

IN THE MATTER OF AN ARBITRATION PROCEEDINGS  
UNDER THE *CLASS PROCEEDINGS ACT, 1992*

B E T W E E N:

[REDACTED]

Applicants

- and -

THE CORPORATION OF THE MUNICIPALITY OF  
BROCKTON, THE BRUCE-GREY OWEN SOUND  
HEALTH UNIT, STAN KOEBEL,  
THE WALKERTON PUBLIC UTILITIES COMMISSION and  
HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO

Respondents

Heard: September 30, 2010

Counsel:

Patrick Kelly  
for the Applicants

Milena Protich  
for Walkerton Compensation Plan

DECISION

[REDACTED] purchased [REDACTED] in Walkerton in [REDACTED] 1981 for \$58,900. It has not been sold. The sole assertion of the claimants is that property values have and will continue to diminish in Walkerton. No court or tribunal should accept the unsubstantiated opinion of claimants who are not experts on property values.

The administrator has led the evidence of Douglas E. Farmer, a member of the Appraisal Institute of Canada. Mr. Farmer investigated the property in December 2006 and concluded that the property did not suffer a loss in value as a result of the water crisis. I accept his opinion. It was suggested by the applicants that local realtors had a vested interest and were unreliable. Mr. Farmer is not from Walkerton. His firm of real estate appraisers and consultants is located in Owen Sound.

Mr. Farmer took the photographs and did a careful analysis. His opinion was not altered in cross-examination.

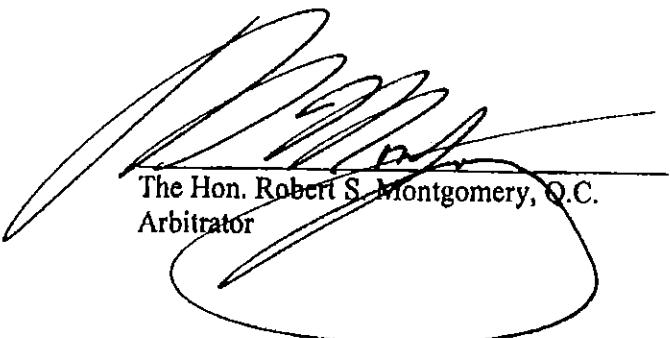
The claimants have failed to satisfy the onus upon them that, on a balance of probabilities, they suffered a loss of value due to the water contamination.

There is a further reason this claim must fail. The applicants have not sold so there has been no loss.

The law does not provide for prospective damages (see *Veitch v. Mount Pearl (Town)* (No. 2), 1980 CarswellNfld. 59, Goodrich J., Newfoundland Supreme Court), in a claim for

diminution of the value of the property. Such a claim cannot be sustained under the law of Ontario and on this ground as well the claim has to fail.

Dated at Toronto, this 30<sup>th</sup> day of September 2010.



The Hon. Robert S. Montgomery, Q.C.  
Arbitrator