

Bill No. 8
2012

By-law No. S.-

A by-law to permit Aaron Leo Allen to maintain and use an encroachment upon the road allowance for Wellington Street, City of London.

WHEREAS Aaron Leo Allen (the "Owner") represents that he is the registered owner of certain lands and premises in the City of London, in the County of Middlesex, which abut on the west side of Wellington Street, known for municipal purposes as 93 Wellington Street, in the said City of London, and which are more particularly described in a certain agreement attached hereto as Schedule "A" (the "said lands");

AND WHEREAS it has been ascertained that there is constructed a one storey concrete block and brick building, part of which encroaches upon the road allowance for Wellington Street, making a total in all of 13 (plus or minus) square feet;

AND WHEREAS that part of the said one storey concrete block and brick building partially constructed upon the road allowance for Wellington Street is hereinafter referred to as the "encroachment";

AND WHEREAS the Owner has petitioned the Council of The Corporation of the City of London that he be allowed to maintain and use the said encroachment;

AND WHEREAS the Owner has by the said Agreement, undertaken to indemnify the City in all respects relating to the said encroachment;

The Municipal Council of The Corporation of the City of London enacts as follows:

1. The Owner, his executors, administrators, successors and assigns, are hereby allowed to use and maintain the said encroachment, for so long as the said one storey concrete block and brick building shall remain in its present location.
2. Upon demolition or removal of the said one storey concrete block and brick building, all parts of the encroachment upon the road allowance for Wellington Street shall be removed by the Owner at the expense of the Owner.
3. In the event of failure by the Owner to remove the encroachment as required by Clause 2 hereof, the same may be removed by the forces of the City and the cost of said removal shall be a first lien upon the Owner's lands abutting on the west side of Wellington Street and may be recovered in a like manner as taxes.
4. The Owner shall pay to the City Treasurer annually, so long as the said encroachment is used and maintained upon the road allowance for Wellington Street the sum of TWO DOLLARS (\$2.00) as an annual charge or fee for such privilege and such fee or charge shall form a charge upon the lands of the Owners of the said lands, their executors, administrators, successors and assigns, and upon default of payment after reasonable notice may be recovered as a lien upon the said lands in a like manner as taxes.
5. Nothing herein contained shall limit the covenants and agreements between the parties herein, as set out in the said Schedule "A".
6. This by-law comes into force on the day it is passed.

PASSED in open Council on December 6, 2011.

Joe Fontana
Mayor

Catharine Saunders
City Clerk

First Reading - December 6, 2011
Second Reading - December 6, 2011
Third Reading - December 6, 2011

SCHEDULE "A"
to By-law No. S.-

THIS AGREEMENT made in duplicate this 17th day of November, 2011.

B E T W E E N:

THE CORPORATION OF THE CITY OF LONDON

(hereinafter called the "City")

CITY OF THE FIRST PART

A N D

AARON LEO ALLEN

(hereinafter called the "Owner")

OWNER OF THE SECOND PART

WHEREAS the Owner represents that he is the registered owner of certain lands and premises in the City of London, in the County of Middlesex, which abut on the west side of Wellington Street, known municipally as 93 Wellington Street, in the City of London, County of Middlesex, and being more particularly described in Appendix "A" attached hereto;

AND WHEREAS a one storey concrete block and brick building has been constructed on the said lands and premises municipally known as 93 Wellington Street, in the City of London, part of which encroaches onto the road allowance for Wellington Street, making a total in all of 13 (plus or minus) square feet.

AND WHEREAS the Owner has petitioned the Municipal Council of The Corporation of the City of London that he be allowed to maintain and use the said encroachment;

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the premises and the sum of TWO DOLLARS (\$2.00) of lawful money of Canada, now paid by the Owner to the City, the receipt whereof is hereby acknowledged, the Owner covenants and agrees with the City to do and perform, at his expense the following matters and things:

1. The Owner shall at his own expense obtain and maintain during the term of this Agreement, and provide the City with evidence of general liability insurance (homeowners) for an amount not less than Two Million (\$2,000,000.00) Dollars and shall include the City as an additional insured with respect to the Owners' use and operations on the property described in this Agreement. The aforementioned policy will not be cancelled or permitted to lapse unless the insurer notifies the City in writing at least thirty (30) days prior to the date of cancellation or expiry. The Owner will provide that evidence of such insurance shall be delivered to the City promptly at inception of this Agreement and thereafter on the insurance renewal date.

2. The Owner, his heirs, executors, administrators, successors and assigns, as Owner and occupiers from time to time of the said lands described in Appendix "A" attached hereto, will at all times indemnify and save harmless the City of and from all loss, costs and damages which the City may suffer, be at or be put to, for or by reason of or on account of the existence of the said encroachment or the use or maintenance of the said encroachment or anything done or purported to be done pursuant to this Agreement or by by-law respecting the said encroachment, or either of them, or anything which may arise by reason of the use and maintenance of the said encroachment, this agreement, or any by-law, or any act or neglect in carrying out anything to be done pursuant to the said by-law, this Agreement or by reason of the existence, use maintenance or repair or lack of repair of the said encroachment.

3. Such sums as may become due or for which the Owner may be obligated under this Agreement or under the provisions of any by-law respecting the said encroachment shall be a first lien and charge upon the said lands and premises described in Appendix "A" attached hereto in priority to all other claims, liens, mortgages or charges.

4. The Owner covenants and agrees that this Agreement shall cover the encroachment upon the road allowance for Wellington Street of the one storey concrete block and brick building adjacent to the said lands described in Appendix "A" attached hereto, and shall not grant any permission to erect any part of any new building on the said encroachment.

5. This agreement shall be binding upon the Owner, his heirs, executors, administrators, successors and assigns, as Owners and occupier from time to time of the lands and premises described in Appendix "A" attached hereto and the covenants herein contained shall be deemed to run with the lands and premises and bind the owners and occupiers thereof from time to time.

IN WITNESS WHEREOF the Owner hereto has hereunto set his hand and seal.

Witness

Aaron Leo Allen