

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

BETWEEN:

JAMIE SMITH, ALANA DALTON, JAMIE McDONALD
and IRENE SALES INC., OPERATING AS
THE HARTLEY HOUSE

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

Defendants

- and -

IAN D. WILSON ASSOCIATES LIMITED,
DAVIDSON WELL DRILLING LIMITED EARTH TECH (CANADA) INC.,
CONESTOGA-ROVERS & ASSOCIATES LIMITED,
B.M. ROSS AND ASSOCIATES LIMITED,
GAP ENVIROMICROBIAL SERVICES INC.,
A & L CANADA LABORATORIES EAST, INC.,
DAVID BIESENTHAL and CAROLYN BIESENTHAL

Third Parties

Heard: October 28, 2004

Counsel:

Charlene Steven - for the Claimant,

Bruce L. Lee - for The Plan Administrator, Crawford Adjusters Canada

DECISION

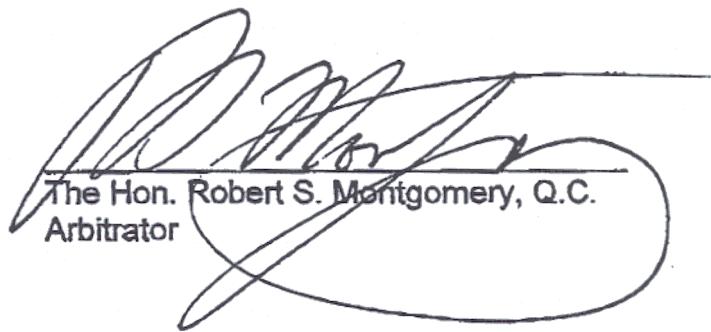
purchased in Walkerton from her parents in 1995 for \$92,000. It was appraised at that time at \$95,000 for bank purposes. Ms. spent \$23,307 on repairs. The property was a duplex. Ms. lived in one unit and rented the other. She became aware her job would likely end so she wanted to sell the property. It was listed in 1998 for \$89,000 and did not sell. In April 2000, just before the water crisis, it was re-listed at \$84,900. A new listing at the end of November 2000 was priced at \$79,900. It sold in December for \$74,000. **The first offer in three years was for \$74,000 and the claimant accepted it.**

The Administrator relied upon the opinion of Douglas Farmer, a qualified appraiser and member of the Appraisal Institute of Canada. Mr. Farmer produced a body of data to show the sale prices of rental units in the general area. The income approach looks at the rental rates of the various duplexes, triplexes and fourplexes sold. This evidence was statistical in nature from real estate boards and not based on opinions of the appraiser. He pointed out that income properties are different than residential homes. Based on various approaches, Mr. Farmer was of the opinion that \$74,000 was an appropriate value of the property.

There is insufficient evidence to show a value in excess of \$74,000. The onus is on the claimant.

accept the opinion of Mr. Farmer. I must reluctantly conclude that the claim fails.

Dated at Toronto, this 4th day of November 2004.



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