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Notice of Appeal to Court of Revision

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

OFFICE OF THE CITY CLERK
KAWARTHA LAKES

To: The Clerk of the Corporation of the City of Kawartha Lakes

Re: MacEachern Brown Municipal Drain
(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 52 (1) for the construction or improvement of a drain; or
- 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):

See Attached

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
Willow Green Meadows Con 2 N Pt Lot 15

Ward or Geographic Township <i>Ward 4 Kawartha Lakes</i>	Parcel Roll Number <i>1651 160 01009900.0000</i>
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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 *Corporation Sole Owner Paul Lokoff*

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

Last Name <i>LOKOFF</i>	First Name <i>PAUL</i>	Middle Initial <i>C</i>
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Mailing Address	Unit Number	Street/Road Number	Street/Road Name	PO Box
<i>[Redacted]</i>				

City/Town	Province	Postal Code
<i>[Redacted]</i>		

Telephone Number	Cell Phone Number (Optional)	Email Address (Optional)
<i>[Redacted]</i>		

RECEIVED BY *WATTS, JOEL (DEPUTY CLERK)* ON *MAY 2, 2022*

May 2, 2022

Notice of Appeal Regarding Costs MacEachern Brown Drain

I am the owner of Willo Green Meadows Corporation and my property is located south of Palestine Road. I was party to an on-site meeting on July 20th 2020.

I would like to take this opportunity to appeal the costs associated with the MacEachern Brown Drain as my costs are clearly excessive. My final costs are \$29,121.20 which are essentially for the clearing of an existing drain which has been maintained and is adequate for the purpose it was designed for. The drain across my property has existed for many years and has easily accommodated the required flow of water without incident of flooding of properties upstream. Around 2018, Mr. Brown of DS and B farms chose to tile drain his farm with the outflow directly onto a culvert on the side of Palestine Road which Mr. Brown enlarged and subsequently draining onto my property. I objected to this enlarged and perhaps more rapid outflow of water, fearing that it would flood my property. I was told by the Municipality of Kawartha Lakes that the tiling of Mr. Brown's farm should not have taken place without approval, he should not have created a culvert on municipal property and that I was under no obligation to accept this water. One option put forth was that I block the water flow, which I have not chosen to do. I asked that the drainage along the road be returned to its initial state and it has not. This was done through the municipality of Kawartha Lakes. What Mr. Brown is essentially asking is that I upgrade the size of my drainage to better accommodate his needs. If that is in fact what we are doing across my property, Mr. Brown should be paying the lions share of these costs. In the engineering report, 4.1.2, it states that the drainage course south of Palestine Road has "reportedly" (my emphasis) not been maintained, causing potential flooding of upstream landowner DS and B farms. There is no notation that this was ever verified. Mr. Brown would just like enhanced drainage and others to bear the costs. While potential flooding may occur, the reason for this occurring is not a lack of maintenance of my drainage. In section 5.2 of the engineering report, my drainage ditch is described as a trapezoidal structure 1m flat at the top and 0.6-1 m in depth. It is noted that sediment of 0.4m "would" (my emphasis) be expected to cause flooding of DS and B farms. That may be true if in fact there was that much sediment, but that is not the case. In summary, my drainage has been maintained and is has been adequate to date. If Mr. Brown is asking for enhanced drainage, he should bear these costs. Furthermore, there is little benefit to my property and the drainage across my property is more than adequate. Assigning a benefit to my property of \$29K is outrageous. We grow hay and our income is in the area of \$5K per year. My farm will never recoup these costs in benefits. The benefits are all upstream.

Given that Mr. Brown has essentially blocked most upstream water from flowing onto his property by filling in his ditch, the downstream drainage is not an issue and this lack of flow is most certainly contributing to increases sediment deposits. There does not appear to be an evaluation of the impact of blocked flow to the condition of the ditch, but it would be fairly clear that if the ditch were not used, it would fill in.

My understanding is that if costs are reduced from my property, they must be borne elsewhere. I can see that DS and B is awarded an allowance of over \$14,000 which are to compensated for land taken out of service. I cannot imagine what this is for. DS and B filled in the drain across his farm and , is asking for the drain to snake across County Road 46 and Palestine Road. He is gaining farmland and does not have to deal with a ditch across his property and gets a \$14k allowance? It should be a cost to him and not a credit.

Finally the engineering costs of this project are in the \$50k area. The primary reason we are even contemplating a municipal drain is that DS and B blocked upstream flow of water onto his property which has flooded the property of Mr. MacEachern. If that were not the case, or if the municipality forced a timely return to the original pattern, we may not be going forward with this drain. I would imagine that a compelling reason for the applicants to continue with this drainage proposal is to share the engineering costs with others who never wanted this drain in the first place. It is abundantly clear that by blocking water flow and replacing it with a completely inadequate pipe has created this entire engineering project and most if not all of these costs should be borne by DS and B farms.

I strongly believe that the assignment of most or all of these costs of this drain to Mr. Brown is absolutely the correct course of action . It was his reckless behaviour that has led to this this proposed drain and he is by far the major beneficiary.

Thank you for the opportunity to appeal these costs.

Paul Lokoff
Willo Green Meadows