

**COURT OF REVISION – JRDR MUNICIPAL DRAIN
WEDNESDAY, JANUARY 15, 2020
COUNCIL CHAMBERS, SPENCERVILLE
3:00PM**

1. Welcome and Introductions
2. Appoint Chair
3. Approval of the Agenda
4. Disclosure of Pecuniary Interest & the General Nature Thereof
5. Comments from Drainage Engineer
6. Landowner Appeal (landowner may present their evidence for the appeal)
7. Comments from Solicitor, if any
8. Review and Discussion of Appeal
 - a) Notice of Appeal – Concession 6, Part Lot 4 – Bruce
9. Decision of the Court of Revision
10. Adjournment

Received

JAN 06 2020

Township of
Edwardsburgh/Cardinal

Notice of Appeal to Court of Revision

Drainage Act, R.S.O. 1990, c. D.17, subs. 52(1) and 76(4)

To: The Clerk of the Corporation of the TOWNSHIP of EDWARDSBURGH CARDINAL

Re: JAMES REILLY DEWITT RICHTER
(Designation of drainage works)

Take notice that I/we, an owner or owners of land assessed for the above-mentioned drainage works, appeal to the Drainage Court of Revision under:

Section 76 (4) for the development of a new assessment schedule for the drain on the grounds that:

- My/our land has been assessed too high;
- My/our land has been assessed too low;
- Other land or road has been assessed too high;
- Other land or road has been assessed too low;
- Other land or road that should have been assessed has not been assessed;
- Due consideration has not been given as to type of use of land.

Include Details of Appeal (attach additional pages if needed):

ATTACHED: 2 PAGES OF SIGNED APPEAL DETAILS.

Property Owners Appealing to Court of Revision

- 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 Court of Revision regarding multiple properties, attach additional page with property information.

Property Description

CON 6 PART LOT 4

419 COUNTY RD 21

Ward or Geographic Township

EDWARDSBURGH/CARDINAL

Parcel Roll Number

07 01 701 035 06 700 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 Court of Revision.

Select Ownership Type

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

Last Name

BRUCE

First Name

DAVID

Middle Initial

M

Mailing Address

Unit Number

Street/Road Number

Street/Road Name

PO Box

419

COUNTY RD 21

City/Town

SPENCERVILLE

Province

ONTARIO

Postal Code

K0E 1X0

Telephone Number

Cell Phone Number (Optional)

Email Address (Optional)

613-371-1650

To be completed by recipient municipality:

Notice filed this 6th day of January 20 20

Name of Clerk (Last Name, First Name)

McKINSLEY, DEBRA

Signature of Clerk



We, David and Arlene Bruce, Landowners of Lot 4 Con 6, believe our assessment to be too high and respectfully request reconsideration of the amount.

In 2013, we contacted the Township and requested that an investigation be conducted concerning a water egress, washout issue at the drain crossing on our property. Our concerns were related to this flooding problem, and at no time did we request that a wider crossing be installed.

Township Staff and Council, along with Greer Galloway Engineer and Technician, agreed to what type of work was needed to repair and prevent on going problems at the crossing. Even after consulting with Robinson Consulting, who stated that the work should fall under a Special Benefit, Township Council approved the work and allowed it to go ahead and be charged under Repair and Maintenance with the costs charged to upstream landowners.

Prior to any construction, Township staff verbally indicated to us that we would not be bearing a large portion of the cost of these remediations.

Despite the apparent categorization controversy, we were never approached about the Special Benefit by Township staff or Council. If we had known, prior to the construction, that we would ultimately be responsible for incurring these huge costs as a Special Benefit, we would never have agreed to the work in the first place, and we would most certainly have requested that a more cost-effective remediation be explored.

This fact, we believe, is very important. It is also a fact which seems to have been disregarded or ignored during the Drainage Referee hearings which occurred last summer.

Before, during and immediately following remediation, Township staff indicated that the work was being done to address a deficiency with the drain – and not- as a Special Benefit to us as Landowners; a Special Benefit we, as Landowners, neither requested nor expected – and most importantly – could not afford to pay.

In light of this reality, it seems completely unfair that we now be forced to pay such a massive amount for what seems to have been just the first of several mistakes on the part of Township staff and Council.

Five years after the remediation work, we received a notice to go to the Court of the Drainage Referee because the charges to the Repair and Maintenance were being contested by other landowners. These costs to were reportedly upwards of \$50,000.

This initial \$50,000 figure is something which we feel ought to also be considered here. It was only later discovered that we, by no fault of our own, and in error by the Township, were never charged for any upstream costs for a portion of the work completed and in fact had been overcharged work completed on another property. So, the new pending cost has now been reduced to \$23,854.

Therefore, all decisions on our part during the Referee proceedings, including possibilities for negotiation and possible settlement, were based on incorrect and inflated costing provided by the Township to Landowners.

Another reality which seems to have been ignored or disregarded during the Referee hearings is the fact that the work done involved much more than simply repairing the washout. Changes were also made to improve the flow – thus preventing future washouts and erosion issues. There was also bank erosion



repair and protection done on our property, **along with work on an adjacent landowner property downstream**. We feel that it is unfair that these costs are being lumped together and categorized as Special Benefit to us.

Furthermore, we also feel that the \$3,900.00 share of the Robinson Consulting report is unfair because they used the existing (and previously paid for) Engineering drawings from Greer Galloway. During the Referee Proceedings, the Township stated that Greer Galloway were not municipal drainage experts. Robinson Consulting did the design and overseen construction, yet the Township used Greer Galloway on retainer to recommend correction and oversee work on our and other landowners drain issues.

On a more personal level, we now feel completely alienated as taxpaying landowners in Edwardsburgh/Cardinal.

We believed we were doing the right thing by approaching the Township to help fix our washout. We did not resort to 'home-made' or illegal solutions - conducted under cover of darkness - like other Landowners in the area have done; thus setting a terrible precedent for others.

Instead, we listened to – and trusted – the advice of Township staff and Council. We participated and fully engaged with the remediation process, and we relied on the professional judgement and advice of Township staff to guide us. The result has been what can only be described as a complete and total disaster.

Therefore, if these costs stand as they are currently listed, the lesson for all Landowners will be twofold: first, that Landowners would be better served simply ignoring the law and dealing with their properties as they see fit; and second, that the Township of Edwardsburgh/Cardinal would prefer to throw an innocent family under the bus rather than admit they made an error and absorb the costs accordingly. These are messages that no local-level government should ever send any of its citizens.

As taxpayers, and as residents of Edwardsburgh/Cardinal for nearly forty years, we feel we have been treated callously and cruelly with regard to this drainage matter. For an official corporation like the Township to go back on its word more than five years later; for it not to have the common courtesy to approach us when the original confusion started; and for it to force us into what has turned out to be a protracted and very expensive court process is both unacceptable and unethical. We deserve better from our local government.

For all of these reasons, we would please ask for your reconsideration of the costs.



2020-01-06