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March 22<sup>nd</sup>, 2010

Hon. Chris Bentley  
Attorney General  
McMurtry-Scott Building  
720 Bay Street, 11th Floor Toronto, ON M5G 2K1

Honourable Minister,

**Re: Support for the Province of Ontario and Grey Bruce Health Unit Appeal of Ontario Court of Justice, pasteurization and raw milk ruling on R. v. Michael Schmidt (January 21, 2010).**

I am writing on behalf of the Environmental Health Workgroup of the Ontario Public Health Association (OPHA) to emphasize the importance of the continued, compulsory pasteurization of milk and to express support for the appeal in the R. v. Michael Schmidt ruling. OPHA was founded in 1949 and is a volunteer, non-profit organization established to provide leadership on issues affecting the public's health and strengthen the impact of the people who are active in public and community health throughout Ontario.

The January 21, 2010 decision by Ontario Court of Justice, Justice of the Peace Paul Kowarsky, to dismiss all 19 charges against the defendant, Michael Schmidt, under Sections 18 and 100 of the *Health Protection and Promotion Act (HPPA)* and Section 15 of the *Milk Act*, has implications which increase public risk. This is especially concerning given JP Kowarsky acknowledged that, on plain reading of the *HPPA* and *Milk Act* offence provisions, the defendant would be guilty on all counts.

One of Public Health's most difficult challenges is to develop and maintain public awareness that specific food products can cause serious harm. Raw milk is known to support many potentially harmful organisms which can lead to illnesses with mild to long-lasting and serious consequences including death. Young children, the elderly, the immuno-compromised and pregnant women are especially vulnerable to becoming seriously ill. The infection can then be spread from person-to-person by hand-to-mouth contact infecting others who have not even consumed the raw milk.

The Justice also appeared satisfied that all participants in Mr. Schmidt's "cow-share" operation understand the risks associated with raw milk consumption. In this case, that awareness seems to be in place, however general permission to increase the availability of raw milk – even with the provision of information about risks – would undermine protection of the public, as there is no guarantee that all consumers would fully understand those risks. Children of parents who insist that they only drink raw milk is an obvious example, especially considering their particular vulnerability to the more serious infectious agents associated with raw milk. The legislation is intentional in protecting the public, including these vulnerable populations.

A campaign by Women's Institutes led to a Canadian law, passed in 1938, making it illegal to sell and distribute unpasteurized milk. As a result, raw milk consumption has been relatively low in Canada and illness from raw milk consumption has been primarily limited to farm families consuming their own raw milk in spite of public health advice.

Despite the many changes in farming, food production and health care since the 1930's, the consumption of raw milk still poses a very real danger. Statistics from countries that do allow the sale of both pasteurized and unpasteurized milk from regulated dairies provide evidence of the inherent danger of this product. Half of all milk-related outbreaks during 1992-99 in England and Wales were linked to raw milk despite the fact that only an estimated 0.01% of all milk consumed there is unpasteurized (Food Standards Agency Wales). Even in Ontario where access to raw milk is limited, there have been 145 cases of illness associated with exposure to raw milk between 2005 and 2009 (Dr. David Williams, Associate Chief Medical Officer of Health, Ontario).

The court decision has not changed the law. In Canada, it is illegal to sell, offer to sell, deliver or distribute raw milk. However, the decision has led to questions about the advisability of utilizing limited resources to try to enforce the law. The increased publicity, following the decision, may also change the public's perception of the health hazards of raw milk. In addition, public access to raw milk could be expanded and lead to increased consumption of raw milk.

For these reasons, OPHA strongly supports the appeal. If you have any questions, please contact Mariana Whelan, Chair, Environmental Health Workgroup at 705-721-7520 ext.7345 or email at [Marina.Whelan@smdhu.org](mailto:Marina.Whelan@smdhu.org).

Sincerely



Liz Haugh  
President