

STIDWILL & ASSOCIATES LIMITED
CONSULTING ENGINEERS
CORNWALL, ONTARIO

1978

AMENDMENT
TO THE
ENGINEER'S REPORT
ON THE
BRINSTON MUNICIPAL DRAIN
FOR THE
CORPORATION OF THE TOWNSHIP OF MATILDA

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CORPORATION OF THE TOWNSHIP OF MATILDA

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To the Reeve and Members of Council

Township of Matilda

Brinston, Ontario.

Gentlemen:

In accordance with the decision of the Ontario Drainage Tribunal with respect to the appeal of Richard Zandbergen with respect to the Brinston Drain, in the Township of Matilda, a copy of which decision is attached hereto, I wish to amend my Report on the Brinston Drain as follows: On Page 6 of the Report, the item "Contingencies and Interest" should be increased by the amount of \$1,288.66 making a total of \$2,788.66. The total estimated cost is increased by a similar amount and should read \$35,198.58. The break down of the total estimated cost of \$35,198.58 is as follows:

Outlet Liability - Real Pty.	\$9,717.42
Outlet Liability - Township Roads	1,279.22
Outlet Liability United Counties, County Rd. #2	1,747.53
Benefit Liability - Real Pty.	12,981.47
Special Benefit Assessment	
Rural Development Road, Project #1260	9,472.94
Total:	\$35,198.58

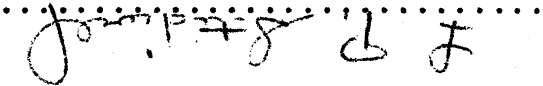
The above is an amendment to the apportionment of the estimated cost as contained at the bottom of Page 6 of the original Report.

In addition to the above, I would like to amend the Schedule of Assessments by adding the following assessments for Outlet Liability in accordance with the decision of the Drainage Tribunal. A plan has been prepared to show the location of the various parcels, which we are now adding to the Schedule of Assessments.

You will note that there is additional assessment for Outlet Liability of \$1,288.66, which corresponds to the increase in the estimated cost. The effect of changing the estimated cost by an amount equal to the increase in Outlet Liability is one of keeping the figures in balance and, therefore, should the costs increase or decrease above or below the estimated cost, all parties will share in the overrun or the savings by an equal amount.

Cornwall, Ontario, June 22, 1978.

Consulting Engineer



STIDWILL & ASSOCIATES LIMITED

Yours very truly,

I remain,

All of which is respectfully submitted.

accompanying Schedule of Assessments.

identified by an asterisk (*) as Agricultural Land on the

to be Non-Agricultural Land. Mr. Brinston's Land has been

under this Report, other than that owned by Mr. Lloyd Brinston,

I consider all the additional Land being assessed

SCHEDULE OF ASSESSMENT

Name of Owner	Con.	Lot or Part	Acres	Affected	Outlet	Benefit
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Bert Baker	5	N.E.Pt.19	0.30			49.36
Un.Church Pty.	5	N.E.Pt.19 + Pt.Centre Commons	0.78			127.60
Jacques Lemay	5	Pt.C.Commons	0.19			30.93
Gilson Strader	5	Pt.C.Commons	0.22			35.82
I.O.O.F. Hall	5	Pt.C.Commons	0.37			60.28
Percy Gilmer	5	Pt.C.Commons	0.23			37.22
Hilda McGowan	5	Pt.C.Commons	0.58			93.37
Len. Knechtel	5	Pt.C.Commons	0.49			78.01
Geo. Ferrault	5	Pt.C.Commons	0.49			77.62
Jessie Johnston	5	Pt.C.Commons	0.33			51.70
Ault Bros.	5	Pt.C.Commons	0.35			54.82
Carmen Locke	5	Pt.C.Commons	0.20			30.97
Gary Lewis	5	Pt.C.Commons	0.39			59.71
Brian Small	5	Pt.C.Commons	0.41			62.44
Henry Zandbergen	5	Pt.C.Commons	0.23			34.41
Lloyd Brinston*	5	N.E.Pt.19	3.4			270.60 ✓
Un.Counties of S.D. & G.	5	Pt.County Rd.#2	0.56			133.80 ✓

*Agricultural Land

DECISION OF THE ONTARIO DRAINAGE TRIBUNAL
WITH RESPECT TO THE APPEAL OF RICHARD
ZANDBERGEN WITH RESPECT TO THE BRINSTON
DRAIN IN THE TOWNSHIP OF MATILDA, PURSUANT
TO THE DRAINAGE ACT 1975.

