BEFORE THE AUCKLAND
LAND VALUATION TRIBUNAL LVP No. 85/00

IN THE MATTER of the Rating Valuations Act 1998

AND

IN THE MATTER of an objection to revaluation of the District Role for the North Shore City

BETWEEN	**ALAN JAMES HUME AND LYNETTE LAURA HUME**
	(Objectors)
AND	**NORTH SHORE CITY COUNCIL**
	(Respondent)

TRIBUNAL:

Chair:	**His Honour Judge J D Hole**
Members:	**K G Stevenson Esq, J W Charters Esq**
Date of Hearing:	**29 October 2001**
Date of Decision:	**28 November 2001**
Counsel:	**E J Child for Respondent** **Objectors in person**

DECISION OF TRIBUNAL

The Objection.

[1] This objection relates to a revaluation of the objectors' properties by the respondent as at 1 September 1999.

[2] The objectors are the registered proprietors of residential properties at 639 Glenfield Road, 639A Glenfield Road, and 94 Ayton Drive, Glenfield, Auckland.. They adjoin each other. The zoning is Residential 4A under the proposed district plan for the North Shore City.

[3] 639 Glenfield Road is described as Lot 1 DP 51996 and has an area of 882 square metres. It is slightly trapezoid in shape and contains the objectors' dwelling. The contour falls steeply from the road and there are good views from the property to Rangitoto Island and Auckland City.

[4] 639A Glenfield Road is described as Lot 2 DP 56969. It is a regular shaped rear site, having an area of 1158 square metres. It is accessed from Glenfield Road. The contour falls moderately from the road and levels to the rear boundary. From the site there are good views to Rangitoto Island and Auckland City.

[5] 94 Ayton Drive, Glenfield is described as Lot 92 DP 64242. It is a regular shaped rear site having an area of 1158 square metres, Its access from Ayton Drive is steep with an awkward curve. There is a right of way easement over the property in favour of an adjoining dwelling. The driveway to this neighbouring property does not follow the exact location of the easement and to form a driveway within the easement appears to be difficult. From the rear boundary of the site views towards Rangitoto Island are achieved.

[6] Situated over the three lots, but primarily over Lot 2, is a tennis court.

[7] Initially, the respondent sent to the objectors three separate notices of rating valuation. In respect of Lot 1, it recorded values as follows:

Land value	-	$122,000
Improvements	-	$188,000
Capital value	-	$310,000

In respect of Lot 2 it recorded values as follows:

Land value	-	$125,000

Improvements	-	$ 13,000
Capital value	-	$138,000

In respect of Lot 92 it recorded values as follows:

Land value	-	$120,000
Improvements	-	nil
Capital value	-	$120,000

[8] On 7 December 1999, a few days after the notices were sent, Quotable Value, on behalf of the respondent, wrote to the objectors indicating that the three separate titles were now to be assessed as one valuation assessment for rating valuation purposes. This was done as a result of a decision of the Tribunal consequent upon an application under section 14 of the Act in respect of the 1996 valuation.. The amalgamated values were:

Land value	-	$325,000
Improvements	-	$175,000
Capital value	-	$500,000

[9] The objectors' estimate of values is as follows:

Land value	-	$275,000
Improvements	-	$192,500
Capital value	-	$467,500

[10] The objectors contend that the three lots (which have separate Certificates of Title) should be valued as one property. At the hearing, the respondent contended that each individual lot should be separately valued and that the values set out in the original notices were those contended for by the respondent.

Procedure.

[11] At the hearing it was apparent that the objectors had prepared their objection upon the basis of the amalgamated values contained in the letter of 7 December 1999. However, the respondent was contending for the individual values. In these circumstances, because it was possible that the objectors might be disadvantaged by the change in stance of the respondent, the objectors were given the opportunity of having the appeal adjourned or aborted with the respondent being required to issue new notices. The objectors decided to proceed with the hearing in the knowledge that the respondent was contending for individual values for each property. The objectors reserved their right to argue for amalgamated values.

Issues.

[12] Two issues arise:

(1) Should the properties be valued upon an amalgamated basis or individually?

(2) Are the valuations accurate?

Should the properties be valued upon an amalgamated basis or individually?

