

## Background

Over the past several years the City has at one-time entered into right-of-way residential boulevard leases with six different residential property owners. Only one of these leases has not expired. The lease area is adjacent to the home owner's property allowing for a private fence to be on public right-of-way.

The lease terms typically included the following:

- A term of five years.
- The ability of the City or property owner to end the lease by providing thirty days notice.
- The fence must not be taller than one metre.
- The fence must not impact sight distances at intersections.

Council Policy C07-016, Lease of City Boulevards went into effect on May 17, 2004, and governs the leasing of public right-of-way for residential property owners to gain additional yard enclosed by a fence. The policy stipulates that:

- The fence shall not be closer than 1.2 metres from a sidewalk, or 2.7 metres from a curb if there is no sidewalk.
- The lease fees are 7% of the assessed land value of the adjacent property.
- Front and side fences shall not exceed 1.0 metre, and rear fences shall not exceed 2.0 metres.

It is important to note that in all six residential leases the policy stipulations were not being met with regards to either location of the fence, or height of the fence.

There are many instances of encroachment into public right-of-way by adjacent property owners enabling private use of public right-of-way. Examples include fences, sheds, trees or shrubs and landscaping. A high level estimate was completed with a range of 600 to 800 encroachments occurring throughout the City.

The typical situation that faces the Administration, Council members, and property owners is:

- A property owner, either knowingly or unknowingly, constructs or purchases a home, with a fence that is encroaching on the public right-of-way.
- A complaint from the public is received.
- The Administration investigates and advises the property owner to move their fence off the public right-of-way.
- The property owner learns of the residential boulevard lease policy and requests an agreement.
- The Administration denies the request as historically: the neighbourhoods have resisted the request due to not wanting to lose green space nor create uneven fence-lines; and a strong sense of land ownership is developed if a lease is entered into. This premise of land ownership being developed is strongly supported by the reaction of the six property owners.

This results in frustration for everyone involved, and the retirement of the policy allowing residential boulevard lease program would benefit all by providing clear direction on use of the public right-of-way.