

Tuesday September 16, 2014

South Innisfil Drain list of Concerns - Court File No. 04-B7552

To Whom it May Concern;

I am mailing to express my concern and disappointment in the handling and overall management of the South Innisfil Drain project. The cost of the project is unreasonable and does not even give 1 more year functionality from its originally designed capacity. Although I do not have to pay a huge amount, like some of my neighbours, it still puts me in some financial hardship. If the Town had just maintained the proper maintenance on the drain in the first place we wouldn't be in this situation.

My property floods every year, and yes I knew I was in flood plain when I purchased the house. However, the reason for the 'expanse of flooding' is partially due to the lack of maintenance on the drain south of my property, and has nothing to do with the requirement to do a complete drain project.

It is of my opinion that it has more to do with the lack of maintenance the current drain has received in the last 50 years. Every year my property has flooded I have called the Town of Innisfil and lodged a complaint. Every year someone comes out and says 'yes you're in flood plain and we're working on the drain' and every year nothing is done to even maintain the drain to the design level of functionality.

After the drain is repaired will this alleviate the flooding my property or will there still be flooding on our property once the runoff water is diverted properly?

Why is it after 10 years since the last ruling that no work has actually been done on the drain and the drain is in as bad of shape or worse than it was 10 years ago?

Additionally; will the drain be maintained to the proper standards to ensure that we're not back discussing this issue in another 10 years and the bill to the affected tax payers be 20 million?

Are we paying for something that should have been repaired and maintained over the last 50 years by the Town? Why is it the our responsibility to pay for this when the Town took responsibility for the drain and it's maintenance 50 years ago?

Expecting the Town Residents effected to pay this amount is when the Town won't even do the maintenance to return it to the original designed level of service is even more irresponsible.

Finally; the communication from the Town on these concerns and the overall status of the project has be below par. These concerns were sent several times to the town once we were made aware of the project after purchasing the property. Although I am aware that these things take time it is more concerning when I don't receive at notice in the mail from the town about the hearing due to fact that they don't have my mailing address correctly recorded. How many other residents have not been made aware due to the lack of proper communication? Our tax bill arrives at our door on time.

with the towns track record of inactivity and mismanagement on this project would it not make more sense to hand the project off to a government body or private company that does not have a vested political interest in the town of Innisfil and the impending election and political manoeuvring.

Why am I directing my concerns to the Town when the Town is the defendant and the Town is the entity that is mismanaging this whole project?

Regards,



Angela Fox and Brian Scott
6090 10th Sideroad, Cookstown, ON L0L 1L0

cc: Clerks Office; Innisfil Drain Committee of Residents

RECEIVED
SEP 22 2014

Town of Innisfil
Clerk's Services

LR

5884 Yonge Street
Churchill, Ontario
L0L 1K0

September 10, 2014

Clerk's Office
Town of Innisfil
2101 Innisfil Beach Road
Innisfil, Ontario
L9S 1A1

Re: Roll #00210900 Thompson Gordon Allan & Thompson Margaret Lorna

Statement of Issues South Simcoe Creek Drain & Branches Drainage

Sir

Our issues with the South Simcoe Drain are the cost of the repair, lack of communication between the Town and Landowners when this went to court in 2004, the time it has taken for the consultants to complete the report. We were not advised that the entire drain was the issue and we the landowners were responsible for the costs.

It took 9 years for the Engineers to produce a report that will result in approximately seven million dollars to repair the drain plus the additional cost of \$400,000.00 incurred since 2004. This is outrageous for work that originally began with a problem of 2 miles of affected drain that seemed to be causing the flooding problem. It seems that they are taking the advantage of the problem to install a completely new storm management system for the entire area and that is an infrastructure issue and the responsibility of the Town of Innisfil.

The cost to us is approximately \$20,000.00 and that amount is increasing at every change and delay and that the monies are too paid immediately upon completion.

[REDACTED]

We do not believe that the original intent of the drainage act is to bring financial hardship or bankruptcy to the landowners.

Yours

M. Lorna Thompson
G. Allan Thompson
Allan and Lorna Thompson

RECEIVED
SEP 15 2014

Town of Innisfil
Clerk's Services

W.

Re: Court File No. 04-B7552

STATEMENT OF ISSUES FORM

Form prepared by South Innisfil Creek Drain (SICD) Landowners' Volunteer Committee

Name: DOH SAUNDERS Landowner(s) Address: 2327 4TH LINE RR#1

Assessment Total: \$ 27300.00 CHURCHILL DATE LOL 1KO

I am in opposition of the SICD project I am in support of the SICD project

I agree that these issues need to be considered by the Honourable Referee Waters:

APPLICABILITY OF SECTION 118 (2) (3), DRAINAGE ACT: THAT, AT YOUR HONOUR'S DISCRETION, AND in view of the Court's findings in Court File No. 04-CV-278045, with respect to the implied culpability of the Town of Innisfil, as, 1) indemnity costs have been awarded in favour of the Applicant, 2) the Town has taken it upon themselves to direct these costs to the General Fund, as what the Town called 'previous legal costs', which the Town also claimed, "...shouldn't be put against the drain project's assessment cost...", AND as such, once indemnity costs are awarded as in this case, it would be reasonable to assume that some level of culpability on behalf of the Town and its actions relevant to the neglect of maintenance and repair of the drain in question was in fact established-otherwise why would the Court award such costs? Therefore, because this mitigation process has bound the remaining landowners with the responsibility to pay, the Town should remain bound by statute as they did not adhere to their responsibility to adequately maintain or repair the same drain/drainage area that implicates landowners other than the Applicant-who has been awarded indemnity costs and stands to collect an award for damages as well. I challenge that since these costs either have been/or are pending to be awarded, that the Town's neglect of responsibility is applicable to the interests of the other landowners within the same assessment/drainage area-considering that we are expected to pay as part of the South Innisfil Creek Drain. Therefore, if such responsibility was established, then the drainage works for the South Innisfil Creek Drain that instigated the original petition and Statement of Claim-despite the Town having been absolved of liability by Referee O'Brien via Court Order dated March 31, 2006 (again, by virtue of a possible process of mitigation to accommodate the same associated Statement of Claim) would establish that such conditions are in fact applicable to our shared interests (as with those of the Applicant's) in that, this culpability could be subject to Section 118 (2)(3), of the Drainage Act- as it affects the interests of all assessed landowners of the same assessment/drainage area by virtue of the Town's responsibility to maintain and repair the said drain on behalf of not only the Applicant but all the landowners who can be assessed within the drainage area affected as well.

In fairness to those who are being held responsible to pay: It must be established that: the mitigation process between the parties for Court File No. 04-CV-278045, either has or has not unjustly affected this outcome, current or future related/applicable proceedings under the Drainage Act, Court File No. 04-B7552, because if we are expected to pay then we must be able to investigate our responsibility and by what cause-and we were not allowed that opportunity to the extent that was necessary to establish 'strict financial responsibility'. And as such, if the cause of the drain's impairment and subsequent flood/damages is found to be correlated to lack of action on behalf of the Town, then the onus should be on the Town to pay for the repairs/improvements and maintenance necessary through the General Fund as aforementioned.

Thank you for your time and consideration with this matter.

Sincerely,
x D. Saunders
South Innisfil Creek Drain Project Assessed Landowner

Date: Sept. 26/14
RECEIVED
SEP 26 2014

Town of Innisfil
Clerk's Service

October 9, 2014

Statement of Issues Re: South Innisfil Drain

We are submitting our concerns regarding Dillon's engineer report for the South Innisfil Drain in hopes that a decision can be made expediently as to who is responsible for the payment of the report outlining a proposed \$6.7 million project which we feel should NOT be implemented.

The process has been carried out for many years and resulted in a dramatic increase in the cost of not only the engineers' report but the proposed project. There has been a lack of communication to the affected ratepayers, and we, along with many other landowners were not notified early in the process of the petition or of the original hearing before the drainage referee. The drainage referee made a decision to issue a court order for a drainage engineer to provide a report because "throughout both hearings the measure of support for the project was very significant while the opposition was very limited despite the large number of assessed owners affected. That consideration weighed heavily in favour of the project." (pg 3, South Innisfil Creek Drain & Branches, Dillon Consulting Limited). We feel that this was not a well founded conclusion. Until August 2005, we had no opportunity to oppose the complaint. We ARE opposed to the implementation of the project. The apparent absence of opposition at the preliminary hearings led to a very expensive report and proposition of work to the storm drain, the costs of which will prove to be a tremendous financial burden to many of the landowners.

Our property is over three km. away from the area experiencing flooding and we have difficulty believing that the drainage act was intended to be applied in the manner that it is being done in this circumstance. We feel that the proposed stormdrain work will not guarantee any benefit or enhanced financial value to our land nor will have increased productive power to the land and may not prevent water entering the affected watershed. It is unfortunate that this water course was ever designated as a municipal drain. In regards to the present proposal, is this an appropriate application of the act and if so, how does it benefit all the affected landowners at such excessive costs?

This marsh area is a natural floodplain. The presence of the marsh proves this. From time to time, flooding occurs which benefits the fertility of the marshland and is a natural occurrence to be expected and appreciated.

Please consider our concerns that are echoed by a large number of the affected landowners. Many of the landowners cannot attend meetings regarding this issue during working hours. If indeed we are at a new point in the process, we would like to see a more affordable and appropriate procedure to deal with the drainage needs. This would include the town maintaining the lowland part of the drain to its best condition and the costs should be managed within the municipal budget, at no extra costs to the affected landowners.

Patrick & Donna McMillan, 2082 Killarney Beach Rd., Churchill, ON



W.P.

Re: Court File No. 04-B7552

STATEMENT OF ISSUES FORM

Form prepared by South Innisfil Creek Drain (SICD) Landowners' Committee

Name: Kelly Archibald and Dale Swain, Landowner(s) Address: 3581 6th Line, L9S1Y6

Assessment Total: \$????

I am in opposition of the SICD project to proceed as is I am in support of the SICD project as is

We are participants of the SICD project

I believe these issues require the consideration of the Honourable Referee Waters:

Upon purchasing the above property on May 23, 2014, our solicitor was provided clearance by the Town of Innisfil stating there was no outstanding work orders, liens, or future assessments. However, shortly after closing, we received a letter from the Town of Innisfil explaining there would be a preliminary hearing to be held on September 3 & 4, 2014 regarding this project.


This letter was the first notification we received as we were not aware of this project prior or during purchasing of this property. After contacting the Town of Innisfil and adhering to the expectations of submitting proper documentation for attending the hearing, Dale Swain (representing herself and Kelly Archibald) attended the September 3 & 4 pre-hearing, which was arbitrated by the Honourable Referee Waters. It was advised by Referee Waters to have our solicitor to contact the town as clearance was provided with no notifications attached.

Furthermore, as new landowners of this property, we still have yet to receive an assessment regarding this project.


In addition, since the Town of Innisfil provided clearance for this property, our solicitor advised this issue may fall under the Title Insurance Company.

Thank you for your time and consideration with this matter.

Sincerely,

X 
South Innisfil Creek Drain Project Assessed Landowner

Date: Oct. 10/2014

X 
South Innisfil Creek Drain Project Assessed Landowner

Date: Oct 10/2014

LP.

Re: Court File No. 04-B7552

STATEMENT OF ISSUES FORM

Form prepared by South Innisfil Creek Drain (SICD) Landowners' Committee

Name: Liesel Philipp, Landowner(s) Address: 2348 Meadowland St.
Churchill, Ont., L0L 1K0

Assessment Total: \$ 1043.00

I am in opposition of the SICD project to proceed as is I am in support of the SICD project as is

I believe these issues require the consideration of the Honourable Referee Waters:

1. Drainage Act being Implemented unfairly.
2. Applicability of section 118(2)(3), Drainage Act.
3. By Duty of Council: No notice of Preliminary report
 - No brief description.
 - Lack of Timely or adequate notice.
 - Undue influence was imminent.
4. Project/works not initiated under section 78.
5. Rights to Appeal should not be abrogated.
6. Undue hardship is imminent as assessments are astronomical

RECEIVED
OCT 7 2014

Town of Innisfil
Clerk's Services

Thank you for your time and consideration with this matter.

Sincerely,

x Liesel Philipp
South Innisfil Creek Drain Project Assessed Landowner

Date: Oct. 1/2014

LP. 51

Re: Court File No. 04-B7552

STATEMENT OF ISSUES FORM

Form prepared by South Innisfil Creek Drain (SICD) Landowners' Volunteer Committee

Name: Liesel Philipp, Landowner(s) Address: 2348 Meadowland St,

Assessment Total: \$ 1043.00 Churchill, Ont., L0L 1K0

I am in opposition of the SICD project I am in support of the SICD project

I agree that these issues need to be considered by the Honourable Referee Waters:

DRAINAGE ACT BEING IMPLEMENTED UNFAIRLY: The completion and costs of drainage infrastructure projects SHOULD NOT BE MASKED IN ANTIQUATED LEGISLATION, which under Statute such as the *Drainage Act*, can be unfairly MANIPULATED TO benefit stakeholders outside of the parametres of responsibility established by the Act and benefit such stakeholders and the general population, while the projects still FINANCIALLY BURDEN only A SELECT FEW. This can cause detrimental outcomes/contraindications with many of our environmental protection measures, and in cases such as this, inflict substantial socio-economic hardship. I maintain that Ontarians should not expect environmental reform to be properly facilitated without some financial responsibility to us all. However, using the Drainage Act as a vehicle to complete 'innovative' infrastructure & environmental repairs/improvements where the cost is imposed upon a select few- is unfair, and unsustainable.

Original Intent or objective of the Drainage Act is being manipulated: Excessive scope to accommodate future development:

I believe that in this case the Act is being used as a vehicle to proceed with completing infrastructure projects dedicated to future development: disproportionate scope of the project and excessive capacity of the drainage works indicate that the project is expected to accommodate impending residential and industrial/commercial development. See: Cortel Group delegation to Town of Innisfil dated October 25, 2007: Innisfil Hwy. 400 Corridor Enterprise Zone MGP proposed modification to OPA No. 1 Cortel Group's "vision" for modified opa-1 and Master Servicing Plan- this presentation contains information that addresses "multi-phased" servicing approaches that include investigating cumulative water resources impacts while developing a "subwatershed-based master drainage plan"...

The *Drainage Act* works around the parametres of the *Planning Act*, as it is easily manipulated to make allowances for future development-and this is unjust. The *Drainage Act*, which was implemented as a tool to regulate water drainage for legitimate agricultural properties, as a means by which to provide installed tile drainage sufficient outlet, is now being set in motion to better improve drain capacity/efficiency for pending residential/industrial development-at the expense of the financial well-being of affected landowners. If the Town is not being influenced by developers' corporate mandates-then the Town of Innisfil must be compelled to demonstrate how it is not. It would also be prudent to have OMAF and other stakeholders explain how 'Innovative Uses for the Drainage Act' by OMAF, may also contradict the original intent of the Act, and infringe on the rights of landowners.

RECEIVED
OCT 7 2014

Thank you for your time and consideration with this matter.

Town of Innisfil
Clerk's Services

Sincerely,

x Liesel Philipp
South Innisfil Creek Drain Project Assessed Landowner

Date: Oct. 1 / 2014

LP.

Re: Court File No. 04-B7552

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In fairness to those who are being held responsible to pay: It must be established that: the mitigation process between the parties for Court File No. 04-CV-278045, either has or has not unjustly affected this outcome, current or future related/applicable proceedings under the Drainage Act, Court File No. 04-B7552, because if we are expected to pay then we must be able to investigate our responsibility and by what cause-and we were not allowed that opportunity to the extent that was necessary to establish 'strict financial responsibility. And as such, if the cause of the drain's impairment and subsequent flood/damages is found to be correlated to lack of action on behalf of the Town, then the onus should be on the Town to pay for the repairs/improvements and maintenance necessary through the General Fund as aforementioned.

