

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

BETWEEN JOSEPHINE FARTHING

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: 20 March 2003

Date of Decision: April 2003

DECISION OF THE TRIBUNAL

Introduction

[1] The objector is one of many owners of two pieces of land situated at Rangihamana Road just south of the old Kaikohe town boundary.

[2] The two pieces of land adjoin each other. The first is Rangihamana K3B3A containing 0.6171 hectares. The second is Rangihamana K3B3B containing 1.1964 hectares. All of the land comprises Block XV Omapere survey district. It is Maori land.

[3] The land is zoned Rural 1 under the Far North District Plan (transitional) and General Rural under the Far North District Plan.

[4] The land contains volcanic loam with some boulders. It is flat but has a gentle fall to the rear and a raupo swamp. The swamp covers approximately one third of the land and the balance is in fair pasture. About a quarter of the rear of the land is planted in mixed age pines.

[5] There is an elderly three bedroom dwelling situated on K3B3A.

[6] Quotable Value's valuation as at 1 September 2001 was as follows:

(i) K3B3A

Improvements	\$13,500
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Land value	\$16,500
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Capital value	\$30,000
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(ii) K3B3B

Improvements	\$1,000
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Land value	\$26,000
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Capital value	\$27,000
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[7] In its calculation of land value, Quotable Value has deducted from its initial assessment 15 % because the land is Maori land in multiple ownership. This reflects the findings of the Court of Appeal in the *Maungatu* decision. The 15 % deduction recognises the difficulties in achieving sales of the land because of the multiple ownership.

Objection

[8] The objector, representing all the owners, submitted that the land is of special significance to the owners. It has been in their possession for over a thousand years. It is their intention that it will remain so forever. In these circumstances to contemplate a "willing seller – willing buyer" is abhorrent. Such a concept strikes at the very heart of Maori tikanga or values.

[9] Further, the Treaty of Waitangi accorded the owners free and undisputed enjoyment of their lands.

[10] The objectors consider that taxing the lands breaks that sacred covenant and undertaking.

[11] Whilst this decision does not set out the objection in full, nonetheless the foregoing represents a fair summary of it.

The Rating Valuations Act 1998

[12] S 9 of The Rating Valuations Act 1998 insists that a territorial authority (such as the respondent) must revise its district valuation role at intervals of not more than three years. The valuation undertaken by Quotable Value and which is objected to by the objectors is part of this process. Accordingly, the respondent had no choice but to undertake the valuation of the objector's land.

[13] The valuation of the objectors' land does not breach the Treaty of Waitangi. Whilst the second Article of the Treaty guaranteed to Maori the exclusive and undisturbed possession of their lands, the valuation process does not interfere with the objectors' possession of their land. The fact that the "willing seller – willing buyer" formula is used to achieve the valuation does not imply that the land will be bought or sold. That formula is the means of determining land value as set out in s 2 of the Act.

Conclusion

[14] S 38 (2) Rating Valuations Act 1998 requires that an objector must prove that the valuation objected to is wrong. The objectors have not done this.

[15] In these circumstances the appeal is dismissed and the valuations as at 1 September 2001 are confirmed.

Judge J D Hole
(Chairman)