

THE CORPORATION OF THE TOWNSHIP OF MATILDA

BY-LAW # 78-23

A BY-LAW to amend By-Law # 77-12.

WHEREAS it is deemed necessary to amend By-Law #77-12 being a By-Law for the construction of the Brinston Drain as per the Report of L. P. Stidwill dated July 26, 1977 at an estimated cost of \$33,909.92 and increased to \$35,198.58 by the amendment to the Report dated June 22, 1978 in order to comply with the decision of the Ontario Drainage Tribunal (copy attached);

AND WHEREAS the drainage works are now complete and all costs incurred to complete the works have been accumulated, the total sum being \$35,665.60 (See Final Schedule of Assessment).

NOW THEREFORE the Council of the Township of Matilda enacts as follows:
The Assessments less applicable grants are hereby levied on the properties as per the schedule and are due and payable within 30 days of the invoice date. For all outstanding balances in excess of \$100.00, debentures will be issued for 10 years at prevailing interest rates and one installment will be added to each year's taxes for 10 years commencing with the year following the drainage works.

READ a first and second time and provisionally adopted this 5th day of October, 1978.

READ a Third time and passed in open Council this 5th day of October, 1978.


Reeve


Clerk

AMENDMENT
TO THE
ENGINEER'S REPORT
ON THE
BRINSTON MUNICIPAL DRAIN
FOR THE
CORPORATION OF THE TOWNSHIP OF MATILDA
1978

STIDWILL & ASSOCIATES LIMITED
CONSULTING ENGINEERS
CORNWALL, ONTARIO

AMENDMENT
TO THE
ENGINEER'S REPORT
ON THE
BRINSTON MUNICIPAL DRAIN
CORPORATION OF THE TOWNSHIP OF MATILDA
1978

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	<u>9,472.94</u>
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.

I consider all the additional land being assessed under this Report, other than that owned by Mr. Lloyd Brinston, to be Non-Agricultural land. Mr. Brinston's land has been identified by an asterisk (*) as Agricultural Land on the accompanying Schedule of Assessments.

All of which is respectfully submitted.

I remain,

Yours very truly,

STIDWILL & ASSOCIATES LIMITED

.....*L. P. Stidwill*.....
Consulting Engineer

Cornwall, Ontario, June 22, 1978.

SCHEDULE OF ASSESSMENT

Name of Owner	Con.	Lot or Part	Acres Affected	Outlet Liability	Benefit
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. Perrault	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 Smail	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 (90.38)	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 artificially 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 Brinston. 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 Brinston 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 Brinston 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.

