

## IN THE MATTER OF AN ARBITRATION

## BETWEEN:

## WALKERTON COMPENSATION PLAN

### (The "Administrator")

— and —

### (The "Claimants")

**MARTIN TEPLITSKY, Q.C.**  
**Arbitrator**

## APPEARANCES:

**On behalf of the  
Administrator**

**Milena Protich, Counsel  
Kim Chalmers**

On behalf of the  
Claimants:

Hearing held in Toronto on October 16, 2008

The claimants' position is that the sale of their home at Walkerton was for a lesser price than it would have fetched but for the Walkerton Water crisis.

The arbitration commenced on April 30, 2007. It was adjourned, in part, to allow the claimants to obtain expert evidence to support their allegation. On the resumption of the hearing, on October 16, 2008, almost 18 months later, appeared without counsel (the claimants had counsel at the April 30, 2007 hearing). He did not adduce any expert or other evidence.

position is that he sold the property 15 years after he purchased it for less than he had paid for it. In his mind, the only logical explanation was the Walkerton water crisis. He was fortified in his conclusion by some factual errors in the appraisal report of Mr. Farmer.

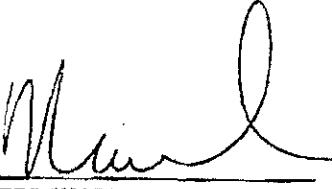
The Plan Administrator allowed 5% diminution in value until December 31<sup>st</sup>, 2001 for properties sold to that point. Thereafter, its position has been that the water crises did not affect the price at which homes sold. Their position is supported by Mr. Farmer who is a qualified appraiser and very familiar with the area. The burden of proof is on the claimants. There is simply no basis for concluding that the water crisis affected the value of the claimant's property in 2004. There is no evidence to support that result. It is not a subject on which one could take arbitral notice. It is not a conclusion that common sense suggests to me.

It is more likely than not that after 4 years, if not sooner, property values in Walkerton

were not affected by the water crisis. Indeed, on average between 2000 and 2004, the average price of homes in Walkerton increased by 21%. There is no reason to assume that the claimants' income producing property was more affected by the water crisis than other similar properties.

In the result, there is no evidence to support the claimants' position and their claim must be denied.

DATED the 16<sup>th</sup> day of October, 2008.



MARTIN TEPLITSKY, Q.C.  
Arbitrator