

THE CORPORATION
OF THE
TOWN OF NIAGARA-ON-THE-LAKE

BY-LAW NO. 5431-22

(409 Mississagua Street)

A BY-LAW TO AUTHORIZE AN ENCROACHMENT AGREEMENT
BETWEEN THE CORPORATION OF THE TOWN OF NIAGARA-ON-THE-
LAKE AND DAVID AND JOHANNA MAHAL

**BE IT ENACTED AS A BY-LAW OF THE CORPORATION OF THE TOWN OF
NIAGARA-ON-THE-LAKE** as follows:

1. THAT the agreement dated the 20th day of June 2022 between The Corporation of The Town of Niagara-on-the-Lake and David and Johanna Mahal be and the same is hereby approved.
2. THAT the Lord Mayor and Clerk be authorized to affix their hands and the Corporate Seal.
3. THAT this by-law shall come into force and take effect immediately upon the passing thereof.

**READ A FIRST, SECOND AND THIRD TIME AND PASSED THIS 20TH DAY
OF JUNE 2022**

LORD MAYOR BETTY DISERO

TOWN CLERK RALPH WALTON

THIS AGREEMENT made this 20th day of June, 2022, pursuant to Section 71 of the Land Titles Act, and authorized by By-law No. 54XX-22 of The Corporation of The Town of Niagara-on-the-Lake.

BETWEEN:

THE CORPORATION OF THE TOWN
OF NIAGARA-ON-THE-LAKE
(hereinafter called the "Town")

OF THE FIRST PART

- and -

DAVID AND JOHANNA MAHAL
(hereinafter called the "Owner")

OF THE SECOND PART

WHEREAS the Owner represents that they are the registered owner of lands known as 409 Mississ Street, in the Town of Niagara-on-the-Lake, in the Regional Municipality of Niagara, as described in Schedule 'A' attached hereto, hereinafter referred to as "the lands";

AND WHEREAS some or part of an existing building on the lands encroach onto Queen Street and Victoria Street;

AND WHEREAS the Council of The Corporation of the Town of Niagara-on-the-Lake at its May 17, 2021 meeting, approved Report OPS-21-014, which authorized an encroachment agreement with the Owner;

AND WHEREAS the Council of the Town agrees to allow the Owners to maintain and use the said encroachment on Queen Street and Victoria Street until such time as the said encroachment is demolished, removed, or destroyed;

NOW THEREFORE in consideration of the premises and the covenants and agreements hereinafter to be performed, the parties hereto mutually covenant and agree with each other as follows:

1. The Town shall and it does hereby allow the Owner, successors, and assigns in title, as the registered Owner(s) of 409 Mississagua Street, the privilege of maintaining and using the existing building, now in their present position, being Parts 2 as shown on Schedule B, until such time as the said encroachment is demolished, removed, or destroyed.
2. The Owner accepts all risk and responsibility for the encroachment and will at all times keep the Town effectively indemnified against all manner of actions, causes of action, claims, demands, losses, costs, damages, and expenses of whatsoever nature and kind as may be suffered by or occasioned to the Town in any manner howsoever by reason of the existence of the said encroachment, and agrees to remove the said encroachment on ninety (90) days notice from the Town that the lands owned by the Town are required for Municipal purposes.
3. The Owner agrees that the building, being a one and half storey vinyl sided building, shall be maintained at the total expense of the Owner.
4. The Owner herein agrees and consents to the registration of this Agreement against the title of the said lands at their expense.
5. This Agreement shall enure to the benefit of and be binding upon the successors and assigns of the parties hereto.

Any notice given hereunder shall be sufficiently given and addressed to:

David & Johanna Mahal
Box 373, 409 Mississagua Street
Niagara-on-the-Lake, ON L0S 1J0

IN WITNESS WHEREOF the Owners have hereunto set their hands and the Town has caused its Corporate Seal to be hereunto affixed under the hands of its proper signing officers.

SIGNED, SEALED, AND DELIVERED
In the presence of:

THE CORPORATION OF THE TOWN
OF NIAGARA-ON-THE-LAKE:
Per:

LORD MAYOR BETTY DISERO

TOWN CLERK RALPH WALTON

We have the authority to bind the
Corporation.

Per:

DAVID MAHAL

JOHANNA MAHAL

SCHEDULE "A"

PIN: 46396-0146 (LT)

LEGAL DESCRIPTION: Part Lot 247, Registered Plan No. TP 86, Part 2, 30R-15846, Town of Niagara-on-the-Lake.