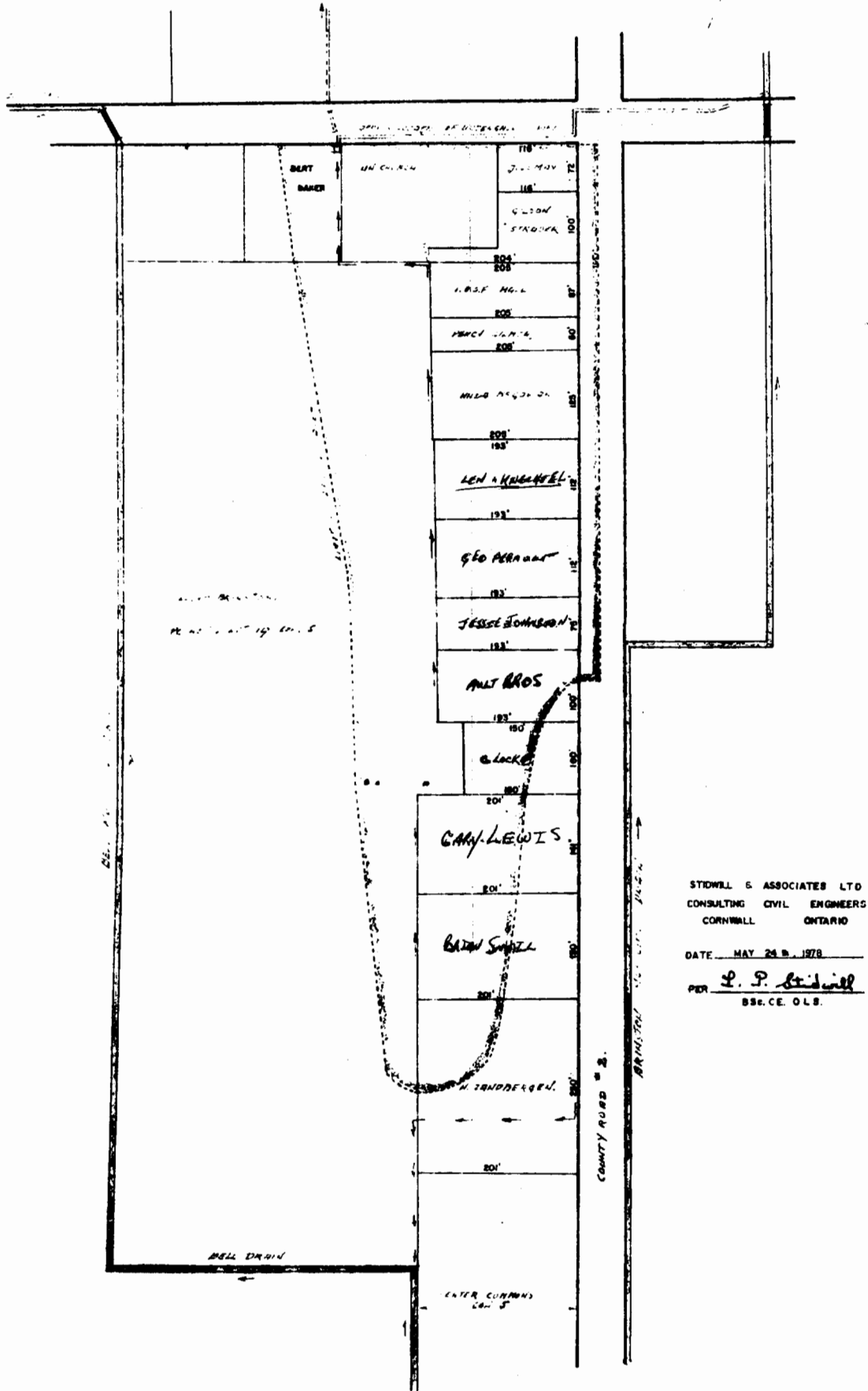
(Signed) D.A.O'Brien
D.A. O'Brien, Chairman
Ontario Drainage Tribunal.

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



STOWELL & ASSOCIATES LTD
 CONSULTING CIVIL ENGINEERS
 CORNWALL ONTARIO

DATE MAY 24th 1978

PER P. P. Stowell
 B.Sc. CE. O.S.

FINAL SCHEDULE OF ASSESSMENT

Name of Owner	Con.	Lot or Part	Ares Affected	Outlet Liability	Benefit
Bert Baker	5	N.E.Pt. 19	0.30	50.01	
Un. Church Pty.	5	N.E.Pt. 19 + Pt. Centre Commons	0.78	129.29	
Jacques Lemay	5	Pt.C. Commons	0.19	31.34	
Gilson Strader	5	Pt.Ce.Commons	0.22	36.30	
I.O.O.F. Hall	5	Pt.C. Commons	0.37	61.08	
Percy Gilmer	5	Pt.C.Commons	0.23	37.71	
Hilda McGowan	5	Pt.C.Commons	0.58	94.61	
Len Knechtel	5	Pt.C.Commons	0.49	79.05	
George Perrault	5	Pt.C.Commons	0.49	78.65	
Jessie Johnston	5	Pt.C.Commons	0.33	52.39	
Ault Bros.	5	Pt.C.Commons	0.35	55.55	
Carmi Locke	5	Pt.C.Commons.	0.20	31.38	
Gary Lewis	5	Pt.C.Commons	0.39	60.50	
Brian Smail	5	Pt.C.Commons	0.41	63.27	
Henry Zandbergen	5	Pt.Commons	0.23	34.87	
Lloyd Brinston *	5	N.E.Pt . 19	3.4	274.19	
United Counties of S. D. & G.	5	Pt.Cty. Rd.#2	0.56	135.58	
G. Westervelt *	5	W.Pt. 16	4	202.92	
Lorne Strader *	5	N.Pt. 17	27	1576.34	
Thomas Burns *	5	N.Pt. 17(lot)	2.85	428.00	
G.&M. McDonald *	5	N.Pt. 17(lot)	0.75	112.62	