RECEIVED
OCT 7 2014

Thank you for your time and consideration with this matter.

Town of Innisfil
Clerk's Services

Sincerely,
x Liesel Philipp
South Innisfil Creek Drain Project Assessed Landowner

Date: Oct. 1 / 2014

LP

Re: Court File No. 04-B7552

STATEMENT OF ISSUES FORM

Form prepared by South Innisfil Creek Drain (SICD) Landowners' Volunteer Committee

Name: Liesel Philipp, Landowner(s) Address: 2348 Meadowland St.
Assessment Total: \$ 1043.00 Churchill, Ont., L0L1K0

I am in opposition of the SICD project I am in support of the SICD project

I agree that these issues need to be considered by the Honourable Referee Waters:

BY DUTY OF COUNCIL: SEE: Letters From Landowners submitted at Delegation to Town. "Letters From Landowners" served to Town during our delegation to Council. These letters were gathered by our committee following a letter writing campaign organized by Innisfil Resident Advocacy Committee (IRAC), held at Cookstown-Skydive Toronto Hangar in early 2007. There were over 200 of these letters completed and submitted to Paul Landry, Town Clerk at the time.

No Notice of Preliminary Report: Many assessed landowners, DID NOT RECEIVE NOTICE OF THE PRELIMINARY REPORT, as per *Drainage Act*, R.S.O., 1990, c. D. 17, s. 3 (10), (11), and as was Ordered by Referee O'Brien in the Order dated March 31, 2005, pg. 4 Paragraph #5, 6. "...The Town shall...provide notice of the preliminary report and the hearing date by sending notice to all landowners in the assessed area, by regular mail."

No Brief Description: The notice shall provide a brief description of the preliminary report...". We did not receive anything in "layman's" terms or of a "brief description". We did not receive anything until January 24, 2007-at the insistence of our committee. See Town of Innisfil Staff Report #CS-01-07, dated January 24, 2007. Re: South Innisfil Drain and resulting "Dear Landowner Letter" Re: South Innisfil Creek Update, dated January 24, 2007. This layman's letter should have been issued in conjunction with the Preliminary Report's release-in February 2006.

Lack of Timely or Adequate Notice: The majority of individual assessed landowners claim lack of proper notice regarding the project from the onset, lack of a geographical on-site meeting by the engineer, inappropriate scheduling of an engineer's meeting: Example: August 3, 2005 at 13:00 hrs. *on a weekday, when the majority of landowners were at work*; indicating lack of timely communication, and lack of transparency on behalf of the Town of Innisfil and the commissioned Engineer. OMAFRA states to "...err on the side of caution and notify/invite more not less to on-site meetings". Sid VanderVeen, *Spinning the 78*, 2008. The information offered at this meeting was vague and not focused on the intent of an on-site meeting. Many of the farmers more directly adjacent to the drain could not attend at this time in the day-although many did not know about the meeting, as landowner Kerry Yamamoto has also stated.

UNDUE INFLUENCE WAS/IS IMMINENT: As assessed landowners were told on various occasions that the drainage project was/is, "...a done deal...", that the "...Town's hands were tied...", and that the "Town was bound by court order to move forward with the drainage project works...". As such, the affected landowners were unable to act in a timely manner with regards to proper proceedings/hearings/matters before the court, and were subsequently led to believe on several occasions that there was no means by which to oppose or appeal this process. When approached by concerned residents, members of Council claimed that, "...they knew nothing about the project or its costs..." or, " ...legal counsel has advised that we are not to comment..." etc. Court File No.04-CN-278045. However, it is beginning to look as though the original petitioners were 'removed from the petition' by proxy, as under S.78 there are no petitioners.

RECEIVED
TOWN OF INNISFIL
Clerk's Services
2014

Thank you for your time and consideration with this matter.
Sincerely,

x Cheerel Philipp
South Innisfil Creek Drain Project Assessed Landowner

Date: Oct. 1/2014

LP.

Re: Court File No. 04-B7552

STATEMENT OF ISSUES FORM

Form prepared by South Innisfil Creek Drain (SICD) Landowners' Volunteer Committee

Name: Liesel Philipp, Landowner(s) Address: 2348 Meadowland St
Assessment Total: \$ 1043.00 Churchill, Ont., L0L 1K0

I am in opposition of the SICD project I am in support of the SICD project

I agree that these issues need to be considered by the Honourable Referee Waters:

"Jurisdiction flows from the law, not from the consent of the parties."

—John O’Kane, Drainage Tribunal,
Short and No.2 Drain

PROJECT/WORKS NOT INITIATED UNDER SECTION 78: None of the conditions for initiation of a drainage project, under the Act, S. (2), (3), or (4), are being met. It would appear, as per Court File No. 04-CV-278045; Statement of Claim, that the process of mitigation compelled the Town of Innisfil to pursue this measure as a direct means to mitigate costs, and then subsequently, under the jurisdiction of Referee O’Brien, the Town was then ‘ordered’ to proceed under Section 78-and as such the onus of project completion now falling under the direction of the ‘initiating municipality’. What began as a petition process developed into a S. 78 drainage process by referral of the Town of Innisfil—who was once the Respondent in the original Statement of Claim. Whereby, should this be the case: the applicable circumstances are setting precedent, and therefore, the drainage area’s landowners should have been named as respondents in the original court proceedings-so that there would be ABSOLUTELY NO DISCREPANCY ABOUT THE “STRICT FINANCIAL RESPONSIBILITY” ASSOCIATED FOR EITHER PARTY (BY COMMON LAW) NOT ONLY BY VIRTUE OF THE DRAINAGE ACT, BUT ALSO BECAUSE OF THE MITIGATION PROCESS OCCURRING IN COURT FILE# 04-CV-278045. We were led to believe from the on-set, that the project was moving forward due to the actions of the Applicant, when in fact both parties of that court file seemingly agreed to deviate from a petition process to a S. 78 process, hence the confusion and frustration with 1. How the remaining landowners have been treated and, 2. How the other landowners are expected to pay for a project that should have been addressed differently.

AND, We believe/were told that the original proceedings may have started as a petition drain, and then the Statement of Claim motion may have been supported by S. 79(1), (2), as is seen in the Court Order dated March 31, 2005, where the Hon. Referee seems to order the works under S.78 based on the outcome of what the parties have agreed to through mitigation.

This however, was not made clear because in that court order, it seems Referee O’Brien is given ‘notice’ that the parties have agreed to a variance in terms, and as such, the Hon. Referee then made the order to proceed under S.78, despite the fact that the Respondent-Town of Innisfil would have been: “...compellable by an order of the Referee....and the municipality is liable in damages to the owner whose property is so injuriously affected” under S. 79- Is this what the “\$2 000 000.00 claim for damages” is referring to? Any time we asked about this we were told that the Town/staff/councillors were “..advised by counsel not to comment about that”.

RECEIVED
OCT 17 2014

Thank you for your time and consideration with this matter.

Town of Innisfil
Clerk's Services

Sincerely,

x Charel Philipp
South Innisfil Creek Drain Project Assessed Landowner

Date: Oct. 1/20 14

LP. 61

Re: Court File No. 04-B7552

STATEMENT OF ISSUES FORM

Form prepared by South Innisfil Creek Drain (SICD) Landowners' Volunteer Committee

Name: Liesel Philipp, Landowner(s) Address: 2348 Meadowland St.

Assessment Total: \$ 1043.00 Churchill, Ont., L0L 1K0

I am in opposition of the SICD project I am in support of the SICD project

I agree that these issues need to be considered by the Honourable Referee Waters:

RIGHTS TO APPEAL SHOULD NOT BE ABROGATED:

Appeals to Court of Revision/Landowners' rights should not be/MAY have been abrogated:

That the Honorable Referee Waters kindly consider that the affected landowner's assessments under any future appeal process, specifically to the Court of Revision, will be heard by members to be appointed to such body, by the Council of the "initiating municipality", thus, The Town of Innisfil-the defendant in Court File No. 04-CV-278045.

Therefore, I would put forward that this be considered a possible conflict of interest in that this Court of Revision cannot hear appeals in an unbiased manner when its members are members of Council or even members of other committees representing priority interests for the Town of Innisfil/Respondent-specifically if this project must proceed by Court Order and not under regular parametres mandated by S. 78.

I would humbly request assurance and direction regarding landowners' rights to appeal:

d. At no time, should the rights of the assessed landowners to appeal any rightful matters as those brought before the court be abrogated. However-this may have been applied already throughout a process that we have not always been made privy to: but it seems that Referee O'Brien has ordered that we are only able to appeal to the court of revision and only regarding cost of assessments. Clarification on this is necessary.

RECEIVED
OCT 7 2014

Thank you for your time and consideration with this matter.

Sincerely,

x Cherise Philipp
South Innisfil Creek Drain Project Assessed Landowner

Town of Innisfil
Clerk's Services

Date: Oct. 1/2014

LP.

Re: Court File No. 04-B7552

STATEMENT OF ISSUES FORM

Form prepared by South Innisfil Creek Drain (SICD) Landowners' Volunteer Committee

Name: Liesel Philipp, Landowner(s) Address: 2348 Meadowland St.
Assessment Total: \$ 1043.00 Churchill, Ont. L0L 1K0

I am in opposition of the SICD project I am in support of the SICD project

I agree that these issues need to be considered by the Honourable Referee Waters:

Undue hardship is imminent as assessments are astronomical. According to statistics provided by the Ministry Of Agriculture And Rural Affairs, *the impending project could cost the affected landowners approximately two thirds of the cost of all drainage projects in Ontario in 2012-2013, and as per the Drainage Act, costs are technically uncapped.* Example: as per: preliminary cost distribution, Option #3-page 11 of 33, individual property owner, Joe Chow: \$140 000.00; based on the preliminary cost figures of \$2.6 million-which is a low cost option. Update: Final Report cost is now over \$6 million. Therefore, Mr. Chow's assessment could be over \$200 000.00 and subject to an increase of up to 133% as the costs will be appropriated based on the final cost at the completion of construction of the project-not on the figures listed in the Final Report's assessment schedules-as those figures are estimates.

Financial Impact Statements: Several landowners have submitted Impact Statements to the Town. Many landowners currently living in the GTA may not even be aware of their assessments. I personally have spoken to several who were still completely unaware of the pending costs associated with their landownership-these situations could result in even further socio-economic hardships.

The following are key observations garnered from OMAF statistics:

- There were 25 more projects completed in 2012/13 than in 2011/12 (133), but the overall cost was down \$1.35 million from last year. This means that the average per-project cost decreased from \$149,000 to \$117,000. -The South Innisfil Creek Drain project stands to be completed at 7-10X this overall average cost.
- In 2012/13 - The number and total value of drain maintenance work increased significantly. The number of projects went from 1580 to 2303 and the value went from \$7.46 million to \$11.9 million. -This project is already at \$6.7 million and is still susceptible to up to a possible 133% rise in costs and therefore, may stand to cost more than the over 2000 projects in Ontario, combined. Had the maintenance/repairs been completed in a timely manner in 2004-2006, the drainage works would have cost considerably less and cause less financial hardship.

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OCT 7 2014

Thank you for your time and consideration with this matter.
Sincerely,

Town of Innisfil
Clerk's Services

x Liesel Philipp
South Innisfil Creek Drain Project Assessed Landowner

Date: Oct. 1 / 2014

STATEMENT OF ISSUES

COURT FILE NO.04B7552

Mr. & Mrs. Graziano Favret
2431 5th Line
RR 1
Churchill ON
L0L 1K0

2014-10-07

Clerk's Office
Town of Innisfil
2101 Innisfil Beach Road
Innisfil ON L9S 1A1

Dear Sirs and Madam,

Please be advised that we have owned property and resided in the town of Churchill since 1966. At that time the Innisfil Creek was maintained. Services to the area were kept up. The civil workers of the town and volunteers were doing it all, from picking up dead animals on the road, garbage thrown out by travellers, to dredging the creek when it was overgrown.

At that time we were promised a paved road. This has not happened yet, but at least forty years later we did get our road hard surfaced... The rotted, dead animals are no longer picked up, neither is the garbage thrown out by passers by. Needless to say, the creek is no longer maintained but we, the residents of Churchill are still paying for these services on our property taxes.

We find it wrong that a law that was made at least a century ago should still be acknowledged at this day and age. Many things changed. In layman's terms, this law holds residents responsible for blockage or contamination of the water flow downstream. This law does not recognize that many changes have been made through the years. One of these changes is the fact that environmentally fragile land that had been covered by trees, was no longer protected. People of this time are allowed to build in flood zones. Because of some of these issues residents of Churchill should not be held responsible for the Town's mistakes or downfalls. We feel that this unlawful law should have been changed or altered decades ago. The residents of Churchill should not be responsible.

The majority of residents of Churchill are not millionaires and cannot afford the approximate \$7 million required to build an overkill of a drain. All that should be required is just a clean up of the creek. This should only be a few thousand dollars not millions, and this should be paid by the town, county and province not the individual residents of Churchill.

LP

[REDACTED]

should go through, [REDACTED] This then would be an added burden to our children. This would be very unfair.

The representatives of the town made mistakes and the town should be expected to pay for them. In the past few decades the town made many bad decisions and wasted a lot of tax payers' money. If they would have used that money for true expenses, such as town maintenance, this also means keeping the creek clean, these problems would not have happened.

One can go down the 5th line west of Highway 11 or Young St. or county road 4, (take your choice on the names), one could see that the creek was not maintained in decades. This should explain itself the the town did not do their job.

Churchill residents;

Chiara and Graziano Favret.

cc.clerk's office, c&g favret, south innisfil creek landowner's committee.

LP.

Re: Court File No. 04-B7552

STATEMENT OF ISSUES FORM
Form prepared by South Innisfil Creek Drain (SICD) Landowners' Committee

Name: Keith & Ruth Sinclair Landowner(s) Address: 6225 Yonge St.
Churchill, Ont.

Assessment Total: \$ 46,000.

We are
I am in opposition of the SICD project to proceed as is I am in support of the SICD project as is

We believe these issues require the consideration of the Honourable Referee Waters:

Our issues for the landowners is that the final cost and magnitude of this project, being open-ended, is unknown.

If the SICD project moves forward as outlined in the Final Report, it is not unreasonable to assume that these two unknowns would negatively impact (as they already are!) many landowners and their families.

Undue stress and hardship, of various forms, will be the result for many residents living in the area affected by SICD.

RECEIVED
OCT 10 2014

Thank you for your time and consideration with this matter.

Town of Innisfil
Clerk's Services

Sincerely,

[Signature] & Ruth Sinclair Date: Oct. 9, 2014
South Innisfil Creek Drain Project Assessed Landowner

BIO - Keith Sinclair - has lived and farmed in Innisfil for over 75 years

COPY 35
IP.

Re: Court File No. 04-B7552

STATEMENT OF ISSUES FORM

Form prepared by South Innisfil Creek Drain (SICD) Landowners' Volunteer Committee

Name: Barbara and Rudolf Badstober _____ Landowner(s) Address: 2576. 2nd Line. RR #1

Assessment Total: \$3340.00 TO DATE

Churchill. ON. L0L 1K0

I am in opposition of the SICD project I am in support of the SICD project

Honourable Referee Waters,

I believe that in consideration of all that has been happening, I trust that you may choose to look at this issue from a new perspective, this in consideration that the Referee "...has wide discretionary powers...", and you may,

PROCEED ON VIEW; as per, *Drainage Act*, R.S.O. 1990, c D. 17, s. 114, and in consideration of information brought before you, And that, this new information be considered in support to have Your Honour deliberate the said effects of these findings/concerns upon this issue, and/or to offer direction and/or clarification in all fairness:

1. Duty of Council was not met: Lack of Notice, Procedural inequity, Undue Influence-telling us "it was a done deal...nothing we can do, it's been court ordered....our hands are tied..."-none of us thought it could be appealed, the town made us think that it was basically already in the works in 2006.