All the assessed parties within the Township of

Matilda were served with a copy of the Notice of Hearing

by prepaid mail and invited to make representations.

The Appeal came before the Ontario Drainage

Tribunal at 2:30 p.m. in the afternoon in the Matilda

Memorial Hall in Brinston, Ontario, on the 15th day of

December, A.D. 1977.

At that time there appeared before the Tribunal

L. P. Stidwill, C.E., O.L.S., of Stidwill & Associates

Limited, Consulting Engineers of Cornwall, Ontario, who

prepared the Report dated the 4th day of April, 1977, at

the request and on behalf of the Township of Matilda.

The Appellant, Richard Zandbergen, appeared on his

own behalf and presented his Appeal which was dated the 28th

day of July, 1977.

The Reeve, George Cooper, of the Township of

Matilda, made representations on behalf of Council.

Other assessed owners made representations concerning

the issues before the Tribunal.

The Appeal was an appeal from the decision of the

Court of Revision which was held on the 11th day of July, 1977,

The issue raised by the Appellant both before the Court of

Revision and the Tribunal was that certain lands that should

have been assessed had not been assessed, pursuant to the

Drainage Act, 1975, Section 52(1).

Upon hearing the submissions of the above mentioned parties, the evidence submitted, the material filed, IT IS

HEREBY ORDERED THAT the Engineering Report dated the 4th day

of April, 1977, be amended by the Drainage Engineer to include in the assessment schedule those private owners located west

of County Road No. 2 and South of the Township Road (recently

developed) who find an outlet for their water in the Brinston

Drain via the newly installed storm sewer.

In the alternative, the Municipality might find

another outlet for the water of the aforesaid private owners.

The Assessment is to be made in the discretion of

the Drainage Engineer.

The Drainage Tribunal found as a fact that the water

flowing from the property of certain private owners was arti-

ficially diverted into the Brinston Drain via the storm sewers

recently constructed along the developed road which storm sewer

crosses County Road No. 2 and empties into the Brinston Drain.

The Tribunal took note of the suggestion by the Drainage

Engineer that Section 23 of the Drainage Act, 1975, afforded

to the Engineer considerable discretion with respect to the

assessment of parties even to the point of excluding them from

assessment.

The Drainage Tribunal does not disagree with this

principle and notes that it was in the circumstances of this

case properly exercised with respect to the decision made by

the Drainage Engineer with regards to the culvert crossing

County Road No. 2 north of Township Road intersection in

Briston. The evidence did not establish that any significant

volume of water passed through the culvert crossing.

The Drainage Engineer further pointed out that he

was concerned lest the Municipality become liable for

pollution introduced into the Briston Drain and provided

the Tribunal with case law relating to the subject. However,

the Tribunal is of the opinion that the Municipality has

already allowed the water from the aforesaid private lands to

outlet into the storm sewer and hence the Briston Drain so

that no further liability would accrue if in fact such owners

were assessed. Attention is drawn to Section 83 of the

Ontario Drainage Act, 1975.

It is further ordered that no costs be awarded with

respect to this Hearing and accordingly all parties are

responsible for their own costs.

DATED at Pembroke, Ontario, this 5th day of

January A.D. 1978.

