



OAKVILLE

## REPORT

COMMUNITY SERVICES COMMITTEE

MEETING DATE: DECEMBER 14, 2010

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**FROM:** Department of Engineering and Construction

**DATE:** November 5, 2010

**SUBJECT:** Encroachment Agreement - 159 Lakeshore Road East

**LOCATION:** 159 Lakeshore Road East

**WARD:** 3

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### RECOMMENDATION:

1. That the request by Kriseba Investments Limited to enter into an encroachment agreement for the property at 159 Lakeshore Road East with the Town of Oakville to the satisfaction of the Town's Solicitor, as detailed in the report from the Department of Engineering and Construction, dated November 5, 2010, be approved; and
2. That the Mayor and Clerk be authorized to execute an encroachment agreement with the owners of 159 Lakeshore Road East.

### KEY FACTS:

The following are the key points for consideration with respect to this report:

- Existing structure at 159 Lakeshore Road East was built in the early 1900s and has received a heritage designation on the existing historical structure (Heritage Permit Application HP09/10-42.20L).
- The eaves of the existing structure over hang the municipal right of way by approximately 0.2 metres.
- This encroachment is minor and does not pose a hazard to the public or users of the road allowance.
- The encroachment agreement would be registered on title and would remain for the life of the structure.

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## **BACKGROUND:**

The existing structure at 159 Lakeshore Road East was built in the early 1900's with the existing eaves overhanging the municipal right of way (ROW) by approximately 0.2 metres. The current owner of 159 Lakeshore Road East (Kriseba Investments Ltd.) has received heritage approval (HP09/10-42.20L) for partial demolition, addition and alterations to the existing building. During the site plan application process, it was discovered that the existing eaves encroach within the municipal right of way. The applicant, as a condition of site plan, was required to formalize this encroachment on the town's ROW.

The owner has requested Council's consideration of entering into an encroachment agreement to permit the eaves to remain in place on the historical portion of the existing building.

## **COMMENT/OPTIONS:**

Staff has reviewed the encroachment and finds it minor in nature and that it does not pose a hazard to the public. Staff has no concerns with allowing this encroachment to remain with the proviso the encroachment is formalized through a legal agreement wherein the town's interests in the lands are preserved and the liability with respect to the encroachment clearly rests with the owner. The encroachment agreement would be registered on title and would remain for the life of the structure. Any proposed future structural modification of the building would require the owner to remove the encroachment.

The town will further retain the right to require the owner to remove the encroachment at any time, should the need arise. The owner will bear all costs associated with the removal of the encroachment.

Should Council not approve the request for an encroachment agreement, the owner will be required to remove the encroachment at their expense.

## **CONSIDERATIONS:**

### **(A) PUBLIC**

The approval or disapproval of this report and its recommendations does not impact the public.

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**(B) FINANCIAL**

The applicant(s) will pay all costs associated with the development, approval and registration of the encroachment agreement should Council approve the request.

Should Council not approve the request for an encroachment agreement, the costs associated with the removal of the encroachment will be borne by the owner.

**(C) IMPACT ON OTHER DEPARTMENTS & USERS**

The encroachment, if approved, does not pose a hazard to the public, nor is it known to conflict with any existing or planned work in this area. The presence of this encroachment does not interfere with the delivery of municipal services or the services provided by any third party utility or authority that operates within the road allowance.

The Legal Department will prepare the encroachment agreement and ensure its registration on title.

**(D) CORPORATE AND/OR DEPARTMENT STRATEGIC GOALS**

This report addresses the corporate strategic goal to:

- be accountable

**(E) COMMUNITY SUSTAINABILITY**

This report and its recommendations are for the sole benefit of the owner and prospective owner of 159 Lakeshore Road East and does not affect the sustainability of the broader community.

**APPENDICES:**

- Appendix A: Letter of Request  
Appendix B: Survey  
Appendix C: Location Map  
Appendix D: Photo of Encroachment

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