

**BEFORE THE LAND VALUATION TRIBUNAL
AT HAMILTON**

LVP 8/04

BETWEEN	ROBERT AND EDITH BIRDSALL Plaintiff
AND	WAIKATO LAND VALUATION TRIBUNAL Respondent

Hearing: 29 November 2005

Court: Judge RP Wolff - Chairman
Mr D Smyth - Lay Member
Mr V Winiata - Lay Member

Appearances: Mr Birdsall appears in person
Mr G Guyett for the Respondent

Judgment: 29 November 2005

**ORAL JUDGMENT OF THE TRIBUNAL DELIVERED BY
JUDGE R P WOLFF**

[1] Mr Birdsall objects to a valuation given on behalf of the Thames District Council for his property at number 22A Paku Drive, Tairua. His objection has drawn attention to the following issues.

[2] It is contended that insufficient consideration and weight has been given by the valuers to the negative aspects of the subject site when compared to adjacent properties for valuation purposes. The argument on behalf of the objector is that more consideration should have been given and adjustments made because, in the case of the subject site, it is smaller, its contour differs, its ocean views are from ground level, are less attractive and complete than those of neighbouring sections, and the fact that it is a leasehold property.

[3] The way that the objector has proceeded, and we must say that in our experience as a Tribunal we have not seen a more able advocate than Mr Birdsall, and the way in which he conducted his case today, would have done credit to those who make their living practising in the Courts. His submissions to us were concise, clear and objective, and for that he has to be commended.

[4] I begin by pointing out that there is no burden of proof or balance of persuasion in an appeal such as this, it is not for the appellant to show that the original valuation is wrong or based on a wrong principle. The Tribunal simply proceeds on the basis of the evidence before it and considers whether the appropriate valuation has been assigned to the subject property.

[5] In the present case, the evidence that has been provided by Mr Hannon is the only professional valuation evidence that is before this Tribunal. Mr Birdsall commented, in the course of his closing submissions, that since this objection had been filed, and Mr Hannon had visited on a number occasions, the respondent had not called upon another valuer to visit the site and he suggested, or at least implied, that was maybe less than objective.

[6] It is not, in our experience, in any way unusual for a situation such as this to arise. Indeed, it is unusual for a separate valuer to be engaged by the respondent. Often another valuer is called by the appellant and if further evidence was necessary, it could readily have been called by the appellant. We do not see anything sinister or inappropriate in the absence of further valuation evidence from the respondent.

[7] In this case there is an objection against the land value only. There is no objection against the capital value. The valuation principles are as set out in the Act itself. The evidence that we have heard satisfies us, particularly after having heard Mr Hannon cross-examined. His valuation is an objective, reasonable and proper valuation of the property and, we are satisfied based on proper valuation principles, it is supported albeit by the somewhat limited sales evidence that was available in relation to the site.

[8] It also, in our view, takes into account the peculiar nature of this site, the peculiar nature of valuation of beachfront properties, particularly in pleasant parts of the country such as the Coromandel Peninsula. We believe that adequate weight has been given both to sales evidence and that there has been a proper consideration of the implications of the cross-lease. Indeed, the evidence that Mr Hannon gave on that subject as a result of the careful cross-examination by Mr Birdsall somewhat supplemented his earlier evidence. If there is any criticism to be made of Mr Hannon's evidence it is perhaps that by being less fulsome in his original brief of evidence, the information that satisfies us has had to come out as a result of questions put to him by Mr Birdsall and an expansion in some areas so that the professional valuer members of this Tribunal have been able to satisfy themselves that an appropriate professional approach has been taken.

[9] As a non-valuer member of this Tribunal, I can share some sympathy with Mr Birdsall in that some valuation matters do seem counter-intuitive. Mr Birdsall's analysis of the material provided as a result of Mr Hannon's brief is, no doubt, mathematically pure and statistically accurate but it does not, unfortunately, take into account matters that would be more properly addressed by additional valuation evidence nor did it address itself directly to the issues that bind the valuers when they consider the matter.

[10] The end result is that I deliver a unanimous decision of this Tribunal that the objection shall be disallowed.

JUDGE R P WOLFF