2. Excessive costs will cause undue hardship.

3. Excessive scope and enormous cost unnecessary-the Act's mandate is to improve land/farm integrity and viability-and this can be done with a project of a lesser scale and therefore, cost.

4. Majority of landowners in opposition, and challenge Referee O'Brien's statement, "...despite large number of landowners few have voiced opposition...this weighed heavily in favour of project...".

5. Question of drainage works not being initiated under normal statute: Clarification/disclosure regarding Court File No. 04-CV 278045 and its relevancy to Court File No. 04-B7552 and/or any other court file associated with the original Statement of Claim, or legal proceedings that initiated process under the Drainage Act in this instance, namely, the status of a \$2 million claim for damages-that seems to be pending the outcome of this project.

6. Question of Original proceedings beginning under S.79 (1), (2), and if so, if Section 118 (2) (3) is therefore applicable (as indemnity fees were paid and there is a pending claim for damages-doesn't this imply that there was some kind of culpability established-that would apply to OUR interests as well.

7. Town must/but has not duly investigated alternative funding mechanisms – engaging the responsibility of other government agencies. For some grants, it's now too late to apply.

8. The Act is not being used for its intended agricultural objectives, and is being manipulated to benefit other causes such as infrastructure and environmental upgrades that have communal benefit-and this is not fair because the cost is imposed on a select few as opposed to being allocated universally.

9. The contraindications of the Act in environmental wetland and water protection.

These issues have resulted in the unfair situation that the majority of assessed landowners find themselves in. I believe that all of these issues require your attention in order to find the most appropriate solution to this problem.

Thank you for your time and consideration with this matter.

Sincerely,

x R. Badstober
South Innisfil Creek Drain Project Assessed Landowner

Rudolf Badstober

Date: October 11, 2014

RECEIVED
OCT 10 2014

Town of Innisfil
Clerk's Services

LP

Re: Court File No. 04-B7552

STATEMENT OF ISSUES FORM

Form prepared by South Innisfil Creek Drain (SICD) Landowners' Committee

Name: Alex & Sharon Constable Landowner(s) Address: 2621 Hwy. 89

Assessment Total: \$ approximately 7,000 Innisfil LOL IRO

I am in opposition of the SICD project to proceed as is I am in support of the SICD project as is

I believe these issues require the consideration of the Honourable Referee Waters:

1. Inequity: A handful of landowners may be required to pay for drainage works that will benefit the Town -- water, ecology effect everyone, at municipal, provincial and federal levels.

2. Vision: It would have been preferable for Innisfil to have planned for drainage capacity to grow space with agricultural development, as opposed to asking a few to pay for it after the fact.

3. Precedent: If the drainage project proceeds as per current proposal, who will protect landowners from further costs from such projects in the future?

4. Identity: Innisfil needs to be, and be seen as, a community that values and supports all of its citizens equally - a municipality with a comprehensive environmental plan that all of us can support. Thank you for noting my concerns.

RECEIVED
OCT 10 2014

Thank you for your time and consideration with this matter.

Town of Innisfil
Clerk's Services

Sincerely,
x Alex Constable
South Innisfil Creek Drain Project Assessed Landowner

Date: Oct. 10/14

LP

Re: Court File No. 04-B7552

STATEMENT OF ISSUES FORM

Name: Michele & Maria De Marco C/O Marisa De Marco Address: 6469 Yonge St. Churchill Lt. 16 C. 4
Assessment Total: approximately \$ 15 000.00

Honourable Referee Waters,

In 2006, on behalf of my [redacted] parents who are assessed landowners [redacted] I began to advocate and volunteer on a committee formed to represent their interests and for other landowners, who agreed that the majority of landowners were strongly opposed to this project Over a period of ten years, I have dedicated over 3000 volunteer hours of time to this issue. It was important to me to offer valuable, considerate input with my research so I made every attempt to support my concerns with either legal/legislative, drainage tribunal, or empirical, research. I trust that the Honourable Referee may consider, that this report would have brought forward a compilation of issues/concerns expressed directly to me over 10 years by at least 300 different residents, or found through research, and compiled on 18 pages. This seemed to me, a time effective & reasonable way to produce for the Honourable Court, a collection of issues and concerns in a condensed manner-18 pages as opposed to hearing from over 300 separate people/pages. However, in consideration of the Hon. Referee's request for a 1 page submission, here is a summary of the issues/concerns I found to be most relevant- that I can support with my research, statistics, references etc.-which I would be glad to provide for the Hon. Court in full. I respectfully ask for Your Honour's indulgence in that it is just over one page-yet, I assure you that I have done my very best to condense 3000 hrs. worth of research.

1. Duty of Council was not met: Lack of Notice- People have not received Preliminary or Final Reports , Procedural inequity-Explanations in layman's terms would have been prudent considering the Town is able to pay for legal counsel through the Drainage Act assessment, however those that are expected to pay are not afforded legal representation and must fend for themselves, **Undue Influence**-telling us "it was a done deal...nothing we can do, it's been court ordered....our hands are tied..." at first-none of us thought it could be appealed, the Town led us to believe that it was already in the works in 2006- at the site meeting in Stroud. **Lack of proper communication:** People are being told by Town representatives, "...don't worry about it.", when asked about what to do for this hearing. **2. Excessive costs will cause undue hardship**-assessments are some of the highest in Drainage Act history-stats available in report. **3. Excessive scope and enormous cost unnecessary**-the Act's mandate is to improve land/farm integrity and viability-and this mandate can be achieved with a reasonable project of a lesser scope/scale and therefore, lesser cost. According to OMAFRA-The Drainage Act is "... not meant to mitigate flooding". **4. Majority of landowners are in opposition,** and challenge Referee O'Brien's statement, "...despite the large number of landowners few have voiced opposition...this weighed heavily in favour of project...". We maintain that if we had been adequately educated and informed of this strict financial responsibility-we would have demonstrated opposition at the time that Referee O'Brien's perspective would have been influenced differently. **5. Question of drainage works not being initiated under normal statute:** Clarification/disclosure regarding Court File No. 04-CV 278045 and its relevancy to Court File No. 04-B7552 and/or any other court file associated with the original Statement of Claim, or legal proceedings that initiated process under the Drainage Act in this instance, namely, the status of a pending \$2 million claim for damages/indemnity fees that have already been paid to the original Applicant- both of which imply that culpability was established, albeit, "agreed upon by all the parties" in the Town's lack of maintenance of the drain on behalf of the Applicant and the rest of us expected to pay-and if so, I believe it would be prudent to consider if Section 118 (2) (3) is applicable.

6. Question of Original proceedings beginning under S.79 (1), (2) and then- by process of mitigation, parties 'notified' Referee O'Brien that they were in 'agreement' to terms that seemingly changed the original S.79 motion-to a S. 78 project. Use of process of mitigation in a case meant to establish alleged neglect of the responsibility to maintain the drain should not establish standards to proceed, as this is not a means by which to initiate a project under the Drainage Act itself. **7. The Act is not being used for its intended agricultural objectives, it is antiquated when applied in the Rural to Urban landscape of today's Ontario-** and the Act is unfairly manipulated to benefit other directives such as driving a \$50 million drainage industry that results in billing landowners thousands of dollars in capital expenses that do not reflect any rate of return in their real estate investments- future infrastructure is benefitting developers not farmers, and where drainage projects seemingly mandated by the Act, are actually filtered through 'master drainage plans' that will facilitate connection/outlet benefits to future infrastructure not associated at all with South Innisfil Creek Drain's agricultural drainage, and finally-environmental upgrades (that are the responsibility of the NVCA) that have communal benefit-yet, the cost

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is imposed on a select few under the Act, as opposed to being allocated universally. I can demonstrate to the Hon. Court that there is viable reason to believe that the scope and capacity of this drain is meant to sustain future development-not drain agricultural land as should be intended. 8. Town must be compelled to/but has not- duly investigate alternative funding mechanisms -- or research(ed) the possible engagement of the responsibility of other government agencies. Because of the Town's lack of initiative due to the "...bound by court order" stance the Town has leaned on from the start-for some grants, it's now too late to apply. This is unfair to those expected to pay. However I may have found precedent and paramountcy in legislation that may compel other ministries-provincial and federal, to contribute financially and/or with professional resources to such projects 9. The contraindications caused by the Act in environmental wetland and water protection measures. 10. Landowners' rights to appeal should never have been abrogated. 11. The Town should be compelled to consider developing a general drainage management levy that contributes to a fund used specifically for these maintenance, repair & improvements, the costs allocated based on a user pay 'flow contribution' metric. This is currently being considered by the City of Kitchener. I have spoken to that town's engineer who is reviewing this application's viability and it seems like a reasonable, sustainable option for how costs are shared and levied. 12. Establishing a Committee: When a concentrated, well organized effort is made by dedicated volunteers to communicate and assist in the Drainage Act process efforts-the resource should be taken seriously, and recognized as a valuable liaison in the attainment of positive landowner consensus, including assessing long-term general management of municipal drains-the landowners-especially farmers-know their land best, and are assets in garnering valuable expertise. There is a wealth of respected professional/agricultural expertise amongst assessed landowners who are often more than happy to volunteer their input- often effective contributions to expedite the completion of Act appropriate, cost effective drainage project objectives. It would be beneficial for all stakeholders to have a standing 'drain committee' assigned to these objectives for South Innisfil Creek Drain.

Ultimately, I believe that the Town's irresponsibility in supervising the work/billing of the engineer, and lack of effective communication in this matter has resulted in the unfair circumstances the majority of assessed landowners now find themselves. The Town's lawyer has informed a colleague of mine that the committee I founded is not 'party to the motion', nor am I personally assessed. Therefore, my input will not be accepted. However, I argue that I act on behalf of my parents formally (I submitted a Memorandum of Attendance) and in good faith for the numerous people that came to me/us for help with this issue. Also, my consistent involvement in this issue demonstrates an invested interest offered in-kind. I have always acted with good intentions and my work was intended throughout to be helpful. Had the Town taken our committee's efforts more seriously from the onset,(we requested a hearing like this in 2007, and I suggested in the 2009, and 2010 reports that a Director be appointed to offer direction because of the complexities) I am certain-a more pro-active, timely & less costly resolution could have been found.

Thank you, for your time and consideration with this matter. Also, I just wanted to assure Your Honour, that the Hearing of Issues is greatly appreciated.

Sincerely,

x M. DeMarco

Date: Oct. 10, 2014

South Innisfil Creek Drain Project Assessed Landowner/Representative
 Marisa De Marco on behalf of
 Michele and Maria De Marco, assessed landowners.

LP

Re: Court File No. 04-B7552

STATEMENT OF ISSUES FORM

Form prepared by South Innisfil Creek Drain (SICD) Landowners' Volunteer Committee

Name: Tony DeMarco, Landowner(s) Address: 374 ACAN ST CUCUMBER

Assessment Total: \$ _____

I am in opposition of the SICD project I am in support of the SICD project

I agree that these issues need to be considered by the Honourable Referee Waters:

BY DUTY OF COUNCIL: SEE: Letters From Landowners submitted at Delegation to Town. "Letters From Landowners" served to Town during our delegation to Council. These letters were gathered by our committee following a letter writing campaign organized by Innisfil Resident Advocacy Committee (IRAC), held at Cookstown-Skydive Toronto Hangar in early 2007. There were over 200 of these letters completed and submitted to Paul Landry, Town Clerk at the time.

No Notice of Preliminary Report: Many assessed landowners, DID NOT RECEIVE NOTICE OF THE PRELIMINARY REPORT, as per *Drainage Act, R.S.O., 1990, c. D. 17, s. 3 (10), (11)*, and as was Ordered by Referee O'Brien in the Order dated March 31, 2005, pg. 4 Paragraph #5, 6. "...The Town shall...provide notice of the preliminary report and the hearing date by sending notice to all landowners in the assessed area, by regular mail."

No Brief Description: The notice shall provide a brief description of the preliminary report....". We did not receive anything in "layman's" terms or of a "brief description". We did not receive anything until January 24, 2007-at the insistence of our committee. See Town of Innisfil Staff Report #CS-01-07, dated January 24, 2007. Re: South Innisfil Drain and resulting "Dear Landowner Letter" Re: South Innisfil Creek Update, dated January 24, 2007. This layman's letter should have been issued in conjunction with the Preliminary Report's release-in February 2006.

Lack of Timely or Adequate Notice: The majority of individual assessed landowners claim lack of proper notice regarding the project from the onset, lack of a geographical on-site meeting by the engineer, inappropriate scheduling of an engineer's meeting: Example: August 3, 2005 at 13:00 hrs. *on a weekday, when the majority of landowners were at work*; indicating lack of timely communication, and lack of transparency on behalf of the Town of Innisfil and the commissioned Engineer. OMAFRA states to "...err on the side of caution and notify/invite more not less to on-site meetings". Sid VanderVeen, *Spinning the 78*, 2008. The information offered at this meeting was vague and not focused on the intent of an on-site meeting. Many of the farmers more directly adjacent to the drain could not attend at this time in the day-although many did not know about the meeting, as landowner Kerry Yamamoto has also stated.

UNDUE INFLUENCE WAS/IS IMMINENT: As assessed landowners were told on various occasions that the drainage project was/is, "...a done deal...", that the "...Town's hands were tied...", and that the "Town was bound by court order to move forward with the drainage project works...". As such, the affected landowners were unable to act in a timely manner with regards to proper proceedings/hearings/matters before the court, and were subsequently led to believe on several occasions that there was no means by which to oppose or appeal this process. When approached by concerned residents, members of Council claimed that, "...they knew nothing about the project or its costs..." or, "...legal counsel has advised that we are not to comment..." etc. Court File No.04-CN-278045. *However, it is beginning to look as though the original petitioners were 'removed from the petition' by proxy-as under 5.78 there are no petitioners.*

I BELIEVE THE TOWN SHOULD SAY FOR THIS PROJECT.

Thank you for your time and consideration with this matter.

Sincerely,

X _____
South Innisfil Creek Drain Project Assessed Landowner

Date: Oct 10/2014

OCT 9 2012

LP.

KERRY YAMAMOTO
RR # 1 CHURCHILL
LOL 1K0 ONT
705 456 2542

I HAVE A FARM OPERATION IN THE IMMEDIATE FLOOD PRONE AREA AFFECTED AND IN THE LAST 10 YEARS HAVE NOT EXPERIENCED A MAJOR FLOOD EVENT THEREFORE A PROPOSED FINAL REPORT PROJECT IS NOT REQUIRE D AND IS EXCESSIVE IN SCOPE OF WORK OUTLINED. (MORE SUITED FOR FUTURE DEVELOPMENT AND INFRASTRUCTURE REQUIREMENTS) I E SEE CORTEL MASTER SERVICE PLAN SUBMITTED IN 2007 ^{TO THE TOWN} AFTER PRELIMINARY REPORT WAS ~~ISSUED~~ ^{ISSUED}. THE DRAINAGE ACT WAS INACTED FOR THE PURPOSE OF AGRICULTURAL NEEDS.

COST BENEFIT ANALYSIS DONE IN THE PRELIMINARY REPORT WAS NET RETURN OF 10000⁰⁰/ACRE WITH TOTAL PROJECTED COST OF PROJECT AT 2.6 MILLION THOUGH I FELT THAT WAS EXCESSIVE FOR THE WORK NEEDED TO REMEDY THE LACK OF MAINTAINANCE UPON THE TOWN. HOWEVER IN THE FINAL REPORT NO COST BENEFIT ANALYSIS WAS DONE (NONE THAT I COULD FIND) WITH NOW THE PROJECTED COSTS HAS ESCALATED TO 6.7 MILLION, (WHERE DO WE SAYOK AT WHAT POINT IS REALISTIC. DO WE SPEND A MILLION DOLLARS TO SAVE 10000⁰⁰ AS AN EXAMPLE.