* Agricultural Land

FINAL SCHEDULE OF ASSESSMENT (CONT'D)

Name of Owner	Con.	Lot or Part	Acres Affected	Outlet Liability	Benefit
H. Allison	5	N.Pt. 17 (lot)	1	182.79	
H. Geurkink	5	Pt. E $\frac{1}{2}$ 18	15	1153.03	579.28
Delmar Adams	5	Pt. W $\frac{1}{2}$ 18 & C. Commons	14	1308.12	2316.85
Richard Zandbergen	6	Pt. Lot 16	1	103.26	
Evelyn Smail	6	Pt. Lot 16	0.68	127.11	
F. Zandbergen	6	Pt. Lots 17, 18	4	321.97	
H. Geurkink	6	Pt. Lot 18 + C. Commons	10	711.68	6872.56
Annie McQuigge	6	Pt. Lot 17	0.9	33.38	
Clara Johnston	6	Pt. 17 (lot)	0.5	111.21	
R. Zandbergen	6	Pt. 17 (lot)	0.48	111.21	
J. Zandbergen	6	Pt. 17 (lot)	0.53	119.16	
J. Geurkink	6	Pt. 18 (lot)	0.56	123.14	
H. Geurkink	6	Pt. 18 (lot)	0.55	127.11	173.68
Mrs. W.D. Fawcett	5	N. Pt. 17	0.33	60.93	
Mrs. D. McQuigge	6	Pt. C. Commons (lot)		71.45	
G. Coleman	6	Pt. C. Commons	1.2	139.00	

* Non Agricultural

FINAL SCHEDULE OF ASSESSMENT (CONT'D)

Name of Owner	Con.	Lot or Part	Acres Drained	Outlet Liability	Benefit Liability
<u>VILLAGE LOTS</u>					
C. Coons *	6	Pt. Centre Commons	0.35	99.28	202.62
H. Munroe *	6	"	0.60	139.03	357.00
H. Plante *	6	"	0.25	83.38	149.56
A. Moran *	6	"	0.25	83.38	151.16
G. Corker *	6	"	0.18	71.45	109.35
H. Plante *	6	"	0.17	71.45	102.92
United Co-Op *	6	"	0.30	95.31	184.94
C. Murphy *	6	"	0.40	102.28	254.09
C. Murphy *	6	"	0.18	75.45	115.78
C. Code *	6	"	0.09	59.49	57.89
C. Code *	6	"	0.46	123.14	297.51
G. Murphy *	6	"	0.48	127.10	311.99
Wm. Perry *	6	"	0.25	87.35	164.04
F. Churchill Ault*	6	"	0.55	143.02	365.04
L. Henderson *	6	"	0.27	91.31	180.11
Irene Bailey *	6	"	0.31	99.29	207.46
<u>TOWNSHIP OF MATILDA</u>					
Township Road betw. Con. 5 & 6 *			5.3	1296.19	
Special Benefit Assessment, Project # 1260					9598.63
<u>UNITED COUNTIES OF STORMONT, DUNDAS & GLENGARRY</u>					
County Road # 2, Con. 5 & 6			6.7	1635.14	

* Non Agricultural