THE CORPORATION OF THE CITY OF PETERBOROUGH

BY-LAW NUMBER 13-159

BEING A BY-LAW TO AUTHORIZE THE EXECUTION OF AN ENCROACHMENT AGREEMENT FOR LANDS MUNICIPALLY KNOWN AS 485 CHAMBERLAIN STREET, IN THE CITY OF PETERBOROUGH

THE CORPORATION OF THE CITY OF PETERBOROUGH BY THE COUNCIL THEREOF HEREBY ENACTS AS FOLLOWS:

That the Mayor and Clerk be hereby authorized to execute an Encroachment Agreement with respect to the encroachment of an existing front porch and roof located at 485 Chamberlain Street, which said encroachment is on the lands described as Chamberlain Street, in the City of Peterborough, in the form attached hereby as Schedule “A”, and to affix the Seal of the Corporation thereto.

By-law read a first, second and third time this 12th day of November, 2013.

(Sgd.) Daryl Bennett, Mayor

(Sgd.) John Kennedy, City Clerk
AGREEMENT made this 29th day of October, 2013

BETWEEN:

THE CORPORATION OF THE CITY OF PETERBOROUGH
defined hereinafter referred to as the “City”,

- and –

DONALD LLOYD ORRELL
RUBY CHARLENE ORRELL
JOHN ANDREW ORRELL

defined hereinafter jointly and severally referred to as the “Licencee”

WHEREAS the Licencee are the registered owners of the lands and premises known municipally as 485 CHAMBERLAIN STREET, in the City of Peterborough, in the County of Peterborough, and being more particularly described in Schedule “A” attached hereto;

AND WHEREAS part of the buildings and structures erected on the said lands encroach over City owned lands in the City of Peterborough, known as Chamberlain Street, which encroachments are described in Schedule “B” attached hereto (hereinafter referred to as the “Encroachment”);

AND WHEREAS the Licencee has requested permission from the City to establish and maintain the Encroachment, on the terms and conditions hereinafter set in the position described in Schedule “B” attached hereto, during the lifetime of the building;

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the premises and of the covenants, hereinafter contained on the part of the Licencee to be observed, fulfilled and performed, the City hereby grants to the Licencee permission to maintain the Encroachment, upon the following terms and conditions:

1. The Licencee shall maintain the Encroachment in a good and workmanlike fashion and shall comply in all respects with the provisions of the Building Code Act, all by-laws of the City, and any other applicable regulations or reasonable direction from the City.

2. The Licencee acknowledges and agrees that the permission granted by the City to maintain the encroachment is at the sole risk of the Licencee. The Licencee agrees to indemnify and save harmless, the City against all actions, suits, claims and demands, which may be brought against or made upon the City and against all loss, costs, damages, charges, or expenses whatsoever which may be sustained, incurred or paid by the City in consequence of the Encroachment, or otherwise by reason of the exercise by the Licencee of the permission hereby granted to maintain the Encroachment. The Licencee hereby grants to the City full power and authority to settle any action, suit, claim or demand on such terms as the City may deem advisable and hereby covenants and agrees with the City to pay to the City, on demand, all monies paid by the City in pursuance of any such settlement and also such sum which shall represent the reasonable cost to the City, or its solicitor, in defending or settling any action, suit, claim or demand. This Agreement shall not be alleged as a defence by the Licencee in
any action, by any person, for actual damage suffered by reason of the permission hereby granted to maintain the Encroachment.

3. The Licencee agrees to maintain in full force and effect property damage and public liability insurance, naming the City as an additional named insured, and with a cross liability endorsement in the minimum amount of Two Million Dollars ($2,000,000.00) per occurrence. Concurrent with the execution of this agreement, and on every anniversary date thereafter, the Licencee shall provide the City with a Certificate of Insurance confirming the existence of the above noted insurance coverage.

4. The Licencee acknowledges and agrees that, should the City require the use, for public purposes, the lands upon which the Encroachment is located, the Licencee shall, upon sixty (60) days written notice from the City, remove or relocate the encroachment, and then reinstate the encroachment, to the satisfaction of the City all at the sole expense of the Licencee.

5. This Agreement shall enure to the benefit of, and be binding upon, the parties hereto, their respective heirs, executors, administrators, successors and assigns.

IN WITNESS WHEREOF the parties hereto have hereunto set their respective hands and seals.

SIGNED, SEALED AND DELIVERED ) THE CORPORATION OF THE
in the presence of: ) CITY OF PETERBOROUGH

Daryl Bennett, Mayor

John Kennedy, Clerk

Witness ) DONALD LLOYD ORRELL

Witness ) RUBY CHARLENE ORRELL

Witness ) JOHN ANDREW ORRELL
SCHEDULE A

Legal Description

PART LOT 5 PLAN 43 PETERBOROUGH, DESIGNATED AS PART 1 ON 45R5012; PETERBOROUGH
SCHEDULE B

(Diagram/drawing/survey showing location of Encroachments filed with Legal Services)

The Drawings/Plans which illustrate the encroachments are as follows:

1. Reference Plan 45R-5012;
2. Schedule "B" showing existing front porch and roof encroachment on Chamberlain Street.