WE LANDOWNERS HAVE LONG AWAITED TO RESOLVE THIS MATTER AT AN AFFORDABLE COST IN A TIMELY MANNER (7 YEARS AND STILL NO WORK HAS BEEN DONE TO ME IMMEDIATE AREA TO IMPROVE THIS DRAINAGE ISSUE AND ENGINEERING, LEGAL COST ARE

LP

STATEMENT OF ISSUES - RE: Court File No. 04-B7552

1. MISUSE OF THE DRAINAGE ACT. This drainage issue originated as a petition request for maintenance/repair on a very specific area of the South Innisfil Creek Drain. The Town staff was responsible to present the request to Council who were responsible to hire an engineer. NONE of this was done – Procedures in the ‘Act’ were not respected.

2. UNPROFESSIONAL HANDLING OF PETITION REQUEST-LACK OF COMMUNICATION AND CO-OPERATION. This maintenance/repair request if handled in-house in an efficient and professional manner (rather than with complete lack of communication and no procedural advice or follow-up) by the municipality and in accordance with the ‘Act’ protocol, would never, and **should have never reached the office of the Drainage Referee.** The petitioners attempts to communicate were ignored for **A PERIOD OF 2 YEARS.**

3. APPEAL TO DRAINAGE REFEREE UNDER SECTION 79 – POWER TO COMPEL REPAIRS – NOT SECTION 78. A second flood event within 2 years brought the seeming intransigence of the Town full face in front of the Drainage Referee. Petitioners were forced to hire legal counsel in order to obtain co-operation from the Town. It would later become apparent that the town had budgeted \$11,000.00 to remedy this very request for maintenance/repair – which rose to **\$30,000** two years later – **the cost to be paid from general funds.**

4. EXCESSIVE SCOPE - LACK OF ATTENTION TO THE CONTENT AND URGENCY OF THE PETITION BEFORE THE REFEREE– PETITION DETAILS IGNORED, AS WAS THE \$30,000.00 municipal budget allocation for the work on the specific area identified as the primary cause of the flooding. **ADD TO THAT, LIMITED APPEAL RIGHTS ARE NOT AS PER ‘Act.’**

5. EXCESSIVE COSTS RESULTING IN UNDUE HARDSHIP. Referee orders bridges to be removed on some properties **prior to final report being adopted** resulting in the inability of landowners to utilize their land for agriculture for a minimum of 7 years at this writing. The entire Dillon report is excessive in cost. 7 million would justify a 1 in 25 year storm not a minor repair to approx.. 2.5 km. of drain. Financial Victim Impact Statements have been filed with the Town. **Some farmers will lose their lands, some will suffer bankruptcy.**

6. MISTAKES ARE NUMEROUS. (refer to minutes of several Council meetings and the ‘open house’ organized by the Town to allow for reporting of mistakes to the engineering firm). Not all landowner mistakes have been reported as of this date, as some (English challenged) have not understood the need to do so. Also refer to second/third engineering opinions that will be forth coming in other STATEMENTS OF ISSUES.

7. USE OF ‘LEAGALIZE’ LANGUAGE on documentation sent to landowners- as opposed to everyday ‘lay’ language is a barrier to landowners understanding of the importance and the pertinence of their role and responsibilities in this issue. THIS IS THE PRIMARY REASON WHY AS REFEREE O’BRIEN STATED that the lack of opposition despite the huge number of assessed landowners heavily influenced him to rule in favour of the project. HOW COULD A LAND OWNER REASONABLY EXPECT THAT A LEGAL CASE IN THE COMMUNITY PERTAINED TO THEM UNLESS THEIR INVOLVEMENT WAS SPECIFICALLY EXPLAINED?–MANY RECEIVED NO NOTIFICATION Some residents were recently told by town staff ‘you don’t have to worry about sending that in’ (the Sept. 2014 Memorandum of Appearance). **UNTIMELY COMMUNICATIONS** is another concern.

8. NO ONE WAS WATCHING THE TILL. For the **7** years it took to complete the Final Report, purchase orders were placed and fees paid out continuously to Dillon – who I heard used junior engineers on the project –and **no one** person on council, or staff, nor legal counsel noticed the exorbitant sums being paid out? No questions or concerns about the ability of landowners to absorb these costs? **\$ 30,000 CLIMBS TO 8 MILLION AND NO ONE “in the know” TAKES NOTICE?**

9. NO COMMUNICATION OR UPDATE FROM DILLON OR TOWN ON PROJECT STATUS– FOR 8 YEARS. ORIGINAL APPLICANTS NOW OPPOSE THE PROJECT. Original request/intention was a ‘clean-up’ of 2.5 km of the drain.

10. LANDOWNER DRAINAGE COMMITTEE MUST BE FORMED TO AVOID REPETITION OF FUTURE SITUATIONS. Apart from this committee, the volunteer land owner committee who has given voice to the majority of landowners (who oppose project) since 2006 has been ignored and needs to be formally recognized by the Town. Will anyone ever listen?

Submitted by Mrs. D. Hogarth, 6338 Yonge St. Churchill, ON. L0L 1K0 – Oct. 10, 2014



Re: Court File No. 04-B7552

STATEMENT OF ISSUES FORM

Form prepared by South Innisfil Creek Drain (SICD) Landowners' Volunteer Committee

Name: Vern + Gale Catania Landowner(s) Address: 228 Yonge St

Assessment Total: \$ _____ Cherhill.

I am in opposition of the SICD project I am in support of the SICD project

I agree that these issues need to be considered by the Honourable Referee Waters:

Undue hardship is imminent as assessments are astronomical. According to statistics provided by the Ministry Of Agriculture And Rural Affairs, *the impending project could cost the affected landowners approximately two thirds of the cost of all drainage projects in Ontario in 2012-2013, and as per the Drainage Act, costs are technically uncapped.* Example: as per: preliminary cost distribution, Option #3-page 11 of 33, individual property owner, Joe Chow: \$140 000.00; based on the preliminary cost figures of \$2.6 million-which is a low cost option. Update: Final Report cost is now over \$6 million. Therefore, Mr. Chow's assessment could be over \$200 000.00 and subject to an increase of up to 133% as the costs will be appropriated based on the final cost at the completion of construction of the project-not on the figures listed in the Final Report's assessment schedules-as those figures are estimates.

Financial Impact Statements: Several landowners have submitted Impact Statements to the Town. Many landowners currently living in the GTA may not even be aware of their assessments. I personally have spoken to several who were still completely unaware of the pending costs associated with their landownership-these situations could result in even further socio-economic hardships.

The following are key observations garnered from OMAF statistics:

- There were 25 more projects completed in 2012/13 than in 2011/12 (133), but the overall cost was down \$1.35 million from last year. This means that the average per-project cost decreased from \$149,000 to \$117,000. -The South Innisfil Creek Drain project stands to be completed at 7-10X this overall average cost.
- In 2012/13 - The number and total value of drain maintenance work increased significantly. The number of projects went from 1580 to 2303 and the value went from \$7.46 million to \$11.9 million. -This project is already at \$6.7 million and is still susceptible to up to a possible 133% rise in costs and therefore, may stand to cost more than the over 2000 projects in Ontario, combined. Had the maintenance/repair been completed in a timely manner in 2004-2006, the drainage works would have cost considerably less and cause less financial hardship.

Thank you for your time and consideration with this matter.
Sincerely,

x Gale + Vern Catania
South Innisfil Creek Drain Project Assessed Landowner

Date: Sept 20/14

LP.

Re: Court File No. 04-B7552

STATEMENT OF ISSUES FORM

Form prepared by South Innisfil Creek Drain (SICD) Landowners' Volunteer Committee

Name: Hern + gale Catania, Landowner(s) Address: 6288 Yonge St

Assessment Total: \$ _____ Chancellville, Ont

I am in opposition of the SICD project I am in support of the SICD project

I agree that these issues need to be considered by the Honourable Referee Waters:

BY DUTY OF COUNCIL: SEE: Letters From Landowners submitted at Delegation to Town. "Letters From Landowners" served to Town during our delegation to Council. These letters were gathered by our committee following a letter writing campaign organized by Innisfil Resident Advocacy Committee (IRAC), held at Cookstown-Skydive Toronto Hangar in early 2007. There were over 200 of these letters completed and submitted to Paul Landry, Town Clerk at the time.

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No Brief Description: The notice shall provide a brief description of the preliminary report....". We did not receive anything in "layman's" terms or of a "brief description". We did not receive anything until January 24, 2007-at the insistence of our committee. See Town of Innisfil Staff Report #CS-01-07, dated January 24, 2007. Re: South Innisfil Drain and resulting "Dear Landowner Letter" Re: South Innisfil Creek Update, dated January 24, 2007. This layman's letter should have been issued in conjunction with the Preliminary Report's release-in February 2006.

Lack of Timely or Adequate Notice: The majority of individual assessed landowners claim lack of proper notice regarding the project from the onset, lack of a geographical on-site meeting by the engineer, inappropriate scheduling of an engineer's meeting: Example: August 3, 2005 at 13:00 hrs. *on a weekday, when the majority of landowners were at work;* indicating lack of timely communication, and lack of transparency on behalf of the Town of Innisfil and the commissioned Engineer. OMAFRA states to "...err on the side of caution and notify/invite more not less to on-site meetings". Sid VanderVeen, *Spinning the 78*, 2008. The information offered at this meeting was vague and not focused on the intent of an on-site meeting. Many of the farmers more directly adjacent to the drain could not attend at this time in the day-although many did not know about the meeting, as landowner Kerry Yamamoto has also stated.

UNDUE INFLUENCE WAS/IS IMMINENT: As assessed landowners were told on various occasions that the drainage project was/is, "...a done deal...", that the "...Town's hands were tied...", and that the "Town was bound by court order to move forward with the drainage project works...". As such, the affected landowners were unable to act in a timely manner with regards to proper proceedings/hearings/matters before the court, and were subsequently led to believe on several occasions that there was no means by which to oppose or appeal this process. When approached by concerned residents, members of Council claimed that, "...they knew nothing about the project or its costs..." or, "...legal counsel has advised that we are not to comment..." etc. Court File No.04-CN-278045. *However, it is beginning to look as though the original petitioners were 'removed from the petition' by proxy-as under S.78 there are no petitioners.*

Thank you for your time and consideration with this matter.
Sincerely,

X Hern + gale Catania
South Innisfil Creek Drain Project Assessed Landowner

Date: Sept. 20/14

STATEMENT OF ISSUES FORM

Form prepared by South Innisfil Creek Drain (SICD) Landowners' Volunteer Committee

Name: Dorinda & Gale Catania, Landowner(s) Address: 6288 Yonge St

Assessment Total: \$ _____ Churchill

I am in opposition of the SICD project I am in support of the SICD project

I agree that these issues need to be considered by the Honourable Referee Waters:

APPLICABILITY OF SECTION 118 (2) (3), DRAINAGE ACT: THAT, AT YOUR HONOUR'S DISCRETION, AND in view of the Court's findings in Court File No. 04-CV-278045, with respect to the implied culpability of the Town of Innisfil, as, 1) indemnity costs have been awarded in favour of the Applicant, 2) the Town has taken it upon themselves to direct these costs to the General Fund, as what the Town called 'previous legal costs', which the Town also claimed, "...shouldn't be put against the drain project's assessment cost...", AND as such, once indemnity costs are awarded as in this case, it would be reasonable to assume that some level of culpability on behalf of the Town and its actions relevant to the neglect of maintenance and repair of the drain in question was in fact established- otherwise why would the Court award such costs? Therefore, because this mitigation process has bound the remaining landowners with the responsibility to pay, the Town should remain bound by statute as they did not adhere to their responsibility to adequately maintain or repair the same drain/drainage area that implicates landowners other than the Applicant-who has been awarded indemnity costs and stands to collect an award for damages as well. I challenge that since these costs either have been/or are pending to be awarded, that the Town's neglect of responsibility is applicable to the interests of the other landowners within the same assessment/drainage area-considering that we are expected to pay as part of the South Innisfil Creek Drain. Therefore, if such responsibility was established, then the drainage works for the South Innisfil Creek Drain that instigated the original petition and Statement of Claim-despite the Town having been absolved of liability by Referee O'Brien via Court Order dated March 31, 2006 (again, by virtue of a possible process of mitigation to accommodate the same associated Statement of Claim) would establish that such conditions are in fact applicable to our shared interests (as with those of the Applicant's) in that, this culpability could be subject to Section 118 (2)(3), of the Drainage Act- as it affects the interests of all assessed landowners of the same assessment/drainage area by virtue of the Town's responsibility to maintain and repair the said drain on behalf of not only the Applicant but all the landowners who can be assessed within the drainage area affected as well.

In fairness to those who are being held responsible to pay: It must be established that: the mitigation process between the parties for Court File No. 04-CV-278045, either has or has not unjustly affected this outcome, current or future related/applicable proceedings under the Drainage Act, Court File No. 04-B7552, because if we are expected to pay then we must be able to investigate our responsibility and by what cause-and we were not allowed that opportunity to the extent that was necessary to establish 'strict financial responsibility'. And as such, if the cause of the drain's impairment and subsequent flood/damages is found to be correlated to lack of action on behalf of the Town, then the onus should be on the Town to pay for the repairs/improvements and maintenance necessary through the General Fund as aforementioned.

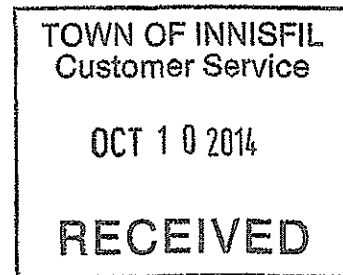
Thank you for your time and consideration with this matter.

Sincerely,

x Dorinda & Gale Catania
South Innisfil Creek Drain Project Assessed Landowner

Date: Sept 20/14

Joseph Chow
3065 4th Line
Cookstown, ON
L0L 1L0



October 8th, 2014

TO: Mr. Robert G. Waters, Drainage Referee

RE: A statement of issues concerning the South Innisfil Creek Drain; The Corporation of the Town of Innisfil v. Boris Horodinsky et al. & Richard Simpson et al.

Dear Mr. Waters,

I am the owner of approximately 133.5 acres, Concession 3, Part Lot 10, Roll Number 43-16-010-001-24200-0000 in the town of Innisfil.

This letter constitutes my statement of issues. The present matter resulted from complaints made repeatedly by local farmers about the lack of maintenance of the South Innisfil Creek Drain. Over the last eight years or so, the resolution to this drainage issue has morphed into a multi-million dollar project as proposed in the final report from Dillon Engineering. These costs are staggering, absurd, and uncalled for.

My assessment is about \$100,000, should the project go ahead. On my property, I operate a small airfield for parachuting activities. Due to the nature of the activity, this is a small business. From a cost/benefit point of view, this expense (\$100,000 in a multi-million dollar project) does nothing for my business. My facilities at the Cookstown Airfield, buildings, parachutist landing area, aircraft runway areas are raised above the surrounding land. During my years of ownership, since 2003, there has not been any significant or long-lasting flooding of my lands. I feel that should a flooding event occur any interruption of the parachuting activities would be minor and temporary. I simply cannot afford to expense \$100,000 on a project that is unnecessary and without any perceivable benefit.

Over the past few years, in numerous meetings and discussions with other local homeowners, landowners and farmers, the same sentiment has been expressed by my neighbors, that the expense of this project would cause widespread hardship amongst the local residents.

