

THE CORPORATION OF THE CITY OF NORTH BAY

BY-LAW NO. 2336

Being a By-law authorizing the Corporation to enter into that certain Agreement dated as of the first day of November A.D. 1966 with Mutual Income Estates Limited pertaining to an encroachment on Shaw Street.

And being a By-law fixing the annual fee or charge to be payable by the owner or occupant of the land hereinafter described for the privilege of maintaining and using the encroachment hereinafter referred to.

WHEREAS the pile caps supporting the westerly limit of the building known as the Dominion Store erected upon Lots 3, 4, 5, 6, 7, 8 and 9 as shown on Plan 93 for the City of North Bay in the District of Nipissing encroach upon Shaw Street in the City of North Bay to the extent shown on the Plan attached hereto, marked Schedule "A" to this By-law and which said encroachment may be more particularly described as follows:

All that piece or parcel of land situate, lying and being in the City of North Bay in the District of Nipissing being composed of part of Shaw Street more particularly described as follows:

COMMENCING at a survey monument planted in the northwest corner of Lot 473, Plan 57;

THENCE South $0^{\circ} 07'$ East 214.9 feet to a point being also the place of beginning;

THENCE South $89^{\circ} 53'$ West 1 foot 6 inches to a point;

THENCE South $0^{\circ} 7'$ East, 181 feet to a point;

THENCE North $89^{\circ} 53'$ East 1 foot 6 inches more or less to a point on the easterly limit of Shaw Street;

THENCE North $0^{\circ} 07'$ West, 181 feet more or less to the place of beginning;

AND WHEREAS the present owner of the said land, namely Mutual Income Estates Limited, has applied to the Council of The Corporation of the City of North Bay for permission to maintain and use such encroachment and to continue the same, which request the Council aforesaid is prepared to grant upon and subject to the terms and conditions of that certain Agreement in writing dated as of the first day of November A.D. 1966 between The Corporation of the City of North Bay of the First part and Mutual Income Estates Limited of the second part;

AND WHEREAS pursuant to The Municipal Act R.S.O. 1960 Chapter 249 Section 379 (1) Paragraph 91 the Council deems it advisable to fix a reasonable annual fee or charge for the owner or occupant of the above-described property to pay for such privilege;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF NORTH BAY HEREBY ENACTS AS FOLLOWS:

1. That the City of North Bay do enter into the Agreement hereinbefore referred to (a copy of which is attached hereto) upon and subject to the terms and conditions therein set forth.

2. That the annual fee or charge for the privilege of the aforesaid encroachment and during the continuance thereof be and it is hereby fixed at the sum of SEVENTY-FIVE DOLLARS (\$75.00) payable on or before the 31st day of January in each and every year, commencing the 31st day of January 1967 and that in default of payment as aforesaid, the aforesaid sum of SEVENTY-FIVE DOLLARS (\$75.00) shall be added to the Collector's Roll for the City of North Bay and collected in like manner as taxes against the above-described parcel of land.

3. That the Mayor and Clerk be and they are hereby authorized and empowered to execute the aforesaid Agreement dated as of the first day of November A.D. 1966 and to affix thereto the Corporate Seal.

READ A FIRST TIME IN OPEN COUNCIL THIS 7TH DAY OF NOV. 1966.

READ A SECOND TIME IN OPEN COUNCIL THIS 15TH DAY OF NOVEMBER 1966.

READ A THIRD TIME IN OPEN COUNCIL AND FINNALLY ENACTED AND PASSED THIS 15TH DAY OF NOVEMBER 1966.

.....
MAYOR
.....
CITY CLERK

4550

AGREEMENT AS TO ENCROACHMENT

AGREEMENT made (in triplicate) as of the first day of November
A.D. 1966

B E T W E E N :

THE CORPORATION OF THE CITY OF NORTH BAY
of the District of Nipissing;

- hereinafter called the "CITY"

of the FIRST PART

AND

MUTUAL INCOME ESTATES LIMITED, with Head
Office at the City of Toronto in the
County of York;

- hereinafter called the "COMPANY"

of the SECOND PART

WHEREAS the Company is the owner of Lots 3, 4, 5, 6,
7, 8 and 9 as shown on Registered Plan 93 for the City of North
Bay in the District of Nipissing;

AND WHEREAS the Company has recently constructed a
building on the said lands to be occupied and used by Dominion
Stores Limited;

AND WHEREAS, by inadvertence, the pile caps supporting
the west limit of the said building encroach on Shaw Street to
the extent shown on the Plan attached hereto, marked Schedule "A"
to this Agreement and which said encroachment may be more par-
ticularly described as follows:

All that piece or parcel of land situate, lying and
being in the City of North Bay in the District of Nipissing
being composed of part of Shaw Street more particularly des-
cribed as follows:

COMMENCING at a survey monument planted in the northwest corner of Lot 473, Plan 57;

THENCE South $0^{\circ}07'$ East 214.9 feet to a point being also the place of beginning;

THENCE South $89^{\circ} 53'$ West 1 foot 6 inches to a point;

THENCE South $0^{\circ}07'$ East, 181 feet to a point;

THENCE North $89^{\circ}53'$ East 1 foot 6 inches more or less to a point on the easterly limit of Shaw Street;

THENCE North $0^{\circ}07'$ West, 181 feet more or less to the place of beginning;

AND WHEREAS the Company has applied to the City for permission to maintain and use such encroachment and to continue the same, which request the City is prepared to grant, upon and subject to the terms and conditions hereinafter set forth.

NOW THEREFORE the parties hereto, in consideration of the premises and covenants herein contained, hereby mutually covenant and agree as follows:

1. Pursuant to The Municipal Act R.S.O. 1960 Chapter 249 Section 379 (1) Paragraph 91, the City, subject to the provisions hereinafter contained, hereby agrees with the Company to allow the Company the privilege of maintaining and using the aforesaid encroachment upon payment of an annual fee or charge of SEVENTY-FIVE DOLLARS (\$75.00) payable on or before the 31st day of January in each and every year commencing the 31st day of January 1967.
2. In the event that the aforesaid annual fee or charge is not paid within the time hereinbefore limited, the aforesaid fee or charge of SEVENTY-FIVE DOLLARS (\$75.00) shall be added to the Collector's Roll for the City and collected in like manner as taxes against the above-described land and premises.
3. The Company covenants and agrees to indemnify and save harmless the City from all claims, demands, actions and suits for damages sustained by any person by reason of the aforesaid encroachment.

- 3 -

4. It is agreed that the privilege of maintaining and using the encroachment herein referred to is upon the express licence and consent of the City and, subject as provided in this Agreement, the Company shall not acquire any easement or right in respect thereof.

5. In the event that the aforesaid existing building is substantially demolished, then the Company covenants and agrees that it will remove the said pile caps and that it will repair and restore to a good and satisfactory state or condition and in a manner satisfactory to the City Engineer that part of Shaw Street so encroached upon or affected by such encroachment or removal thereof and thereafter no continuance or revival of such encroachment shall be permitted.

6. The burden and benefit of the terms and provisions of this Agreement shall run with the land hereinbefore more particularly described and shall extend to, be binding upon and enure to the benefit of the parties hereto, their successors and assigns respectively.

IN WITNESS WHEREOF the parties hereto have hereunto affixed their respective Corporate Seals under the hands of their respective proper signing officers, being duly authorized in that behalf.

SIGNED, SEALED AND DELIVERED by the parties hereto as of the day and year first above written.

THE CORPORATION OF THE CITY OF NORTH BAY



Mayor



Clerk

MUTUAL INCOME ESTATES LIMITED
