Archangel Michael and Saint Tekla, 12061 Hurontario Street, – Ward #6 (Escribe# Community Services-2020-131 and Realty File #EN10104)**, to the October 7, 2020 Committee of Council Meeting, be received; and
2. That a By-law be passed to authorize the Commissioner of Public Works and Engineering to execute an Encroachment Agreement with the Coptic Orthodox Patriarchate of Alexandria the Church of Archangel Michael and Saint Tekla for the purposes of allowing an encroachment, composed of the front entrance stairs, landing, railing and roof eaves, to remain on City owned right-of-way for a term that may exceed 21 years on terms and conditions acceptable to the Commissioner of Public Works and Engineering and in a form acceptable to the City Solicitor or designate.

Overview:

- **The Coptic Orthodox Patriarchate of Alexandria the Church of Archangel Michael and Saint Tekla (the “Church”) is the owner of 12061 Hurontario Street, as shown outlined on Schedule “A”, and has applied through Site Plan Application SP07-030.001 (“Site Plan Application”) to redevelop its lands.**

- **The Church's lands are designated under Part IV of the *Ontario Heritage Act* due to the presence of the historic Snelgrove Baptist Church (the "Heritage Building").**
- **A condition of approval of the Site Plan Application requires that the Church convey to the City a portion of their lands fronting on Hurontario Street, which is located immediately adjacent to the Heritage Building. As a result of this condition, upon the conveyance of that portion of land, a part of the Heritage Building (namely the front entrance stairs, landing, railing and roof eaves) will become an encroachment on City owned right-of-way (the "Encroachment").**
- **In order to permit the Encroachment a further condition of approving the Site Plan Application requires that the Church enter into an Encroachment Agreement with the City.**
- **The Administrative Authority By-law (No. 216-2017), as currently written, delegates authority to staff to execute Encroachment Agreements, provided that the term of said agreements is less than 21 years. In this instance, the Church is requesting that the standard template term that limits the agreement to a term of 21 years is deleted given the unique circumstances and nature of the Encroachment. Therefore, authority from Council will be necessary in order to execute the Encroachment Agreement with the Church as the term of the agreement may extend beyond 21 years.**

Background:

In 2009, the Church applied through site plan application SP07-030 to complete the construction of the Church. A condition of approving that site plan application required that the Church convey to the City a portion of their lands fronting on Hurontario Street, which is located immediately adjacent to the Heritage Building, for road widening purposes.

The Church has since submitted the Site Plan Application for the purpose of building a recreational facility on the Church lands. The Church has not yet conveyed a portion of their lands fronting on Hurontario Street and City staff is requesting that such a conveyance be required as part of approving the Site Plan Application.

Upon the Church conveying the portion of their lands fronting on Hurontario Street, a part of the Heritage Building, namely the front entrance stairs, landing, railing and roof eaves, will encroach on City lands. In order to permit the Encroachment, staff as part of the site plan process, is requiring the Church to execute an Encroachment Agreement.

Current Situation:

Staff have been negotiating with the Church to enter into an Encroachment Agreement on terms and conditions satisfactory to both parties. Given the nature of the Encroachment, the Church has requested that the standard term in the Encroachment Agreement that speaks to the agreement being terminated after 21 years be deleted. Staff is supportive of this request by the Church as the Encroachment belongs to the Heritage Building which the City has an interest in preserving.

Removing the 21 year standard term from the Encroachment Agreement results in an agreement which may last longer than 21 years and this exceeds staff's authority as provided for in the Administrative Authority By-law.

Corporate Implications:

Financial Implications

There are no financial implications in connection with the recommendations of this report.

Other Implications:

Planning and Development Services- is supportive of the Encroachment Agreement

Public Works and Engineering- is supportive of the Encroachment Agreement.

Corporate Services – Legal Services – will review and approve as to form any documents necessary to effect the Encroachment Agreement.

Strategic Plan:

This report achieves the Strategic Plan priorities of Good Government by Practicing proactive, effective and responsible management of municipal assets and services.

Living the Mosaic – 2040 Vision

This report has been prepared in full consideration of the overall vision that the people of Brampton will 'Live the Mosaic.'

Conclusion:

Staff recommends the following:

1. That the Commissioner of Public Works and Engineering be authorized, to execute an Encroachment Agreement with the Coptic Orthodox Patriarchate of Alexandria the Church of Archangel Michael and Saint Tekla for the purposes of allowing an encroachment, composed of the front entrance stairs, landing, railing and roof eaves to remain on City owned right-of-way for a term which may exceed 21 years.

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Attachments:

Schedule "A" – The Church – Google Location Aerial Map