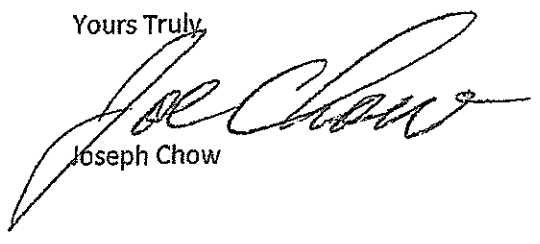
Accordingly, I suggest another plan to address the lack of maintenance by the town on the Innisfil Creek Drain. A committee should be formed consisting of affected landowners, farmers, and council members,

LP

to oversee regular cleanout and maintenance of this drain. Such a local initiative, a made-in-Innisfil solution, would be both cost-effective and affordable.

Thank you for considering my input.

Yours Truly

A handwritten signature in black ink, appearing to read "Joe Chow". The signature is fluid and cursive, with a large loop at the end of the last name.

Joseph Chow

October 9, 2014.

Corporation of the Town of Innisfil

Re: South Innisfil Creek Drain

Dillon final report dated August 2013.

The petitioners have successfully obtained a judgement by authority of the Drainage Act to have Innisfil Creek totally reconstructed. The exorbitant cost of this proposed project is now passed on to the affected ratepayers.

We urge that as an alternative to that report, the Township clear out the affected stretch of the creek. This would cost much less compared to the amount cited in the Final Report.

Council cannot reasonably expect the ratepayers to fund the project as outlined in the Report. This assessment will cause unnecessary financial hardship especially to those in close proximity to the creek. The proposed improvements would not add to the land value for any ratepayer. This is purely a maintenance issue and should have been managed as such.

We agree with the recommendation that a committee or qualified inspector be appointed to review drainage matters in South Innisfil. It is critical that all municipal drains be kept clear at all times. Cleanout removal of obstructions should not be subject to approval by other authorities. If landowners/ratepayers are adversely affected, prompt remedial action is required. The Town of Innisfil position on this matter has been neutral. This is not acceptable because maintenance of municipal drains is the responsibility of the Town. Proactive monitoring and maintenance needs to be a municipal policy to ensure that drainage is uncompromised. We are requesting a fair and equitable resolution to this matter and, going forward that the municipality address all drainage issues in a timely manner.

George Kemeny

Bill Long

LP

October 10, 2014

Court of the Drainage Referee
C/O Town of Innisfil
2101 Innisfil Beach Road
Innisfil, ON
L9S 1A1

Dear Drainage Referee:

Re: South Innisfil Creek Drainage Improvements

I own a small parcel of land (15 acres) at 2511 - 3rd Line, North Part Lot 13, Concession 2, Innisfil Township. The access to my property is via an older wooden structured bridge over a tributary of Innisfil Creek. I have been accustomed to sharing the cost of the drain maintenance cleanout every five to six years on a reoccurring basis. The individual costs each time to me were not extreme, and would vary depending on the amount of work required, generally not more than \$400.00.

The decision to go ahead with aforementioned reoccurring drain maintenance cleanout was always a common sense decision. I expect there may have been some input by affected landowners bordering South Innisfil Creek or its tributaries, but for the most part the trained and knowledgeable Town employees knew when to conduct the necessary work required.

I feel that the **very extreme costs** of the proposed work in the Final Drainage Report are not commensurate to the possible benefits to affected property owners. I would like to ask that common sense be once again used as part of the equation in making any final decision regarding this engineered drain maintenance cleanout.

Yours truly,



Darlene J. Evers
3260 - 25 Sideroad
Innisfil, ON
L9S 3E1
705-436-4521 Residence Phone

LP.

Court of the Drainage Referee
 South Innisfil Creek Drain and Branches
 Statement of Issues

The bulk of the concern expressed by assessed landowners in the South Innisfil Creek Drain watershed is about high costs assessed to them in the Final Report and the subsequent financial impact on their families and businesses.

Landowners were caught off-guard by the high cost of the project. In the past, assessments were of a few hundred or a couple of thousand dollars - nothing like the current figures. Many of the rural and farm properties face assessments of tens of thousands of dollars. Difficult choices will have to be made on expenditures such as education, retirement income, transportation, perhaps even sale of property.

The drain is really a municipal infrastructure project. Original justification for creation of this municipal drain was to make possible the construction of Sideroad 10 (a County of Simcoe road) through the swamp. Market garden agricultural development occurred much later. A true cost/benefit analysis would show that the County of Simcoe and the Town of Innisfil should pay the bulk of the cost because it is these municipalities and their residents who receive the most benefit due to this and other roads in the watershed. The municipalities also have the ability to spread the cost over a broad tax base.

The Town and the Drainage Engineer have the final say on design of the project and how much it costs. In all likelihood, the final price tag will be even higher than the current estimate. Landowner input is limited to making our concerns known with very little follow-up recourse. As a result, the Town should be accountable for the majority of the cost. If the Town had done adequate maintenance over the years, landowners would be looking at assessments of a few thousand dollars at most. Modest assessments are at least manageable from a cost/benefit and income point of view.

Ask the Drainage Referee to use the discretion available to him to ensure there is a limit to the costs assessed to landowners and that the bulk of the project expense (including engineering and legal fees) be assigned to the County of Simcoe and the Town of Innisfil based on benefit and responsibility.

Respectfully,



Ian Campbell

(Participant)

October 10, 2014

LP 82

Re: Court File No. 04-B7552

STATEMENT OF ISSUES FORM

Form prepared by South Innisfil Creek Drain (SICD) Landowners' Volunteer Committee

Name: MARY TOICH, Landowner(s) Address:

Assessment Total: \$ _____

3006 Cooney Rd RR1
Cokeston

I am in opposition of the SICD project

I am in support of the SICD project

Honourable Referee Waters,

I believe that in consideration of all that has been happening, I trust that you may choose to look at this issue from a new perspective, this in consideration that the Referee "...has wide discretionary powers...", and you may,

PROCEED ON VIEW: as per, *Drainage Act*, R.S.O. 1990, c D. 17, s. 114, and in consideration of information brought before you, And that, this new information be considered in support to have Your Honour deliberate the said effects of these findings/concerns upon this issue, and/or to offer direction and/or clarification in all fairness:

1. Duty of Council was not met: Lack of Notice, Procedural inequity, Undue Influence-telling us "it was a done deal...nothing we can do, it's been court ordered...our hands are tied..."-none of us thought it could be appealed, the town made us think that it was basically already in the works in 2006.
2. **Excessive costs will cause undue hardship.**
3. **Excessive scope and enormous cost unnecessary**-the Act's mandate is to improve land/farm integrity and viability-and this can be done with a project of a lesser scale and therefore, cost.
4. **Majority of landowners in opposition**, and challenge Referee O'Brien's statement, "...despite large number of landowners few have voiced opposition...this weighed heavily in favour of project...".
5. Question of drainage works not being initiated under normal statute: Clarification/disclosure regarding Court File No. 04-CV 278045 and its relevancy to Court File No. 04-B7552 and/or any other court file associated with the original Statement of Claim, or legal proceedings that initiated process under the Drainage Act in this instance, namely, the status of a \$2 million claim for damages-that seems to be pending the outcome of this project.
6. **Question of Original proceedings beginning under S.79 (1), (2), and if so, if Section 118 (2) (3) is therefore applicable (as indemnity fees were paid and there is a pending claim for damages-doesn't this imply that there was some kind of culpability established-that would apply to OUR interests as well.**
7. Town must/but has not duly investigated alternative funding mechanisms – engaging the responsibility of other government agencies. For some grants, it's now too late to apply.
8. The Act is not being used for its intended agricultural objectives, and is being manipulated to benefit other causes such as infrastructure and environmental upgrades that have communal benefit-and this is not fair because the cost is imposed on a select few as opposed to being allocated universally.
9. The contraindications of the Act in environmental wetland and water protection.

These issues have resulted in the unfair situation that the majority of assessed landowners find themselves in. I believe that all of these issues require your attention in order to find the most appropriate solution to this problem.

Thank you for your time and consideration with this matter.

Sincerely,

X Mary Toich

South Innisfil Creek Drain Project Assessed Landowner

Date: Oct 10th 2004

LP
2

Re: Court File No. 04-B7552

STATEMENT OF ISSUES FORM

Form prepared by South Innisfil Creek Drain (SICD) Landowners' Volunteer Committee

Name: TANIA & CHRIS DEAHUNT, Landowner(s) Address: 3005 COUNTY RD. #89,
TANIA PLY. TALK COOKSTOWN, ON L0L1L0

Assessment Total: \$ ~ 3500.00 / ac

I am in opposition of the SICD project I am in support of the SICD project

Honourable Referee Waters,
I believe that in consideration of all that has been happening, I trust that you may choose to look at this issue from a new perspective, this in consideration that the Referee "...has wide discretionary powers...", and you may,

PROCEED ON VIEW; as per, *Drainage Act*, R.S.O. 1990, c D. 17, s. 114, and in consideration of information brought before you, And that, this new information be considered in support to have Your Honour deliberate the said effects of these findings/concerns upon this issue, and/or to offer direction and/or clarification in all fairness:

1. Duty of Council was not met: Lack of Notice, Procedural inequity, Undue Influence-telling us "it was a done deal...nothing we can do, it's been court ordered....our hands are tied..."-none of us thought it could be appealed, the town made us think that it was basically already in the works in 2006.
2. Excessive costs will cause undue hardship.
3. Excessive scope and enormous cost unnecessary-the Act's mandate is to improve land/farm integrity and viability-and this can be done with a project of a lesser scale and therefore, cost.
4. Majority of landowners in opposition, and challenge Referee O'Brien's statement, "...despite large number of landowners few have voiced opposition...this weighed heavily in favour of project..."
5. Question of drainage works not being initiated under normal statute: Clarification/disclosure regarding Court File No. 04-CV 278045 and its relevancy to Court File No. 04-B7552 and/or any other court file associated with the original Statement of Claim, or legal proceedings that initiated process under the Drainage Act in this instance, namely, the status of a \$2 million claim for damages-that seems to be pending the outcome of this project.
6. Question of Original proceedings beginning under S.79 (1), (2), and if so, if Section 118 (2) (3) is therefore applicable (as indemnity fees were paid and there is a pending claim for damages-doesn't this imply that there was some kind of culpability established-that would apply to OUR interests as well.
7. Town must/but has not duly investigated alternative funding mechanisms - engaging the responsibility of other government agencies. For some grants, it's now too late to apply.
8. The Act is not being used for its intended agricultural objectives, and is being manipulated to benefit other causes such as infrastructure and environmental upgrades that have communal benefit-and this is not fair because the cost is imposed on a select few as opposed to being allocated universally.
9. The contraindications of the Act in environmental wetland and water protection.

These issues have resulted in the unfair situation that the majority of assessed landowners find themselves in. I believe that all of these issues require your attention in order to find the most appropriate solution to this problem.

Thank you for your time and consideration with this matter.

Sincerely,

X J. Deahunt
South Innisfil Creek Drain Project Assessed Landowner

Date: Oct. 10/2014

LP.

Re: Court File No. 04-B7552

STATEMENT OF ISSUES FORM

Form prepared by South Innisfil Creek Drain (SICD) Landowners' Committee

Name: Dalton + Loxi Street Landowner(s) Address: 6695 10 side road

Assessment Total: \$ 4000^{00/00} Innisfil, ON

I am in opposition of the SICD project to proceed as is I am in support of the SICD project as is

I believe these issues require the consideration of the Honourable Referee Waters:

The entire issue should never have gone as far as the Drainage Referee. It should have been resolved by the Town, at the local level.

The excessive scope of the report needs to be addressed because it doesn't speak to the original work being done.

The costs are out of line and will cause undo hardship to our neighbours and ourselves.

Thank you for your time and consideration with this matter.

Sincerely,

x Loxi Street + Dalton St.
South Innisfil Creek Drain Project Assessed Landowner

Date: Oct. 9, 2014

LP.

From: Peter Marques [<mailto:pdne@rogers.com>]
Sent: October-10-14 9:19 AM
To: Karen Fraser
Subject: Statement of issues from Marques Gardens Ltd.

South Innisfil Creek Drain
Request from Participant

To Whom It May Concern:

As an active farmer within the Innisfil Drain, one who has numerous properties that are impacted by both the economics and scale of this proposed project, I would like to take this opportunity to comment on the so-called Engineer's Report that has been submitted to Innisfil Council, which, rightfully, motioned to refer it back to the Drainage Commissioner to see if this fiasco could be overturned.

Let's ignore the fact that this report took nearly a decade to complete – and was still filled with inaccurate mapping and information that prejudiced any proper decision that could be rendered on the technical aspects of the requirements for repair and/or revitalization, it completely fails to achieve the desired goals for either the town or its citizens. The residents impacted by this flawed report stand united in three things: the work required for the minimal amount of increased protection is extraneous, exorbitantly costly, and unwanted by all those impacted by both the assessments and the end result (which will be negligible at best).

It is the economics which need to be addressed, since early costs are being forecasted in excess of \$8-million, an assessment on property owners and farmers that will surely see many leave because the burden of cost can no longer be supported through the uses of the land. For my properties alone, I am facing hundreds of thousands of dollars for a so-called repair to ensure flooding event on a scale that is barely above the standard in place at this exact moment – and all the while hoping some other climatic event (which the work will NOT address) doesn't impact upon my ability to use my properties (four of them) to farm and earn a living working the land. All of the farmers in the Cookstown marsh are in the same scenario. Instead of a cleaning, dredging, and dyke and berm repair – which is the fix to this entire issue and would be both cost effective and more than sufficient – we are now burdened with having to go through process after process just to be simply heard because of decision rendered in 2006 that no one either clearly articulated or took the time to explain to this expanding breadth of residents now being assessed.

The economics of farming are very clear, especially for vegetable production in this highly productive soil, akin to the renowned area south of us known as the Holland Marsh. We grow so that others can pack and merchandize what we produce – we do not wash, bag, or alter our finished product. As such, our margins are forever narrow, with increasing input costs escalating on a yearly basis and returns on what we grow getting smaller and smaller amidst globalized pressures and open market access. This is a family operation, started by my father and continued with me as a partner. We are not large by any stretch of the imagination, there are not thousands of acres being used, but hundreds, and as a family operation, we do not have stakeholders or shareholders we can turn towards for an influx of "capital" to offset unexpected setbacks – like a drainage assessment for a project that will do nothing to keep my properties from flooding year after year. It may not be as severe as some points that we have had over the past decade, with what are being called unexpected weather events (four inches of rain), but

LP

our operations are able to handle excessive water off the marshlands. All of the farmers are able to do so, unless the dykes break – and even then, repairs are able to be made, if possible, within a reasonable amount of time. A final assessment for a project that benefits potential future expansion of areas along the 400 or Churchill but do not address the concerns of the real economic drivers in the area, we farmers, is of little or no concern if it forces me out of business. And it will. But it will also lead to others to sell their properties and leave this community, driving the economics of scale out of whack within Innisfil – in much the same fashion, I might add, as what we see from this drainage report.

It should be noted that the entire reconstruction of the Holland Marsh, albeit a joint venture between federal, provincial, and municipal governments, along with the impacted farming community, cost a total of less than \$26-million: for the entire project of more than 20 kilometers of work, and with an assurance that its efforts can withstand Hurricane Hazel weather impacts. That work is finishing in the next 18 months, took five years, and was under budget (to date). They have a real drainage superintendent and have worked with the impacted community to ensure that all problems have been dealt with in advance – and at an estimated assessed cost of less than \$100 per acre.

Pretty remarkable considering that they rebuilt three bridges along the way – and the similarities between that project and this proposed one is as close as can be determined since it goes through an environmentally sensitive wetland that has been utilized as muck farming for more than a half a century. The point? At nearly a third of the cost, our community – farmers, rural residents, and suburban residents, along with the Town of Innisfil, we are going to be seeing NO tangible results. Instead, we get long-term economic pain for no weather event gain. And the farmers in the area will still need to improve their dykes and municipal drains will still need to be cleaned on a regular basis to allow for the free-flow of water.

