



THE CORPORATION OF THE CITY OF BRAMPTON

# BY-LAW

Number 59-2006

To authorize a fence encroachment  
onto Fernforest Drive

The Council of The Corporation of the City of  
Brampton **ENACTS AS FOLLOWS:**

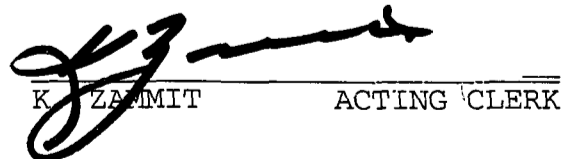
1. Notwithstanding the provisions of section 29 of By-law 93-93 as amended, the owners of the property known municipally as 422 Fernforest Drive are hereby permitted to erect and maintain a wrought iron fence which encroaches onto the untravelled portion of Fernforest Drive in the location shown on the sketch attached as Schedule A to this by-law.
2. The permission granted by section 1 of this by-law is subject to the owners of 422 Fernforest Drive entering into an encroachment agreement with the City in a form approved by the City Solicitor and complying with the terms of the encroachment agreement.
3. The Mayor and Clerk are hereby authorized to execute the said encroachment agreement on behalf of the City.

**READ a FIRST, SECOND and THIRD TIME and PASSED** in  
Open Council this 27<sup>th</sup> day of February, 2006.

Approved as to  
content and form.

06/02/17  
WCC

  
SUSAN FENNELL MAYOR

  
K. ZAMMIT ACTING CLERK

(SD)

Schedule A to By-law 59 - 2006





# ***Legal Services***

**Date:** August 18, 2006  
**To:** Mary Carr  
**Subject:** **Encroachment Agreement between City and Cesar Rodrigues and Lucia Rodrigues**  
Lot 1, Plan 43M-1349  
422 Fernforest Drive, Brampton  
Our File No.: L15.RODRIG

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Attached for safekeeping is a copy of Instrument No. PR1121150 which was ***electronically registered*** on August 18, 2006 in the Land Registry Office. This a Notice of an Encroachment Agreement between the City and the property owner in regards to the encroachment of a fence on City property.

Sandra Viveiros  
Legal Assistant, Legal Services  
Tel: (905) 874-3335 Fax: (905) 874-2699  
sandra.viveiros@brampton.ca

attachments

cc Rosanne Reda

LRO # 43 Notice Under S.71 Of The Land Titles Act

Received as PR1121150 on 2006 08 18 at 13:05

The applicant(s) hereby applies to the Land Registrar.

yyyy mm dd Page 1 of 6

**Properties**

**PIN** 14224 - 0445 LT  
**Description** LOT 1, PLAN 43M1349 ; BRAMPTON ; S/T A RIGHT IN FAVOUR OF SANDRINGHAM PLACE INC., UNTIL THE LATER OF FIVE (5) YEARS FROM 1999 09 09 OR UNTIL PLANS 43M1349 AND 43M1350 HAVE BEEN ASSUMED BY THE CORPORATION OF THE CITY OF BRAMPTON, AS IN LT1988117.  
**Address** 422 FERNFOREST DRIVE  
 BRAMPTON

**Consideration****Consideration** \$ 0.00**Applicant(s)**

The notice is based on or affects a valid and existing estate, right, interest or equity in land

**Name** RODRIGUES, CESAR  
**Address for Service** 422 Fernforest Drive, Brampton, Ontario

This document is not authorized under Power of Attorney by this party.

**Name** RODRIGUES, LUCIA  
**Address for Service** 422 Fernforest Drive, Brampton, Ontario

This document is not authorized under Power of Attorney by this party.

**Party To(s)****Capacity****Share**

**Name** THE CORPORATION OF THE CITY OF BRAMPTON  
**Address for Service** 2 Wellington Street West, Brampton, Ontario L6Y 4R2

This document is being authorized by a municipal corporation The Corporation of the City of Brampton.

This document is not authorized under Power of Attorney by this party.

**Statements**

This notice is for an indeterminate period

Schedule See Schedules

**Signed By**

Riina Maris DeFaria	872 Dundas Street West Toronto M6J 1V7	acting for Applicant(s)	Signed	2006 08 17
Tel	4166034440			
Fax	4166034441			

**Submitted By**

DEFARIA & DEFARIA	872 Dundas Street West Toronto M6J 1V7			2006 08 18
Tel	4166034440			
Fax	4166034441			

**Fees/Taxes/Payment**

<b>Statutory Registration Fee</b>	\$60.00
<b>Total Paid</b>	\$60 00

LRO# 43 Notice Under S.71 Of The Land Titles Act

Received as PR1121150 on 2006 08 18

at 13:05

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yyyy mm dd

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**File Number**

pplicant Client File Number

L15.ROD

CONSENT TO ENCROACH ONTO CITY OF BRAMPTON PROPERTY

## AGREEMENT BETWEEN:

**THE CORPORATION OF THE CITY OF BRAMPTON**  
(hereinafter referred to as the "Owner")

OF THE FIRST PART

- and -

**CESAR RODRIGUES AND LUCIA RODRIGUES**  
(hereinafter referred to as "Rodrigues")

OF THE SECOND PART

(hereinafter together referred to as the "Parties")

**WHEREAS** the Owner is the owner of Part of Lot 14, Concession 4 East of Hurontario Street, designated as Parts 1, 2 and 3, Plan 43R-23689 established as part of Fernforest Drive by By-law No. 342-2002, Registered as PR364431, City of Brampton, Regional Municipality of Peel (the "Owner's Lands"),

**AND WHEREAS** Rodrigues has requested the Owner's permission to encroach onto a portion of the Owner's Lands, as shown on the drawing attached as Schedule A (the "Subject Property"), for the purposes of maintaining an existing fence on the Subject Property (the "Fence") and using the Subject Property as a private side yard with certain restrictions described below (the "Rodrigues' Use") and the Owner has agreed to allow Rodrigues to do so subject to the terms and conditions hereinafter contained.

