

Notice of Appeal to Tribunal from the Court of Revision

Drainage Act, R.S.O. 1990, c. D.17, subs. 54(1)

To: The Council of the Corporation of the Town of Innisfil

Re: South Innisfil Creek Drain
(Name of Drain)

Take notice that I/we, appellant(s) to the Court of Revision, appeal to the Agriculture, Food and Rural Affairs Appeal Tribunal from (check one):

The decision of the Court of Revision dated 2019/03/21
Date (yyyy/mm/dd)

The omission, neglect or refusal of the Court of Revision to hear or decide an appeal

Details of application and relief being sought from Tribunal (attach additional pages if needed):

See attached pages

Property Owners Appealing to Tribunal

- Your municipal property tax bill will provide the property description and parcel roll number.
- In rural areas, the property description should be in the form of (part) lot and concession and civic address.
- In urban areas, the property description should be in the form of street address and lot and plan number, if available.
- If appealing to Tribunal regarding multiple properties, attach additional page with property information.

Property Description: Con. 4, Plan 162 Lots 48+49; P lots 52 & 56

Ward or Geographic Township: Ward 7 Innisfil Township Parcel Roll Number: 4316-010-003 09100-0000

If property is owned in partnership, all partners must be listed. If property is owned by a corporation, list the corporation's name and the name and corporate position of the authorized officer. Only the owner(s) of the property may appeal to the Tribunal.

~~Partnership~~ Sole Ownership

~~Partnership~~ (Each partner in the partnership must complete this section). Ind 2 or Sole Ownership


Name (Last Name, First Name)	Signature	Date (yyyy/mm/dd)
<u>Hogarth</u>	<u>[Signature]</u>	<u>2019/04/09</u>

Enter the mailing address and primary contact information of property owner below:

Last Name	Hogarth	First Name	Diane	Middle Initial	E
Current Address					
Unit Number	Street/Road Number	Street/Road Name		PO Box	
	6338	Yonge St.			
City/Town	Churchill		Province	Ontario	
				Postal Code	
Telephone Number	Cell Phone Number (Optional)		Email Address (Optional)		
705-456-2412			deehogarth@yahoo.ca		

To be completed by recipient municipality:

Notice filed this 10 day of April 20 19

Name of Clerk (Last Name, First Name)	Signature of Clerk
Parkin, Lee	

Timeline for Appeal: This notice of appeal must be served within twenty-one days of the pronouncement of the decision of the court of revision. *Drainage Act*, R.S.O. 1990, c. D.17, subs. 54(1).

RECEIVED

APR 10 2019

Town of Innisfil
Clerk's Services



I would first like to point out a correction in the summary of Appeal (March 22,2019) that while there were a few landowners who mentioned they believed they did not contribute flows to the drain, I was not one of them. I am fully aware that my property contributes flow to this Drain.

The following are my reasons for stating that my assessment is too high, and realistically should be zero:

1. This Burnside improvement project is the direct result of a series of events over the past 19 years that originated as a landowners request for a cleanout of a section of the SICD under s. 79 of the Drainage Act. This particular section (that caused the flooding) was identified by the landowners after the summer flood of 2000 and also by the Town's Manager of Operations at that time. A budget of \$11,000. was approved by Council for the clean-up, but the cleanup never happened, largely due to the lack of appropriate management of the Mgr. of Operations.
2. 2002 - following another summer flood event, repeated requests were made for clean-up. Communication between the Town and Landowners was non-existent, forcing landowners to seek legal action and requests were repeated to cleanup the drain. Although a second budget in 2003 was set at 30,000, no cleanup or repair was completed as the town faced time management problems and communication delays.
3. 2004 – the third summer flood in 4 years resulted in severe damage in the market garden area with total crop loss of one (one hundred acres) farm including property damage. After this flood and no action on the part of the town, landowners took their concerns to the Drainage Referee.
4. 2005 – Referee OBrien orders Town to hire an engineer to produce a report. Most importantly owing to the landowners complaints of lack of action in maintaining/ cleaning up the drain the Referee also orders the town to conduct semi-annual inspections of the drain and carry out any repairs identified as a result – in addition to any further request made by landowners.
5. 2005 Court Order – refers relief for damages to the Superior Court for the farmers who suffered total crop loss. The town was implicated under s. 118 (2) for neglecting to perform regular maintenance, clean up and repair where needed as well as for improper action in the management of the issue. The settlement in favour of the landowners was 1.5 million which did not fully cover their losses.
6. 2006 – Dillon Engineering presents preliminary Report which was railed against by landowners who then formed an advocacy group to address their concerns, which were largely ignored by the Mayor and Council of the day.
7. 2000-2006 – LITTLE TO NO CLEANUP WAS PERFORMED ON THE DRAIN.
8. 2006-2013 – NO SEMI-ANNUAL INSPECTIONS WERE RECORDED ON THE RECORDS OF THE OPERATION DEPARTMENT. (CONTEMPT OF COURT ORDER)
9. 2014- Freedom of Information request results in proof of no twice yearly inspections of the Drain and only minor removal of debris and beaver dams.

10. Order of Referee Waters (Nov. 2014) – another section 118(2) ordering 400,600.00 (shown as SICD cost) to be paid out of the general municipal levy.
11. The SICD Committee invited landowners and all Council Candidates standing for municipal elections in 2015 to comment on the state of the Drain. The then Mayor commented that “yes, we dropped the ball” as regards the handling of the issue from 2000-2015.
12. It is clear that the town has over the years mismanaged the issue of cleaning up the drain, has neglected their responsibilities under the Drainage Act, their statutory duties, and has ignored the orders of the Court as regards specific maintenance. Years of neglect can only result in additional silt, debris etc. serving to worsen the conditions in the Drain and the direct result of this improper action and glaring neglect of 19 years is the improvement project the town now requires. In light of these transgressions all costs of the Improvement project should clearly be assessed to the town and not the landowners.
13. Had the drain been ‘cleaned up’ in 2004, the assessed costs to landowners would have been 50,000, and we would not require such a huge Improvement Project today. This is why all landowners assessments including mine should be 0.00. and the Town(having neglected their statutory duty) assume all costs of the Burnside Improvement project per s. 118(2) of the Drainage Act.