There were other options once the initial situation played itself out – and the town council has indicated a willingness to see this report be filed as information, residents pick up the early costs of the engineering report, which is reasonable, and let property owners, the municipality, and the conservation work together, harmoniously, towards a resolution that is affordable and amiable for all. This flawed report, which others will surely take the time to tear apart in front of you during testimony, offers only years of discourse for our residents and our town, especially when we are all prepared to partner so that it gets done properly.

As an impacted property owner, as a young farmer, as someone who makes his living off the lands directly influenced by the South Innisfil Creek Drain (and its area), I am asking you to reconsider this matter, dismiss the report or overturn its results, because the end result and the economics make absolutely no sense to anyone engaged or involved in this scenario – now and into the future.

Thanks

Peter Marques-owner
Angelina Marques -owner

LP.

From: Greg Meincke [<mailto:gmeincke@rogers.com>]
Sent: October-10-14 5:05 PM
To: Karen Fraser
Subject: Procedural Order - South Innisfil Drain - Statement of Issues

Please accept this as my Statement of Issues regarding the South Innisfil Drain.

My property is not situated within the natural drainage shed for the South Innisfil Drain, however, I am aware that costs to undertake any repairs and improvements are great and those property owners affected are having concerns over costs attributed to each of them.

Although the town is involved in this matter any costs to the town should be proportioned to their legal responsibility. The town should not take on more financial responsibility that would result in greater costs to the Town's tax base as a whole in an effort to lessen the financial responsibility of those properties that make up the contributing drainage shed.

Regards,
Greg Meincke

99 Everton Dr., Gilford

-- (Please acknowledge receipt of message)

LP

From: Rose, David [<mailto:David.Rose@CIBC.com>]
Sent: September-26-14 9:16 PM
To: Karen Fraser
Subject: RE: Kell Property 2332 County Road 89

I'd like to dispute the mapping as presented in the report. I'm attaching two maps, one from the Lake Simcoe Region Conservation Authority website (GenReg 045.pdf), and the other, downloaded from Simcoe Maps, Simcoe County's Interactive Mapping website (Kell Drain.pdf). Both show most of the South Half of Lot 15, Concession I, Innisfil as being in the Lake Simcoe watershed.

David S. Rose P.Ag.
 Agriculture Services
 CIBC Commercial Banking, Central Ontario
 Office: 705-456-1235
 Cell: 705-715-4178
 Fax: 705-456-1233
david.rose@cibc.com

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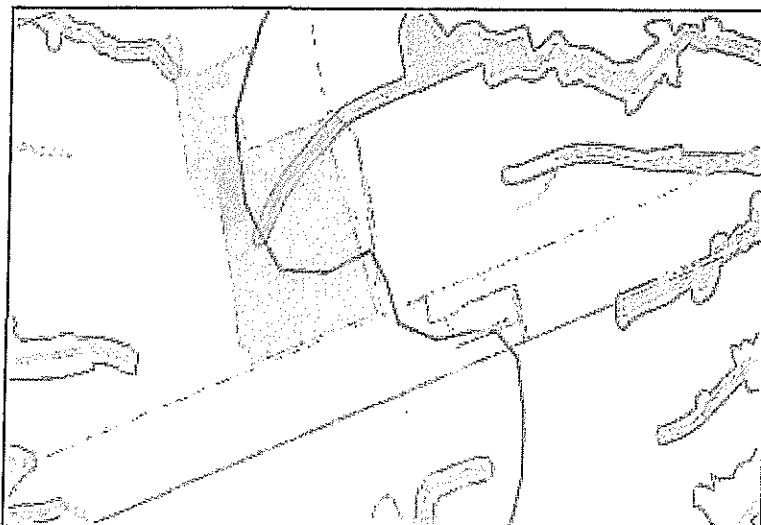
From: Karen Fraser [<mailto:kfraser@innisfil.ca>]
Sent: Friday, September 26, 2014 5:44 PM
To: Rose, David
Subject: Kell Property 2332 County Road 89

Dear Mr. Rose,

Further to your inquiry, I confirm that the property in question, as indicated in the diagram below, is currently being considered in the assessed area of the South Innisfil Creek Drain. This is based on mapping and assessment details contained in the Final Drainage Report dated August 15, 2013, a copy of which can be viewed on the Town's web site at <http://www.innisfil.ca/sites/all/files/uploads/Clerks/13sep16SouthInnisfilDrainReport.pdf>.

As you are aware, the matter is currently before the Drainage Referee and is scheduled to be heard on November 4 and 5, 2014. The outcome of that Hearing will determine how landowners in the assessed area will be affected.

LP



Kind Regards,

Karen Fraser, CMO, Dipl.M.A.

Acting Clerk

705-436-3740 Ext. 2402

1-888-436-3710 (toll free)

705-436-7120 (fax)

kfraser@innisfil.ca

Town of Innisfil

2101 Innisfil Beach Road

Innisfil ON L9S 1A1

www.innisfil.ca



91
W.P.

STATEMENT OF ISSUES - South Innisfil Creek Drain
BORIS HORODYNSKY - representing properties listed in Appendix A

October 6, 2014

1. Cost Increase

Total estimated cost in 2013 Final Report has exceeded total estimated cost in the 2006 Preliminary Report by a factor of 2.5 (see Appendix B). Boris Horodinsky did not fully support all components of the Preliminary Report as Ordered by the Referee (Boris did not agree with Overflow Area 1 being part of Option 1) but Boris did accept the estimated cost in the Preliminary Report. Boris now objects to the significant cost increase in the final report.

- Engineer has not provided an explanation for the cost increase.
- Engineer did not attempt to get input or feedback from the landowners directly affected by the drain when it became apparent the final cost was going to increase substantially.
- Engineer did not consult with the affected landowners between the Preliminary and Final Report.
- Only on-site meeting was August 3, 2005. Changes have been made on the Horodinsky properties in the 8 years between the 2005 meeting and the 2013 report which are not reflected in the Final Report.
- First opportunity for consultation with the Engineer on-site was following a public meeting on November 6, 2013 which was after the final report was filed - a bit late??

Engineer needs to re-examine the recommendations in the Preliminary Report, re-examine current conditions along the drain and consult with the owners along the drain in order to achieve a more cost effective solution for the South Innisfil Creek Drain improvements.

2. Specific Concerns

a) Overflow Area 1

Overflow 1 will not provide any benefit to lands within the main flooding area upstream of Highway 400 due to flow restriction created by the lack of proper grade and depth for the Highway 400 culverts.

- Eliminate Overflow Area 1 which appears to benefit primarily lands downstream which are not assessed.
- Alternatively, the cost of Overflow Area 1 should be applied to further work downstream of 15th Line and/or for the construction of a structure under Highway 400 with proper grade, depth and capacity to convey the flow in the Main Drain.

b) Main Drain along 10 Sideroad

Proposal to widen the channel along 10 Sideroad from 10m to 30m width directly impacts Horodinsky lands and will use up too much cultivated land.

- As shown on the cross-sections in Appendix C the proposed channel widening will not work as outlined in the Final Report as the east top of bank will be at the centreline of 10 Sideroad.
- Eliminate channel widening as it is not required and was not recommended in the Preliminary Report.

c) 3rd Line Branch

Boris Horodinsky does not have any major concern with the condition of the 3rd Line Branch channel or culverts (approximately 1/3 of the branch fronts on Horodinsky lands).

- Eliminate work on the 3rd Line Branch which involves replacing all culverts and deepening the channel. Slightly undersized culverts on the 3rd Line Branch will help to slow the flow into the Main Drain channel where the main flooding concern is.
- It seems illogical to replace all 3rd Line Branch culverts which are not causing a problem and not make any improvements to the downstream Highway 400 culverts which are a problem.
- The Engineer did not consult with the owners on the 3rd Line Branch to determine their needs for the culvert replacements (the Engineer has doubled the length of the replacement culverts?).

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October 6, 2014

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1. Cost Increase

Total estimated cost in 2013 Final Report has exceeded total estimated cost in the 2006 Preliminary Report by a factor of 2.5 (see Appendix B). Boris Horodinsky did not fully support all components of the Preliminary Report as Ordered by the Referee (Boris did not agree with Overflow Area 1 being part of Option 1) but Boris did accept the estimated cost in the Preliminary Report. Boris now objects to the significant cost increase in the final report.

- Engineer has not provided an explanation for the cost increase.
- Engineer did not attempt to get input or feedback from the landowners directly affected by the drain when it became apparent the final cost was going to increase substantially.
- Engineer did not consult with the affected landowners between the Preliminary and Final Report.
- Only on-site meeting was August 3, 2005. Changes have been made on the Horodinsky properties in the 8 years between the 2005 meeting and the 2013 report which are not reflected in the Final Report.
- First opportunity for consultation with the Engineer on-site was following a public meeting on November 6, 2013 which was after the final report was filed - a bit late??

Engineer needs to re-examine the recommendations in the Preliminary Report, re-examine current conditions along the drain and consult with the owners along the drain in order to achieve a more cost effective solution for the South Innisfil Creek Drain improvements.

2. Specific Concerns

a) Overflow Area 1

Overflow 1 will not provide any benefit to lands within the main flooding area upstream of Highway 400 due to flow restriction created by the lack of proper grade and depth for the Highway 400 culverts.

- Eliminate Overflow Area 1 which appears to benefit primarily lands downstream which are not assessed.
- Alternatively, the cost of Overflow Area 1 should be applied to further work downstream of 15th Line and/or for the construction of a structure under Highway 400 with proper grade, depth and capacity to convey the flow in the Main Drain.

b) Main Drain along 10 Sideroad

Proposal to widen the channel along 10 Sideroad from 10m to 30m width directly impacts Horodinsky lands and will use up too much cultivated land.

- As shown on the cross-sections in Appendix C the proposed channel widening will not work as outlined in the Final Report as the east top of bank will be at the centreline of 10 Sideroad.
- Eliminate channel widening as it is not required and was not recommended in the Preliminary Report.

c) 3rd Line Branch

Boris Horodinsky does not have any major concern with the condition of the 3rd Line Branch channel or culverts (approximately 1/3 of the branch fronts on Horodinsky lands).

- Eliminate work on the 3rd Line Branch which involves replacing all culverts and deepening the channel. Slightly undersized culverts on the 3rd Line Branch will help to slow the flow into the Main Drain channel where the main flooding concern is.
- It seems illogical to replace all 3rd Line Branch culverts which are not causing a problem and not make any improvements to the downstream Highway 400 culverts which are a problem.
- The Engineer did not consult with the owners on the 3rd Line Branch to determine their needs for the culvert replacements (the Engineer has doubled the length of the replacement culverts?).

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STATEMENT OF ISSUES - South Innisfil Creek Drain
BORIS HORODYNSKY - representing properties listed in Appendix A

October 6, 2014

d) Overflow Area 3

The benefit of Overflow Area 3 is now questionable due to the 2.7 times cost increase. Final Report states that Overflow Area 3 does not provide additional flood protection to lands south of 3rd Line.

- Eliminate Overflow Area 3

3. 2006 Referee Decision

a) Order 1 and 2

Boris Horodinsky supports a revision to the 2006 Referee Order as follows:

- Revise Order 1 so that Engineer can use the recommendations from the Preliminary Report as appropriate plus further input from the affected landowners to come up with a final recommendation that is more cost effective.
- Revise Order 2 to allow for normal appeal process to Drainage Tribunal under Sections 48 and 54.

b) Order 3

- It is understood that the issue of legal costs noted in Order 3 of the 2006 Referee Decision was not dealt with by the Referee.
- A letter dated September 3, 2013 from Valerie M`Garry (Appendix D) was circulated to all assessed landowners indicating that \$400,600 cost had been incurred by the Town of Innisfil on the South Innisfil Creek Drain which was not accounted for in the Final Report. The letter noted that this cost would be levied to the South Innisfil Creek Drain watershed.
- Since this cost was not included in the Final Report and since there was no decision made by the Referee under Order 3 there is no basis for the \$400,600 to be levied to the South Innisfil Creek Drain watershed.
- Innisfil Staff Report DSR-166-13 (Appendix D) to Council for the meeting on October 2, 2013 (meeting to consider Final Report) on page 1 and 3 recommended that the \$400,600 in legal costs not be levied to the South Innisfil Creek Drain watershed.

Boris Hordynsky objects to the levy of \$400,600 to the South Innisfil Creek Drain watershed and supports the Innisfil staff recommendation that the \$400,600 be paid from the general funds of the municipality.

APPENDIX A for Statement of Issues by Boris Horodynsky
SOUTH INNISFIL CREEK DRAIN & BRANCHES

Boris Horodynsky properties - updated September 12, 2014

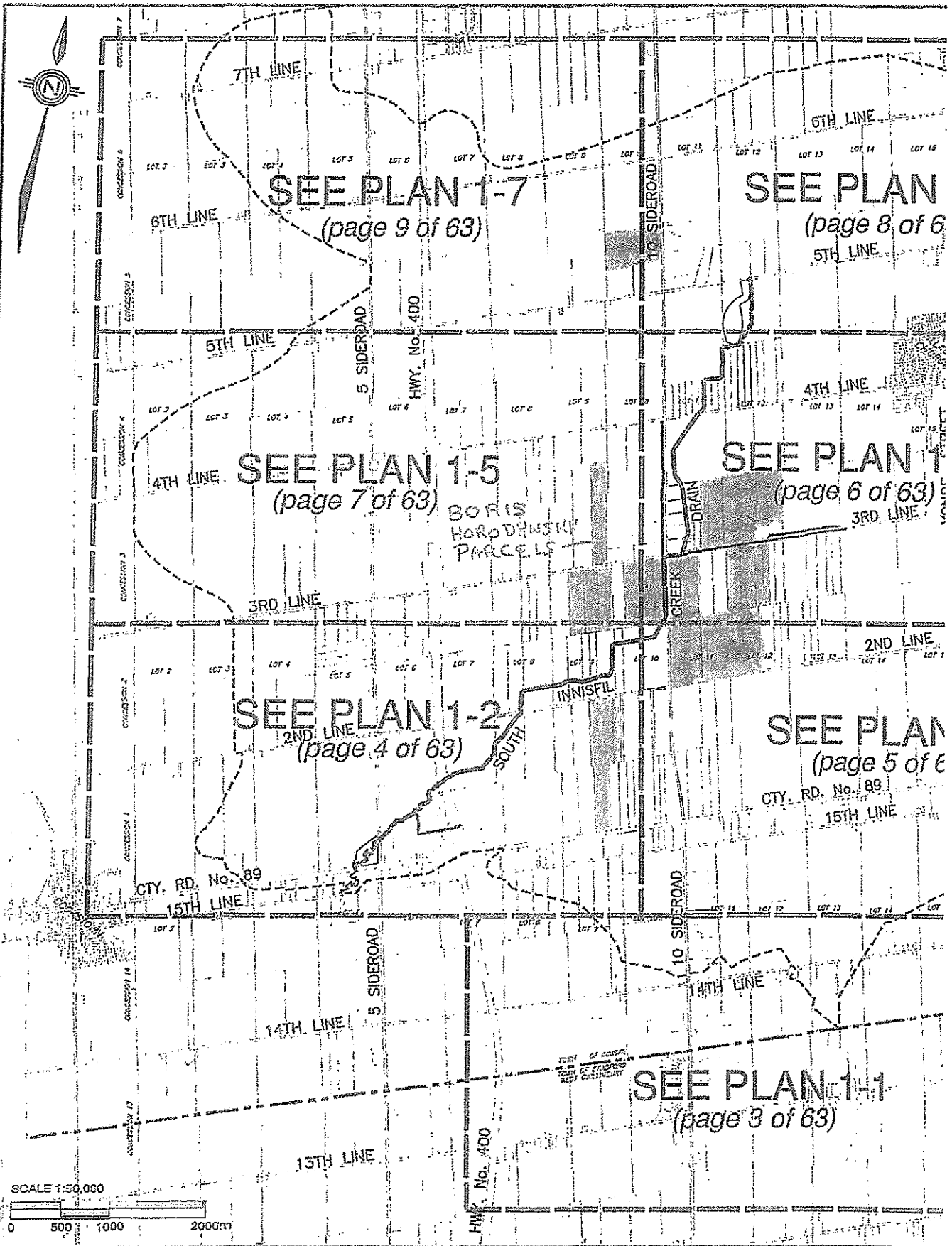
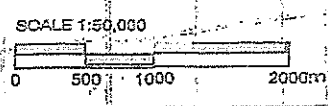
SUMMARY - Schedule C - Schedule of Assessment August 15, 2013