[13] When the Tribunal issued its decision in 1999 which had the effect of amalgamating the lots for valuation purposes, it did so in accordance with what was understood to be the legal position at the time. Since then, however, the Court of Appeal has issued its decision in ***Attorney General v Rodney District Council & Ors*** (CA) 31 July 2000, CA 274/99. This was followed by ***Neil Construction Limited & Ors v North Shore City Council & Ors & The Valuer General*** (HC) 20 November 2000, being a judgment of Morris J and I W Lyall. At page 8 of the unreported latter decision it is stated:

> "It is now settled therefore, in all cases where a Certificate of Title is issued for a lot in a subdivision, such lot/land is a separate property for the purposes of s.7 (2) and must appear as such in the roll with the consequential liability for payment of rates."

[14] This Tribunal is bound by the High Court decision in ***Neil Construction Limited***. There is no scope for it to accede to the objectors' submission to the effect that the valuation should be undertaken on an amalgamated basis. Each lot must be valued independently.

Are the valuations accurate?

[15] At the 1999 hearing of the Tribunal, it seems that a witness for the respondent indicated that the subject properties were comparable in value with various adjoining properties. When one looks at the various adjoining properties the increases in land value as a result of the 1 September 1999 revaluation are generally between 10 and 11%. However, in the case of the subject properties, Lot 1's land

value increases by 35.5%, Lot 2's increases by 43.6% and Lot 42's increases by 50%. Understandably, then, the objectors wonder as to how their properties can be comparable with the adjoining properties if the increases in value are disparate. Significantly, however, the values placed upon the land for adjoining properties are not so different from those applicable to the subject properties. For example, 637 Glenfield Road has a land value of $100,000. It is a smaller site than any of the subject sites and is not sub-dividable. 641 Glenfield Road (which possibly has better views than any obtainable from the subject sites) has a land value of $128,000. No 1 Sunset Road (which adjoins 641 Glenfield Road) has a land value of $122,000.

[16] The 1999 Land Valuation Tribunal decision was as a result of an objection made under s.14 of the Act. In such a case the Tribunal was obliged to consider the comparative values of adjoining properties. This is not the case on a general revaluation such as this. The purpose of a general revaluation is to enable the valuer to go back to basics and ascertain the correct value of each site. This is done by comparing the sites with similar sites which have been sold over the relevant period. The valuer for the respondent, Patricia Freeborn, undertook exactly this exercise.

[17] Members of the Tribunal have not only viewed the subject properties but also have inspected the sites referred to in her evidence as being relevant.

[18] We were referred to a property at 84 Sunset Road, Sunnynook which was sold on 22 April 1999 for $116,000 as bare land. The area of only 500 square metres was smaller than that of the subject sites. The contour was flatter but the views were substantially inferior. In our opinion each of the subject sites is considerably superior.

[19] We agree with the comments made by Ms Freeborn in respect of 9 Highgrove Lane which was sold on 4 January 1999 for $152,000. This property has a land area of 1015 square metres. Its contour is easier than that of the subject sites. She considered this site to be similar to the subject properties.

[20] We were also referred to 2 Highgrove Lane which was sold on 11 April 1999 for $100,000. Its area is significantly less than those of the subject sites being only 462 square metres. It is not sub-dividable. It is a corner site and well elevated in that it achieves good views to Rangitoto and Auckland City. We doubt that it can be said that this site is as good as any of the subject sites, particularly when one takes into account the fact that it cannot be subdivided.

[21] Exactly the same comment can apply to 270A Wairau Road, Glenfield which was sold on 3 August 1999 for $112,500. Again, with an area of 451 square metres it is not sub-dividable, has poor views but superior contour.

[22] The market has established land values in this area which generally come within the confines of $80,000 to $130,000. In these circumstances the valuer has to plot the land values within those parameters. These sites come within the upper level so established. There was nothing in the valuation evidence which leads the Tribunal to doubt the valuations placed upon the subject sites by the respondent. In terms of s.38 of the Act the onus to establish that the valuations are incorrect is on the objectors. They have produced no evidence which effectively counters that of the respondent. Accordingly they have not managed to satisfy the onus of proof on them.

Comparability

[23] The Tribunal appreciates that this decision is unable to provide any answer for the objectors as to the disparity in the increases of values affecting their properties as distinct from those of their neighbours. As already indicated, this is not a relevant consideration to a revaluation.

Conclusion.

[24] The objection is dismissed and the Tribunal confirms the values of the three properties as follows:

Lot 1:	Land	-	$122,000
	Improvements	-	$188,000
	Capital value	-	$310,000
Lot 2:	Land	-	$125,000
	Improvements	-	$ 13,000
	Capital value	-	$138,000
Lot 92:	Land	-	$120,000
	Improvements	-	nil
	Capital value	-	$120,000

Judge J D Hole (Chairman)