

IN THE COURT OF THE DRAINAGE REFEREE

IN THE MATTER OF AN APPLICATION FOR DIRECTIONS

REFEREE ROBERT G. WATERS) **Tuesday, November 4, 2014**

B E T W E E N:

THE CORPORATION OF THE TOWN OF INNISFIL

Applicant

- and -

BORIS HORODYNSKY et al.

Respondents

- and -

RICHARD SIMPSON et al.

Participants

ORDER

THIS MOTION, made by the Applicant for Directions with respect to continuation of this matter was heard this day at the Superior Court of Justice, 75 Mulcaster St., Barrie.

ON HEARING the submission of counsel for the Applicant, counsel for the South Innisfil Creek Drain Committee, and other self-represented individuals,

AND CONSIDERING the passage of time, the differences between the preliminary report estimates and the final report in terms of cost, and the anticipated further costs, it is necessary to revisit Referee O'Brien's Order in this matter dated August 31, 2006.

THEREFORE THIS COURT ORDERS THAT:

1. The style of cause for this matter moving forward shall be as shown above in this Order.

2. As a result of unforeseen cost increases occurring between the Order of Referee O'Brien dated August 31, 2006, the requirements that Options #1 and #3 be adhered to as contained in the Report of Tom Marentette of August 15, 2013 are to no longer bind the Town of Innisfil or its engineers appointed from time to time.
3. The Town of Innisfil is hereby ordered to retain the services of a drainage engineer to review the said Report of August 15, 2013 and to suggest alternatives including but not limited to improvements to alleviate flooding and options that may provide for phasing, maintenance, and repair.
4. As a result of this revision to the Order of August 31, 2006, appeals, if any, shall be governed by the provisions of the *Drainage Act*.
5. The Order of Referee O'Brien dated August 31, 2006 is hereby amended accordingly.
6. The issue of costs set out in the Affidavit of Jason Reynar dated October 29, 2014, totalling \$400,600, is ordered to be paid out of the general municipal levy, pursuant to Section 118(2) of the *Drainage Act*, with the exception of the legitimate drain maintenance costs, which shall be levied to the drain at the determination of the appointed drainage engineer. .
7. Each party to bear its own costs on this motion.



Referee Robert G. Waters