ROLL #	CON AND LOT	OWNERS NAME	MAIN DRAIN	OVERFLOW 1	OVERFLOW 3	HNYDCZAK OUTLET RELIEF	3RD LINE BRANCH	3RD LINE SPUR	10 SIDEROAD BRANCH	TOTAL	ALLOWANCE	TOTAL minus ALLOWANCE
001-17300	CON 1 S PT LOT 9	Hemecke Katy, Hemecke 1409563 Ontario Limited	\$7,612	\$2,293	-\$3,153	\$0	\$0	\$0	\$0	\$13,058	\$0	\$13,058
001-18800	CON 1 N PT LOT 9	Hemecke Oksana, Hemecke Horodynsky Farms Inc	\$1,396	\$423	\$582	\$0	\$0	\$0	\$0	\$2,401	\$0	\$2,401
001-20900	CON 2 N PT LOT 10	Horodynsky Farms Inc,	\$15,477	\$1,107	\$1,522	\$0	\$0	\$0	\$0	\$18,106	\$31,651	-\$13,545
001-21000	CON 2 PT LOT 10	1409563 Ontario Limited,	\$5,917	\$1,153	\$1,585	\$0	\$0	\$0	\$0	\$8,655	\$0	\$8,655
001-21100	CON 2 W PT LOT 10 RP	Horodynsky Farms Inc,	\$5,563	\$1,229	\$1,689	\$0	\$0	\$0	\$0	\$8,481	\$0	\$8,481
001-21400	CON 2 N PT LOT 9	1409563 Ontario Limited,	\$5,876	\$1,106	\$1,521	\$0	\$0	\$0	\$0	\$8,503	\$0	\$8,503
001-21500	CON 2 N PT LOT 9	Horodynsky Farms Inc,	\$5,876	\$1,106	\$1,521	\$0	\$0	\$0	\$0	\$8,503	\$0	\$8,503
001-21600	CON 2 N PT LOT 9	Cestarie-Sanda, 1409560 Ontario Limited	\$5,876	\$1,106	\$1,521	\$0	\$0	\$0	\$0	\$8,503	\$0	\$8,503
001-23600	CON 3 PT LOT 9	Collins Gloria J, Collins 1409563 Ontario Limited	\$6,995	\$2,404	\$3,305	\$0	\$0	\$0	\$1,470	\$14,174	\$0	\$14,174
001-27300	CON 5 S PT LOT 10 RP 51R5438	Henniger Paul David, 1409563 Ontario Limited	\$6,635	\$3,030	\$4,166	\$0	\$0	\$0	\$0	\$13,831	\$0	\$13,831
002-06400	CON 2 S PT LOT 11 PARTS 1 &	Horodynsky Farms Inc,	\$11,595	\$2,119	\$2,913	\$0	\$0	\$0	\$0	\$16,627	\$0	\$16,627
002-06600	CON 2 PT LOTS 11 & 12 RP	1409563 Ontario Limited,	\$23,193	\$4,238	\$5,827	\$0	\$0	\$0	\$0	\$33,258	\$0	\$33,258
002-12300	CON 2 N PT LOT 12	Horodynsky John Boris,	\$2,382	\$490	\$673	\$0	\$6,652	\$0	\$0	\$10,197	\$672	\$9,525
002-12400	CON 2 N PT LOT 12	1281597 Ontario Inc,	\$3,554	\$730	\$1,004	\$0	\$36,736	\$0	\$0	\$42,024	\$1,049	\$40,975
002-12500	CON 2 N PT LOT 12	Horodynsky Farms Inc,	\$5,971	\$1,227	\$1,687	\$0	\$7,957	\$0	\$0	\$16,842	\$2,274	\$14,568
002-12600	CON 2 N PT LOT 12	Horodynsky Paul, Horodynsky Kellie An,	\$5,971	\$1,227	\$1,687	\$0	\$10,023	\$0	\$0	\$18,908	\$2,122	\$16,786
002-12900	CON 2 N PT LOT 11	1281597 Ontario Inc,	\$20,562	\$2,434	\$3,347	\$0	\$8,945	\$0	\$0	\$35,288	\$9,824	\$25,464
002-13900	CON 3 S PT LOT 11 RP 51R6188	R-Three Limited, 1409563 Ontario Limited	\$3,179	\$653	\$898	\$0	\$0	\$0	\$0	\$4,730	\$0	\$4,730
002-14000	CON 3 S PT LOT 11 RP 51R3731	1281597 Ontario Inc,	\$3,733	\$1,295	\$1,780	\$0	\$0	\$0	\$0	\$6,808	\$0	\$6,808
002-14100	CON 3 PT LOT 12 RP 51R8969	Horodynsky John Boris, Horodysky Erika,	\$22,107	\$4,544	\$6,246	\$0	\$0	\$0	\$0	\$32,897	\$0	\$32,897
			\$169,470	\$33,914	\$46,627	\$0	\$70,313	\$0	\$1,470	\$321,794	\$47,592	\$274,202

Ownership updated to July 31, 2014 using Town of Innisfil property list for drain
All properties are agricultural and have farm tax rate based on OMAFRA website

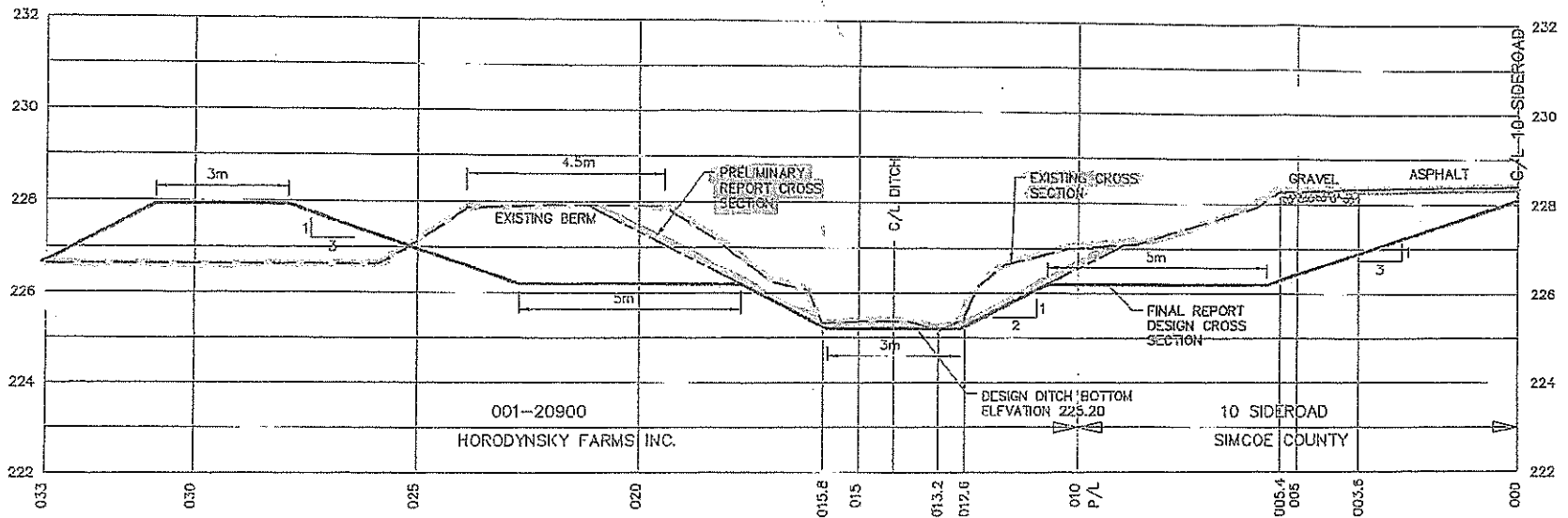
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May 16, 2013 4:25pm \\dillon_cad\dfs\Oakville\Oakville CAD\cad\2005\05 4787 South Innisfill Creek Drain\03-Drain\02-Sheets\05-787 Overall.dwg



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APPENDIX B for Statement of Issues by Boris Horodynsky				
SOUTH INNISFIL CREEK DRAIN & BRANCHES				
	Summary of Estimated Costs		Cost factor	
	Preliminary Report February 24, 2006	Final Report August 15, 2013		
Option 1				
Main Drain		3,628,378		
Overflow 1		956,160		
subtotal	1,456,000	4,584,538	3.15	x increase
Hnydczak Drain	112,800	82,330	0.73	x decrease
3rd Line Branch	332,000	363,340	1.09	x increase
3rd Line Spur	22,200	59,200	2.67	x increase
10 Sideroad Branch	269,000	305,348	1.14	x increase
Total Option 1	2,192,000	5,394,756	2.46	x increase
Option 3 / Overflow 3	480,000	1,304,910	2.72	x increase
TOTAL	2,672,000	6,699,666	2.51	x increase



MAIN DRAIN CROSS SECTION LOOKING UPSTREAM
STA 5+475

NOTES

EXISTING CROSS SECTION WAS SURVEYED OCT. 2, 2014

BM 10 DESCRIBED ON DRAWING 2 AND DRAWING 6 FROM THE FINAL REPORT WAS USED FOR THE SURVEY EXCEPT THAT THE ELEVATION HAD TO BE CORRECTED TO 228.81. 228.18 SHOWN ON DRAWINGS 2 AND 6 IS NOT THE CORRECT ELEVATION.

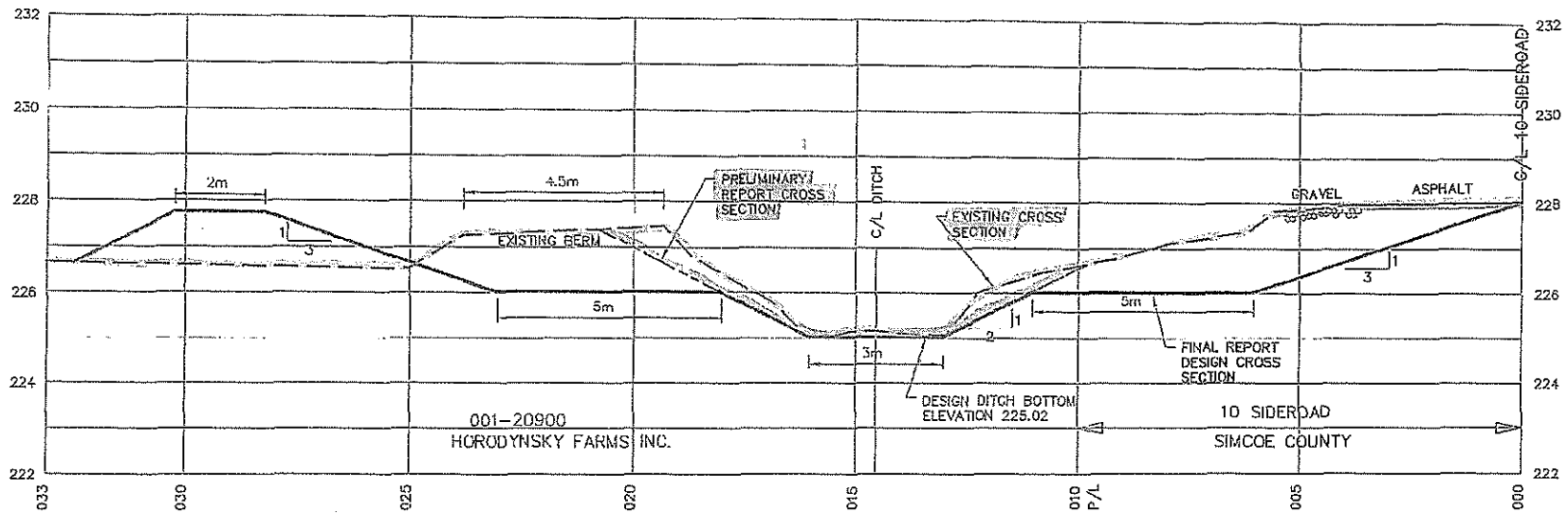
FINAL REPORT CROSS SECTION SHOWN IS BASED ON THE CROSS SECTIONS ON DRAWINGS 19 AND 20

DITCH BOTTOM ELEVATION FOR THE FINAL REPORT CROSS SECTION IS BASED ON THE MAIN DRAIN PROFILE ON DRAWING 34

PRELIMINARY REPORT CROSS SECTION SHOWN IS BASED ON THE CROSS SECTION SHOWN ON DRAWING 22 FROM THE PRELIMINARY REPORT

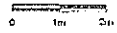

APPENDIX C For STATEMENT OF ISSUES by BORIS HORODYNSKY SOUTH INNISFIL CREEK DRAIN and BRANCHES							
CROSS SECTION 1	OCT. 6, 2014						
SCALE 1:150 (OR 11"x17")	<table border="1"> <tr> <td>REVISED</td> <td></td> </tr> <tr> <td>JOB NUMBER</td> <td>14-115</td> </tr> <tr> <td>DRAWING</td> <td>1</td> </tr> </table>	REVISED		JOB NUMBER	14-115	DRAWING	1
REVISED							
JOB NUMBER	14-115						
DRAWING	1						
K. SMART ASSOCIATES LIMITED CONSULTING ENGINEERS AND PLANNERS 1000 SHEPPARD AVENUE EAST, SUITE 100 SCARBOROUGH, ONTARIO M1S 1T7							

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MAIN DRAIN CROSS SECTION LOOKING UPSTREAM
STA 5+000

APPENDIX C For
STATEMENT OF ISSUES by BORIS HORODYNSKY
SOUTH INNISFIL CREEK DRAIN and BRANCHES

SCALE 1:100  (ON 11"x17")	CROSS SECTION 2  K. SMART ASSOCIATES LIMITED CONSULTING ENGINEERS AND PLANNERS PROJECT: _____ DRAWING: _____	OCT. 6, 2014 REVISION: JOB NUMBER: 14-115 DRAWING NUMBER: 2
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CLERK'S SERVICES

September 11, 2013

VIA REGULAR MAIL

Dear Land Owner:

Re: South Innisfil Drain Improvements

Your property may be affected by the proposed work on the South Innisfil Drain. As a result, you may be required to pay for the upgrades. Please consider attending one of the upcoming meetings (discussed below) to learn about this process.

Importantly, please review carefully the attached documents:

- Notice of Drainage Works for drainage improvement work proposed by the Town under the *Drainage Act*;
- engineering report prepared by Dillon Consulting in support of the drainage works, which will be considered by Town Council at a special meeting on Wednesday, October 2, 2013, starting at 7:15 p.m. at the Town Hall, 2101 Innisfil Beach Road;
- brief chronology of the South Innisfil Drain process; and,
- legal costs description letter from Ms. Valerie M'Garry.

A special Open House Presentation is also planned for Wednesday, September 25, 2013 starting at 6:30 p.m. at the Town Hall, 2101 Innisfil Beach Road. This meeting is to provide background on the South Innisfil Drain and the Drainage Act process to date—before Council formally receives the report.

Please do not hesitate to contact us should you have questions.

Yours truly,

Karen Fraser
Deputy Clerk

/encl.

LP

Valerie M'Garry Law Office
P.O. Box 40
37 Millmanor Place
Delaware, Ontario
N0L 1E0

Certified Specialist in Municipal Law

September 3, 2013

File Number: 333

ALL ASSESSED OWNERS

Dear Assessed Owner:

RE: South Innisfil Drain Improvements

I am counsel for the Town of Innisfil in connection with this particular matter.

