

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

BETWEEN:

[REDACTED] Plaintiffs

- 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

[REDACTED] Defendants

Heard: June 24, 2008

Counsel:

Charlene J. Stephen - for the Plaintiffs

Milena Protich - for The Plan Administrator

DECISION

Mr. and Mrs. [REDACTED] owned their home in the Town of Walkerton known as [REDACTED]. By offer to purchase, dated [REDACTED] 2002, they sold the property for \$140,000. It should be noted that most property in Walkerton at this time was worth under \$100,000. For this reason, there were not a lot of comparables in the higher end market.

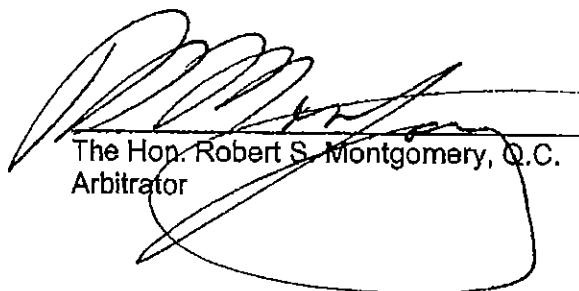
Ms. Stephen sought to introduce a report authored by John Livernois who presented a paper at the Walkerton inquiry. I reject the introduction of this report. No attempt was made to subpoena Mr. Livernois. If the report were to be allowed in, there would be no opportunity to cross-examine on it. Even if I had decided to accept the report in evidence, I prefer and accept the methodology used in the opinion evidence of Douglas Farmer.

The onus of proof is on the plaintiffs to establish, on a preponderance of credible evidence, that a diminution in value occurred to their property as a result of the Walkerton water crisis.

The defendants called Douglas Farmer, an appraiser who has done appraisals in the Walkerton area since 1980. Mr. Farmer was retained as an independent evaluator. It was his opinion that, while there was a slowdown in sales after the crisis, he could not conclude that there was any diminution in price. He was unshakeable in this position. I found him to be a straightforward, credible witness.

While I have great sympathy for all those who suffered from the Walkerton tragedy, I must be guided by the evidence. Despite a valiant effort by [REDACTED] to convince of a diminution in value of his property because of the crisis, I cannot accede to that view. I accept totally the evidence of Mr. Farmer based on raw data and conclude that the claim must be dismissed.

Dated at Toronto, this 23rd day of June 2008.



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