The Corporation of the City of Peterborough

By-Law Number 15-049

Being a By-law to authorize the execution of an Encroachment Agreement for lands municipally known as 665 Aylmer Street North, in the City of Peterborough

Now Therefore, The Corporation of the City of Peterborough by the Council thereof hereby enacts as follows:

1. That the Mayor and Clerk be hereby authorized to execute an Encroachment Agreement to permit the stairway reconstruction and maintain the encroachment, which said encroachment is on the lands described as Aylmer 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 23rd day of February, 2015.

(Sgd.) Daryl Bennett, Mayor

(Sgd.) John Kennedy, City Clerk
ENCROACHMENT AGREEMENT made this 3rd day of October, 2014.

BETWEEN:

THE CORPORATION OF THE CITY OF PETERBOROUGH
(the "City")

and

DAVID VICTOR FINN and
MICHELLE JEANNINE FINN
(the "Licencee(s)"

WHEREAS the Licencee's are the owners of the lands described in Schedule A, which lands abut the public road allowance Aylmer Street owned by the City (the "Lands");

AND WHEREAS the Licencee's applied for permission to make use of a portion of the Lands, as hereinafter set forth, and City Council agreed to authorize the execution of a license agreement to permit the stairway reconstruction at 665 Aylmer Street North (the "Encroachments") as described on Schedule B;

AND WHEREAS the Licencee's have requested permission from the City to maintain or establish and maintain the Encroachments as set out in Schedule B on the terms and conditions hereinafter contained;

AND WHEREAS the Schedules referred to herein have been filed with the Legal Services Department of the City of Peterborough and form party of this agreement, whether attached hereto or not;

NOW THEREFORE THE PARTIES HERETO COVENANT AND AGREE AS FOLLOWS:

1. The City grants permission to the Licencee, at the sole risk and expense of the Licencee, to use and maintain the Encroachments as set out in Schedule B.

2. The Licencee shall maintain the Encroachments in a good and workmanlike fashion and shall comply in all respects with the provisions of all City by-laws, the Building Code Act, and any other applicable regulations.

3. Nothing in this agreement shall have the effect of permitting the Licencee to interfere, in any way, with the usefulness or safety for public purposes of the City property.

4. The Licencee shall at all times, indemnify and save harmless the City from any loss, expense, or liability however incurred by the City arising from the exercise of the privileges herein granted to the Licencee, and the Licencee hereby waives, as against the City, all claims of whatever nature, where such loss, expense, liability or claims arise directly or indirectly out of or attributable to the exercise by the Licencee or others of the privileges herein granted, whether or not such loss, expense, liability or claim result from the negligence of the City.

5. The Licencee shall obtain and maintain in force during the continuance of this agreement, insurance providing coverage for public liability and property damage, in the minimum amount of Two Million Dollars ($2,000,000.00). The City shall be named as an additional insured, and the policy shall contain a cross-liability clause, to the satisfaction of the City. The Licencee agrees to forward to the City the original or certified copy of the policy of such insurance, and the annual renewals thereof. It is acknowledged and agreed by the Licencee that the provision of such insurance shall in no way relieve the Licencee of its obligations pursuant to this agreement.

6. This agreement shall not be assignable by the Licencee without the written consent of the City.

7. The Licencee acknowledges and agrees that, should the City require the use, for public purposes, of the lands upon which the Encroachments are located, the Licencee shall, upon ninety (90) days written notice from the City, remove the Encroachments and restore the lands to a condition satisfactory to the City, at the sole expense of the Licencee. Should the
Licencsee default in so doing, the City may perform the work of removal and restoration at the risk and expense of the Licencsee.

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

SIGNED, SEALED AND DELIVERED in the presence of:

THE CORPORATION OF THE
CITY OF PETERBOROUGH

DARYL BENNETT, Mayor

John Kennedy, Clerk

DAVID VICTOR FINN

MICHELLE JEANNINE FINN
SCHEDULE A

Legal Description

PART LOT 8 SOUTH OF ANTRIM & WEST OF GEORGE STREET PLAN 1 TOWN OF PETERBOROUGH AS IN R485623 T/W R485623 IF ANY; PETERBOROUGH CITY
SCHEDULE B
(Diagram/drawing/survey showing location of Encroachments filed with Legal Services)

1. Photographs showing the condition of the existing stairs and approximately the extent of the Encroachment.

2. The new stairs and any railing shall be located at least 18"(45cm) from the westerly edge of the existing sidewalk.