As set out in the other materials included with this package, in March of 2005, an engineer was appointed under the *Drainage Act*, by Order of the Ontario Drainage Referee, to prepare a Report to address concerns with flooding of the area known as the Market Garden Farming Area adjacent to the South Innisfil Drain. The Report was to consider the alteration, improvement and/or extension, as necessary, to fully address those concerns.

The Court proceedings leading up to and following that Order also provided for some interim items of maintenance on the existing Drain, which have been completed. Some initial engineering costs had also been incurred prior to the start of those Court proceedings. As well, there have been legal costs in connection with the Court action.

Under the *Drainage Act*, engineering costs and maintenance costs are attributed to, and distributed among, the assessed owners in the drainage community.

By Order of the Referee, the legal costs of the parties who moved successfully

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Fax: (519) 652-9773

e-mail: valerie@citylaw.ca

September 3, 2013
Page 2

before the Referee for the production of this Report were also to be levied to the drainage community.

The litigation leading up to the production of this Report had resulted in a somewhat unusual situation under the *Drainage Act*, in that some fairly significant costs have been incurred in advance of the production of the Report that have not been factored into or shown in the Report.

In addition, what is unusual about this Report is that the Order of the Referee of August 31st, 2006 provides that the only appeals available to assessed owners are with respect to their assessment (the financial cost to an individual property) and allowances (credits given to owners for such things as the use of land during construction or a loss of access, such as a bridge). In other words, the only appeals available with respect to this Report have to do with the financial aspects of the Report.

The municipality has therefore considered it important that individual owners appreciate that the amounts shown in the Assessment Schedule found in the Report do not reflect these earlier costs which have been incurred and which will be levied to each assessed owner. Typically, additional costs may be incurred after the release of the Report, based on any appeals, the cost which will also be attributed to the Drain but these cannot be known in advance. In this case, in addition to these typical costs, there has been an accumulation of other costs, which are known, and which it was felt important to disclose.

The total of the earlier engineering, maintenance and legal costs which have been incurred since 2004, when work with respect to this Drain was first commenced, is approximately \$400,600.00, which must be assessed across the drainage community. Based on an equal distribution, on a per lot basis, this will add

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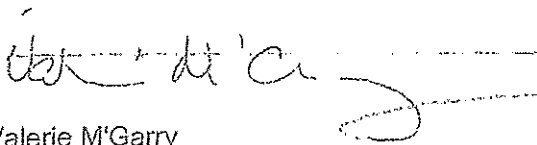
September 3, 2013
Page 3

approximately \$630.00 to the assessment shown in the Assessment Schedule found in the Report.

For the purposes of determining how much will be assessed to each property, therefore, an owner should locate their property in the Assessment Schedule and assume an additional \$630.00 approximately, to obtain an amount that represents the minimum for which the property will be assessed (subject to any appeal). Any decision by an owner about whether or not to appeal as to the amount payable should be made on the basis of the figure in the Assessment Schedule, plus the additional amount.

If a further breakdown of the \$400,600.00 which has been accrued in advance of the delivery of the Report is required, details are available through the Office of the Deputy Clerk, Karen Fraser, at the municipal offices.

Yours very truly,



Valerie M'Garry
VM'G/hp



Council Date	October 2/13
Item #	9.1
Action Taken	
Resolution #	

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TOWN OF INNISFIL STAFF REPORT

STAFF REPORT NO: DSR-166-13
DATE: October 2, 2013
TO: Mayor, Deputy Mayor and Members of Council
FROM: Andrew Campbell, Director of Infrastructure
SUBJECT: South Innisfil Creek Drain Engineer's Report

RECOMMENDATION:

THAT Council receive the Engineer's Report "Final Drainage Report for the South Innisfil Creek Drain and Branches" dated August 15, 2013; and

THAT Council adopt the Engineer's Report and give notice as required under Section 46 of the *Drainage Act* that the first sitting of the court of revision will take place at the Town Hall on November 13, 2013; and

That Council approves the issuance of ten year debentures for the unpaid portion of the private property owner share of the works with interest rates to be recovered equal to the Town's cost of borrowing at the time of debt issuance; and

That Council approve the \$400,600 in legal costs previously incurred be funded from the capital reserve fund and not be recovered as part of the drainage works costs to be assessed to individual property owners; and

That By-Law 102-13 be adopted to give effect to this recommendation.

BACKGROUND:

On March 31, 2005 an order by the Court of the Drainage Referee of Ontario was issued that the Town appoint an engineer pursuant to Section 78 of the Ontario Drainage Act for the repairs to the South Innisfil Drain. The Town appointed the engineering firm Dillon Consulting Limited as "Engineers" to prepare and complete the study.

A meeting with the landowners was held on August 3, 2005 at the Community Centre in Stroud to discuss the court order and required study.

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A preliminary report was submitted to the Drainage Referee on July 24, 2006. On August 31, 2006 the Ontario Superior Court of Justice (Court File No. 04-B7552), in a matter of an appeal before the Drainage Referee, ordered:

1. It is therefore ordered that the Municipality retain the engineering firm of Dillon Consulting to prepare a complete drainage report adopting Option Number 1 and Option Number 3 of the preliminary report, a full assessment schedule and an allowance schedule is to be incorporated therein;
2. That the Municipality conduct a meeting of the Council to consider the report and provide appeals by assessed owners only with respect to assessment and allowances; and
3. With respect to the issue of legal costs the Drainage Referee is prepared to address the issue only after receiving written submissions from legal counsel.

In January 2007 Council received a report with information related to concerns from the Innisfil Resident Advocacy Committee. Council further adopted a second report in January 2008 retaining legal counsel for the file.

On August 15, 2013 Dillon Consulting filed the Engineer's Report with the Town. Subsequently on September 19, 2013 Clerk's Services sent a copy of the report, notification of a Public Information meeting on September 25, 2013 and notification that Council would be considering the Engineer's Report on October 2, 2013 to all parties as required under Section 41 of the Drainage Act.

ANALYSIS/CONSIDERATION:

The Engineer, Dillon Consulting, has prepared its report; "Final Drainage Report for the South Innisfil Creek Drain and Branches" dated August 15, 2013 (see Attachment 1).

The Engineer's report provides the technical design and cost estimates for the drain as well as any culverts or bridges associated with the work. A summary of the construction costs and cost recovery through property tax assessments for the work are in Table 1 and Table 2 respectively.

Table 1 – Estimated Costs

Item	Cost
South Innisfil Main Drain	\$3,628,378
Overflow Area 1	956,160
Overflow Area 3	1,304,910
Hnydozak Outlet Relief Drain	82,330
3 rd Line Branch Drain	363,340
3 rd Line Branch Drain Spur	59,200
10 Sideroad Branch Drain	<u>305,348</u>
Total	\$6,699,666

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Table 2 – Estimated Cost Recovery

Group	Cost	Percentage
Town of Innisfil	\$525,175.00	9%
County of Simcoe	753,185.00	11%
Province of Ontario	566,683.00	8%
Agricultural Land Owners *Note 1	3,163,422.50	47%
Non-agricultural Land Owners	1,501,610.50	22%
Section 26 – Non pro-ratable**Note 2	<u>189,590.00</u>	<u>3%</u>
Total	\$6,699,666.00	100%

**Note 1 – These landowners are eligible for 1/3 grant funding from OMAFRA*

***Note 2 – To be paid by the Town of Innisfil*

In addition, the Town has incurred \$400,600 in legal costs that are not included in Tables 1 and 2. Council has the option to increase the assessed costs by this amount and or to fund these legal costs separately, subject to direction from the Drainage Referee. Staff recommend that these costs be funded from the Capital Reserve Fund so as not to increase the assessment to the affected properties.

The Town must undertake the works described in the Engineer's report as previously ordered by the Drainage Referee. The work should be completed in a timely manner to mitigate potential property damage in the event of a storm or runoff event. Completion of this project will not eliminate potential property damage as the design is to handle a 1 in 2-year storm only as required by the Act. Subdivision development is designed for a 1 in 100 year storm event by comparison. Staff propose that the works be started in 2014 and completed in 2015. Some of the construction can only occur in June to October due to the Nottawasaga Valley Conservation Authority requirements.

Staff have reviewed the Engineer's Report and recommend that Council adopt it.

Next Steps:

The Drainage Act and the Court Order require the following as a result of Council adopting the Engineer's report:

- That Council, within 30 days of the adoption of the Engineer's Report send a copy of the By-law and a notice of the time and place of the first sitting of the Court of Revision, to each person entitled to notice under Section 41 of the Act and shall inform each owner that the owner may appeal the owner's assessment to the Court of Revision by a notice given to the clerk not later than 10 days prior to the first sitting of the Court of Revision as per Section 46 of the Act.
- The Court of Revision will hear any appeals commencing November 13, 2013.

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- Land owners may appeal from the order of the Court of Revision to the Referee or Tribunal only with respect to the calculation of the assessment and allowances.
- After the time for appealing has expired and there are no appeals or after all appeals have been decided, Council may pass the by-law authorizing the construction of the drainage works.
- Construction should not begin until at least 10 days have passed after the by-law has been adopted.

OPTIONS/ALTERNATIVES:

1. Council could choose to fund a portion of the costs noted in Table 2 that are not directly attributable to the Town's share of the works to reduce the assessments to landowners.
 - If this option was selected the additional transfer of financial costs would be borne by all property tax payers through increased taxation and/or use of reserves set aside from taxation.
2. Council could choose not to debt finance the unpaid portion of the private property owners share and require full payment from them at the time of completion of the works leaving them to secure their own financing if required.
 - This option could result in taxpayers facing undue financial burden as the Town can usually obtain long term debt financing at lower rates than the private property owner can obtain. Additionally, the property owner could be faced with having the entire amount added to their property tax account placing them at a 1.25% monthly charge if they do not obtain their own financing plus adding to cashflow issues for the Town from unpaid taxes.
3. Council could choose to amortize any debt that is required to be issued over a period ranging from 5 to 20 years.
 - Depending on the term chosen, the interest carrying costs for the property owner will increase as longer term rates are higher plus the principal repayment is lower each year. This also impacts the Town's long term debt capacity in that the longer the term, the longer the Town has to wait until that borrowing capacity is available for other uses.
4. Council could choose to provide a reduction to the financing charges component to assist property owners with the carrying costs of the works.
 - This option would result in a cost to the Town that would need to be funded through an increase in property tax rates to offset the debt servicing costs not recovered each year from the respective property owners.

FINANCIAL CONSIDERATION:

The cost and recovery for this project is itemized in Tables 1 and 2. A complete listing of the assessment of costs is contained in Schedules C, C1, C2, C3, C4, C5 and C6 of the Engineer's Report. These assessments are based on the estimated costs and the Schedules will be updated after the completion of the project using the actual construction costs for assessment purposes.

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The construction is currently planned to be undertaken in 2014 with completion in 2015. A total of \$5,927,695 has been previously included in the 2012 & 2013 capital budgets with the remaining amount included in the 2014 draft budget.

Debt financing is expected to be required for the unpaid portion of the private property owner's share at the time final costs and assessments have been made excluding those costs attributable to the County of Simcoe and the Province of Ontario as the Town should not be debt financing for senior levels of government. The term of the amortization period for the debt is recommended to be no longer than 10 years to minimize borrowing costs for the property owner as well as ensuring debt capacity is returned to the Town in a reasonable period of time.

The property owner will be responsible for the principal associated with their share of the assessed costs plus interest if they do not pay in full or in part at the time the final assessment is provided to them. Debenture repayment requirements issued for a ten year amortization period would be added to the property tax bill until the debt is fully retired. The amount remains with the property, not the owner, and is automatically transferred should there become a new owner. Since the Town is obligated for the full 10 year term, any payout of individual amounts owing will represent the full balance of principal and interest owing to maturity, no discount for early payment will be provided.

Currently the ten year debenture rate with Infrastructure Ontario is approximately 3.5% but the rate charged to the property owner would be the rate in effect at the time the Town issues the debenture. Subject to any options Council may consider, the debt repayment each year would be offset by an equal charge on the property owner tax bill.

The Town portion of the costs as assessed would be \$714,765 plus the \$400,600 in legal costs, if Council chooses to fund this cost, for a total of \$1,115,365 to be funded from capital reserves. Any additional costs that Council may chose to fund to reduce the assessments to each property owner and/or reductions in interest would need to be quantified and a funding mechanism decided upon (e.g. use reserves if a cost reduction, include in annual budget if an interest reduction).

Assessed land owners who do not pay the assessed amounts would have the costs added to their taxes.

CONCLUSION:

The Engineers, Dillon Consulting, has completed the study for the South Innisfil Drain. The Drainage Act requires a public appeal process to be undertaken before final approval of the construction works. Pending the outcome of this appeal process the Town would undertake the work in 2014 and 2015 to mitigate potential property damage due to storm and runoff events.

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LP.

PREPARED BY:

Andrew Campbell,
Director of Infrastructure

Reference:

Final Drainage Report for the South Innisfil Creek Drain & Branches, August 15, 2013, prepared by Dillon Consulting Ltd.

I am writing on behalf of my parents Antonio and Marina Filice who own 52 acres of property at the address 3276 on the second line Innisfil. For many years Antonio and Marina Filice have been paying full taxes on a property that has become virtually inaccessible and unusable. My parents received a letter from the town stating the bridge that allows access to the majority of the property must be removed or it would be removed at their expense. As well if the bridge was not removed they would be fined. They were told many times that a bridge could not be put up until the Assessment for Drainage was complete and only when they were given permission to do so. They approached the town and set up a case in 2011 asking if they could put up any sort of bridge to access the property and were told no. Fast forward, it has been over 7 full years later since this Assessment for Drainage was first started and it remains incomplete. Upon inquiry through the town recently, the approx value for this assessment as of 2013 would be \$97,075 dollars and counting. Still after 7 years they have been advised that a bridge cannot be built to access their land. And Antonio and Marina continue to pay taxes in full.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

The concerns are as follows:

- Main concern is cost and completion
 - Proper and correct notification and information given
 - The repairs to the drain are subject to the design details that are in the drainage engineers report that has yet to be approved. SO WHY WAS A LETTER SENT TO TEAR THE BRIDGE DOWN, IF APPROVAL WAS NOT GIVEN?
 - Antonio and Marina never asked for this assessment or agreed to this assessment, so how do you explain them fitting the bill?
 - How are they expected to pay for this inexplicable and incomprehensible amount of money [REDACTED] on any income for that matter?
 - No one offered papers or ways to decrease the amount of taxes paid for land that could not be accessed. Even when asked in person, (a case was also made in 2011, why?) Just recently I pushed and was emailed a form that can only go back 2 years.
 - Before any work started on this drainage assessment why wasn't a bid for how much the assessment would cost agreed upon? Or residents notified of how approx costs would have been or how long this process would have taken before bridges removed?
 - Why is a bridge that the Town has stated is approx \$326,500 being built on a property assessed by MPAC at under \$500,000?
 - Why were all the bridges torn down at once and issues not dealt with locally then broadened?
 - Antonio will most likely not be eligible for a grant as he does not cultivate agriculture for income. The tax assessment status was changed to residential from agricultural. This change has made Antonio and Marina no longer eligible for the 33% grant is this sheer coincidence? Maybe if they had access to their land they would have farmed it.
 - Property has been deemed virtually valueless, has been on the market for quite some time. Buyers are afraid to purchase the property because they don't know the total of the drainage assessment, can't physically view the property (inaccessible), no clear picture when drainage assessment will end.
 - When and how would this benefit Antonio and Marina Filice?
 - Financially what will the value be?
- Has a class action lawsuit been filed against the town of Innisfil or Dillon Consulting? If so please provide the details including the law firm or person representing the case.

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