(Signed) D.A.O'Brien

D.A. O'Brien, Chairman

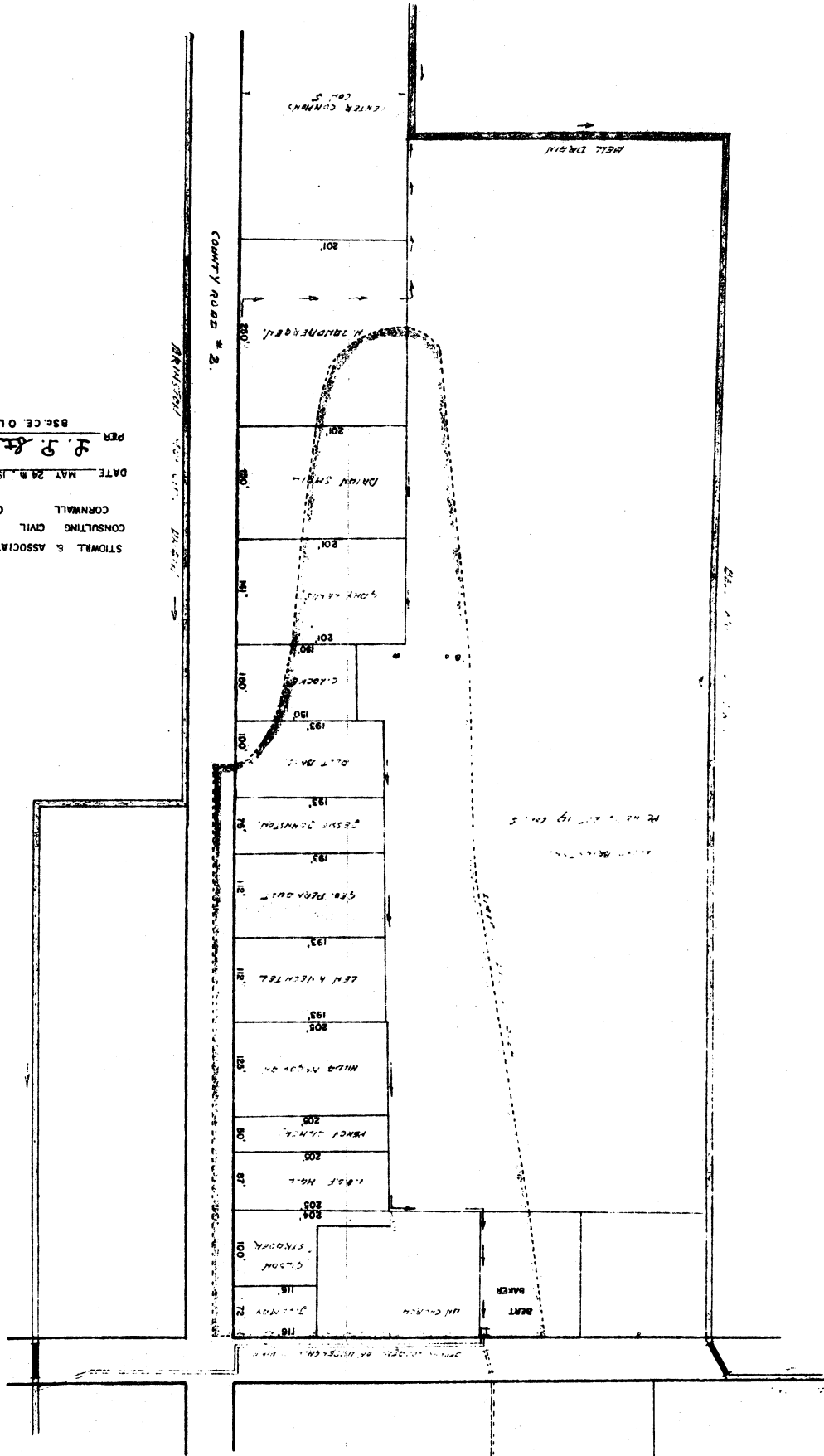
Ontario Drainage Tribunal.

BRINSTON MUNICIPAL DRAIN

PLAN SHOWING ADDITIONAL LANDS DRAINING INTO THE ORIGINAL BRINSTON DRAIN

VIA A NEW CATCH BASIN AND UNDER GROUND TILE CONSTRUCTED

AS PART OF THE DEVELOPMENT ROAD



STEWART & ASSOCIATES LTD
 CONSULTING CIVIL ENGINEERS
 CORNWALL ONTARIO
 DATE MAY 24th 1978
 PER *J. P. Stewart*
 896.CE.O.L.S.