

IN THE MATTER OF an objection against a valuation under the
Rating Valuations Act 1998

BETWEEN **TROY GREGORY CHURTON**

Objector

AND **FAR NORTH DISTRICT COUNCIL**

Respondent

Tribunal Chair: His Honour Judge J D Hole

Members: D A Lowe Esq
J F Hudson Esq

Date of Hearing: 19-20 March 2003

Date of Decision: March 2003

DECISION OF THE TRIBUNAL

Introduction

[1] This decision refers to a property situated at 50 Marlin Drive Taupo Bay. It's legal description is Lot 35 deposited plan 56267 being all the land in Certificate of Title 8C/1009. The area of the land is 814 square metres. The land is zoned residential under the transitional Far North District Plan (Whangaroa section) and coastal residential under the proposed Far North District Plan.

[2] Taupo Bay is a popular East Coast beach settlement. It contains a mix of holiday and permanent homes. The main attractions of the settlement are the safe swimming and fishing grounds in the vicinity.

[3] The subject land is a near regular-shaped site of 22.13 metres frontage and an average depth of 36.76 metres. It is level with the road and slightly “hummocky” through its depth. Beyond the rear boundary there is an esplanade reserve of approximately 2 metres in width. There is then a 2 metre fall to the beach.

[4] Although there have been periods of erosion of the esplanade reserve in the past, at present there appears to be a gradual accretion of sand. It is accepted that as at the valuation date of 1 September 2001 the erosion of the esplanade reserve created difficulties regarding access to and from the reserve to the beach.

Objection

[5] The objector objects to Quotable Value’s s 9 revaluation of the land as at 1 September 2001. This was:

Improvements	\$7,000
Land value	\$290,000
Capital value	\$297,000

[6] The objector’s estimate of values is:

Improvements	\$7,000
Land value	\$200,000
Capital value	\$207,000

[7] The objector claims: -

- [a] That it is inappropriate to fix a land value by determining the capital value first and then deducting the value of improvements to reach a residual land value;

- [b] That the only comparable sales evidence relates to sale 3 at 66 Marlin Drive which did not have substantial improvements erected on it at date of sale;
- [c] That the subject site is inferior to the 66 Marlin Drive site by reason of its propensity to erosion.

Method Of Valuation

[8] In order to determine the appropriate method of assessing land value it is necessary to look at s 2 Rating Valuations Act 1998. There, land value is defined as follows:

“Land value” in relation to any land, and subject to s 20 and 21, means the sum that the owner’s state or interest in the land, if unencumbered by any mortgage or other charge, might be expected to realise at the time of valuation if – (a) offered for sale on such reasonable terms and conditions as a bona fide seller might be expected to impose; and (b) no improvements had been made on the land;

Improvements are defined as meaning *“all work done or material used at any time on or for the benefit of the land by the expenditure of capital or labour by any owner or occupier of the land, so far as the effect of the work done or material used is to increase the value of the land and its benefit is not exhausted at the time of valuation;....”*

[9] The Tribunal accepts that the best sales evidence is that pertaining to sales of bare land. However, in situations where there is only limited evidence of sales of bare land then it is permissible to look at sales of improved land to obtain an indicated land sale price. An indicated land sale price can only be obtained provided an appropriate analysis of the entire sale is undertaken. This involves assessing the value of improvements on the land and deducting the value of them from the sale price to reach estimated land sale price. Whilst this type of analysis is not as perfect as evidence of sales of bare land, nonetheless, properly done, a reasonably accurate assessment of land value can be obtained. This method of valuation has been adopted by valuers for many years and is accepted by the Tribunal.

[10] Indeed, it is significant that the objector’s own valuer, Mr Craven, did not resile from employing this method of valuation when providing his critique of the respondent’s sales evidence.

66 Marlin Drive Sale

[11] The Tribunal considers that it is always dangerous to rely on one sale only. A single sale can well be an aberration bearing in mind that many factors can influence a sale. The Tribunal has received no evidence as to the circumstances surrounding the sale of 66 Marlin Drive. It has no reason to believe that the sale was not *bona fide*: however it has no evidence either way. Furthermore, the date of sale was August 2000 which is some 13 months away from the revaluation date of 1 September 2001.

[12] It would be unsafe for the Tribunal to rely simply upon the one sale at 66 Marlin Drive.

Erosion Problems

[13] The Tribunal accepts the evidence of the objector that as at the revaluation date there was significant foreshore erosion affecting the esplanade reserve directly in front of the objector's land. This made access to and from the objector's land difficult. This is a factor which needs to be taken into account in comparing the sales evidence.

[14] It is clear, however, that as at the revaluation date there was a public perception that the sites at the southern end of the beach were more prone to erosion than that of the objector. Historical evidence adduced by Quotable Value indicated that properties at the southern end of the beach were selling for 25 per cent less than the price levels being realised for other beach front sites. Furthermore, the sites at the southern end of the beach are on a sandy isthmus with the beach to the east and an estuary to the west. Thus, for years they had been prone to erosion affecting both their front and rear boundaries. At the revaluation date this erosion may not have been significant; however, the evidence indicates that these sites had been the subject of erosion problems in the past. These sites, of course, include 66 Marlin Drive but do not include the subject land.

[15] Finally, it is significant that the transitional zoning applicable to the southern sites (including 66 Marlin Drive) was rural whereas the transitional zoning affecting the subject land was residential. Under a rural zoning the erection of any building upon the land involved specified departure or other resource management consent. Under the proposed Far North District Plan, however, all of the sites are zoned

coastal residential. The evidence is that so long as the transitional District Plan remains in force (as providing an underlying zoning) then the requirements pertaining to it must be observed as well as those pertaining to a proposed District Plan. This evidence tends to confirm that at the revaluation date there was a public perception that the sites at the southern end of the beach were more prone to erosion than those closer to the centre such as the subject land.

Other Sales Evidence

[16] The objector called Mr Craven, a registered valuer, to provide a critique of the other sales evidence adduced by the respondent. When Mr Craven gave his evidence it was apparent that he had undertaken a very cursory survey of the sales sites. He had not undertaken a valuation of the subject land and was not prepared to assist the Tribunal in this regard. Whilst his evidence tended to indicate that the land value ascribed to the subject land might be a little high, nonetheless, the conclusion reached by the Tribunal was that his critique of the other sales evidence could not be relied upon.

Conclusion

[17] S 38(2) Rating Valuations Act 1998 requires an objector to prove on the balance of probabilities that the valuation is wrong. In order to achieve this the objector must do more than merely criticise valuation evidence submitted by the respondent. Ultimately, if the objector's evidence is to be accepted there must be some valuation evidence supporting his position. In this case there was none.

[18] In these circumstances the Tribunal has no choice but to dismiss the appeal and the valuation by Quotable Value as at 1 September 2001 is confirmed.

Judge J D Hole
(Chairman)