**NOW THEREFORE** in consideration of the sum of Two Dollars (\$2.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows.

1. The recitals herein are true and accurate.
2. The Owner hereby covenants and agrees that Rodrigues may enter upon the Subject Property for the sole purpose of the Rodrigues' Use, commencing upon full execution of this Consent Agreement and terminating the earliest of
  - (i) June 30, 2026;
  - (ii) the time that Rodrigues ceases to be the owner of the property described as Lot 1, Plan 43M-1349, known municipally as 422 Fernforest Drive, Brampton, (the "Rodrigues' Property");

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- (ii) the date Rodrigues terminates the agreement on one (1) month's written notice to the Owner, subject to Rodrigues removing the fence at Rodrigues' expense, and
- (iv) the date the Owner chooses to terminate this Consent Agreement for just cause, notice of such termination to be given at least one (1) month prior to the date of termination (for greater certainty, just cause includes the Rodrigues' failure to abide by the provisions of this agreement).

such period to be referred to as the "Term".

For greater certainty, the parties acknowledge that the abovementioned right of entry is personal to Rodrigues and does not run with the land.

3. The Owner shall retain the right to access the Subject Property for operations, maintenance or installation purposes at all times. The Owner shall be responsible for turf restoration following access, but not landscaping or fence replacement or fence restoration should the landscaping and/or fence be removed to permit said operations, maintenance or installations. In the event that the Owner is not able to access the Subject Property for the abovementioned purposes without crossing the Rodrigues' Property, the City shall be entitled to cross the Rodrigues' property for said purposes. The Owner's right of access herein shall include the right for all utility companies that are entitled to access the Subject Property
4. Rodrigues shall, at its own expense, within thirty days of full execution of this Consent Agreement, register this Consent agreement on title to the Rodrigues' Property to ensure that future purchasers of the Rodrigues' Property are aware that the Subject Property does not form part of the Rodrigues' Property. Further the Rodrigues shall provide the Owner with a copy of the registration document as soon as possible following registration.
5. This Consent Agreement, when executed by the Parties shall constitute a binding agreement, which shall endure to and be binding on the Parties.
6. Rodrigues shall not place any additional structures, paving or plantings within the Subject Lands
7. Rodrigues shall assume all maintenance obligations for existing trees and landscaping within the Subject Property to the Owner's standard, including the cost to repair and replace the existing landscaping if required by the Owner
8. Rodrigues shall indemnify the City from liability for third party damage, injury or death, as far as reasonably possible, resulting from Rodrigues' Use of the Subject Lands and shall take out insurance as required naming the City as an additional insured. Rodrigues shall not hold the City responsible for damage to the Fence by third parties. Further Rodrigues

acknowledges that when road/sidewalk maintenance is required, the proximity of the Fence to the sidewalk may result in damage to the Fence and shall not hold the City or its contractors responsible for damage to the Fence caused in the course of the road/sidewalk maintenance.

- 8. Rodrigues covenants that it has sufficient insurance in place to protect the Owner in relation to the Rodrigues Use
- 9. Prior to the expiration of the Term, Rodrigues agrees to restore the Subject Property to a condition satisfactory to the Owner, acting reasonably, at the written request of the Owner.
- 10. Rodrigues agrees that any and all damage caused to the Subject Property in any way connected with the Rodrigues' Use shall be the full and sole responsibility of Rodrigues.
- 11. It is agreed that there is no representation, warranty, collateral agreement or condition affecting this Consent Agreement or the Subject Property, with respect to the Rodrigues Use, other than as expressed herein.

Executed by the Owner this 15<sup>th</sup> day of July, 2006

**THE CORPORATION OF THE CITY OF BRAMPTON**

Authorized by  
By-Law 59-2006

Approved  
as to form  
Law Dept.  
*[Signature]*  
July 5/06

Approved  
as to content  
MAS Dept.  
*[Signature]*  
Sept 4/06

*[Signature: Susan Fennell]*  
Susan Fennell, Mayor

*[Signature: Kathryn Zammit]*  
Kathryn Zammit, City Clerk

Executed by Rodrigues this 16<sup>th</sup> day of July, 2006.

Witnessed by  
*[Signature: R. D. Waldman]*  
Name (print) R. D. Waldman

*[Signature: Lucia Rodrigues]*  
LUCIA RODRIGUES

Witnessed by  
*[Signature: R. D. Waldman]*  
Name (print) R. D. Waldman

*[Signature: Cesar Rodrigues]*  
CESAR RODRIGUES



**SCHEDULE A**

**Sketch to illustrate Subject Property**

