

IN THE MATTER of the Rating Valuations Act 1998

AND IN THE MATTER of an objection to the revaluation of the
District Valuation Role for Auckland City Council

BETWEEN **WILHELMUS JOHANNES FRIESWYK**

Objector

AND **AUCKLAND CITY COUNCIL**

Respondent

TRIBUNAL

Chair: His Honour Judge J D Hole

Members: R M McGough, Esq
 J W Charters, Esq

Date of Hearing: 28 January 2004

Date of Decision: 30 January 2004

Appearances: Ms O'Donohue for Respondent
 Objector in Person

DECISION OF THE TRIBUNAL

The Property

1. The objector has an interest in a freehold property situated at 250 Cape Barrier Road, Great Barrier Island. It is described as Lot 1, DP 78241, being all Certificate of Title 34b/1067, North Auckland Land Registry. Its area is 4.0425 hectares.
2. It is zoned Land Unit 10 (Bush Residential) under the Auckland City District Plan and this zoning restricts the clearing of any trees over six metres high.
3. The property is roughly triangular in shape. It is situated in close proximity to Sandy Bay and enjoys a good sea view. While elevated, the block has a gently falling contour away from the road towards the South and the majority of the property is covered in trees.
4. On the property is a two-level dwelling established in the 1970's totalling some 176 square metres. It has concrete foundations with a mix of exterior claddings including concrete and fibrolite. It has an iron roof. The dwelling is a modest one. It has a substantial open plan living area on the ground floor. The upper levels include bedroom space and a loft area. It is in fair condition only. There is evidence of water leakage and its relatively poor standard is reflected in the dollar per square metre rate utilised in the respondent's valuation.

Valuation

5. The respondent has valued the property as at 1 September 2002 as follows:

Capital value	\$180,000.00
Land value	\$ 94,000.00
Improvements	\$ 86,000.00
Annual value	\$ 9,000.00

The annual value is based on five percent of the capital value.

6. In his objection, the objector has assessed his values as follows:

Land value	\$ 78,000.00
Improvements	\$ 70,000.00
Capital value	\$148,000.00
Annual value	\$ 7,400.00

Objection

7. When presenting his objection, the objector recognised that other properties were selling on Great Barrier Island at relatively high prices. He produced no valuation evidence which disputed that of the respondent.
8. His primary concern is that when he initially became the owner of the property he was able to use it to grow Manuka trees for firewood. He made his living from growing and cutting firewood. In 1995, Auckland City Council imposed a zoning in respect of the land which had the effect of preventing him from continuing to use the land for the growth of Manuka trees for firewood. From his point of view, therefore, the land's usefulness diminished sharply and, in these circumstances, he had difficulty in accepting the valuations proposed by the respondent.

Opinion

9. The Tribunal recognises that the original productivity of the land has been severely curtailed by the new zoning. Consequently, its usefulness to the objector has diminished. Nevertheless, the property is still available to the objector for residential use. It is on this basis that it has been compared by the valuer for the respondent with the sales of other properties. The various properties referred to by the respondent's valuer are all used for residential purposes.

10. The Rating Valuations Act 1998 defines the capital value as “*the sum of the owner’s estate or interest in the land if unencumbered by any mortgage or other charge, might be expected to realise at the time of valuation if offered for sale on such reasonable terms and conditions as a bona fide seller might be expected to require*”. Thus, in assessing its valuation of the property, the respondent has compared it against other similar properties which had been sold shortly before the revaluation date of 1 September 2002.
11. The respondent’s valuer noted that properties situated in bush land, similar to the subject property, had been selling well. This demand was despite the limited services available on the island. He noted that properties with good sea views (as this one) were in quite good demand. Finally, whilst he appreciated that the objector considered that restrictions on the cutting of Manuka restricted his use of the property, nevertheless there were people buying property on the island who appreciated the no-cutting policy adopted by the Auckland City Council.

Conclusion

12. Section 38(2) of the Rating Valuations Act 1998 provides that “*the onus of proof on any objection rests with the objector*”. In this case, whilst the objector has pointed out as to how the property has diminished in value for his particular purposes, he has been unable to produce any market evidence which contradicts that provided by the respondent. In these circumstances the objector has not managed to discharge the onus of proof incumbent upon him.
13. It follows that the objection fails. The respondent’s valuation as at 1 September 2002 prevails. The objection is dismissed.

Judge J D Hole (Chairman)