

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

BETWEEN **G R MILNE**

Objector

AND **THE WHANGAREI DISTRICT
COUNCIL**

Respondent

Tribunal:

Chair: His Honour Judge J D Hole

Members: D A Lowe Esq
J F Hudson Esq

Date of Hearing: 17 March 2003

Date of Decision: April 2003

DECISION OF THE TRIBUNAL

Introduction

[1] This objection relates to a property at Ohawini Bay which is a small coastal settlement near Oakura approximately 52 kilometres north east of Whangarei City. The property consists of a freehold site of 1518 square metres being Ohawini D1 Block and contained in Certificate of Title 113/309 North Auckland Registry. It is one of approximately 35 properties at Ohawini Bay. The sites are reticulated with power and phone. There are no water supply or sewerage facilities.

[2] The sole vehicle access is by way of a beach from the end of Ohawini Road and across a concrete causeway which traverses a rocky headland. This is inaccessible for an hour each side of high tide.

[3] The site is level with extensive beach frontage. It has unobstructed sea views and a 1.5 metre high wall built of rocky boulders along the full length of the beach frontage. There is a small tidal creek to the rear. Its banks are now retained by a concrete block wall. At the time of the revaluation that wall did not exist.

The objection

[4] The objector objects to the values appearing in the valuation role for Whangarei District as at 1 September 2001. Those values are as follows:

Capital value	\$295,000
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Land value	\$175,000
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Improvements	\$120,000
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[5] The objector's contended values are:

Capital value	\$295,000
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Land value	\$90,000
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Improvements	\$205,000
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[6] In support of his objection, the objector submitted:

[a] That the land value should be comparable with other similar properties. In this regard he referred to valuations undertaken by Quotable Value (as agent for the respondent) as at the revaluation date of 1 September 2001.

[b] That the subject land is more affected by erosion than those referred to in the sales' evidence.

Comparison with similar properties:

[7] This is a s 9 Rating Valuations Act 1998 revaluation. The purpose of the revaluation is to ensure that the District Valuation roll represents values current as at the date of the revaluation. It is not a s 14 alteration. Accordingly the uniformity requirement in s 14(2)(a) does not apply. The land value must be fixed in accordance with the definition of land value in s 2 of the Act:

“The sum that the owner’s state or interest in the land.... might be expected to realise at the time of the 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”.

[8] As there is no requirement under a s 9 revaluation that the land value fixed should be comparable with other similar properties, this submission cannot be sustained. In any event, upon a consideration of the other valuations referred to it was apparent that the land value for the subject land was not significantly out of line with them.

Erosion

[9] There is no doubt that the subject land is prone to erosion. The beach front has been the subject of erosion damage over the years. In addition, it is apparent that the creek has caused significant erosion both to the subject land and adjacent land.

[10] Significant erosion problems affecting the creek occurred in May 2002. However, it is clear that these were not foreseen as likely to occur as at the revaluation date of 1 September 2001. This is confirmed by the fact that the objector built his house before protecting the land from erosion from the creek.

[11] It was always recognised that the foreshore was prone to erosion. This is an ongoing problem with attendant exceptional costs and stress. However, the respondent’s sales’ evidence analysis has taken this factor into account.

[12] With reference to this sales’ evidence, the Tribunal particularly notes two sales. One of these was after 1 September 2001 but is close in time to that date. It serves as a good check to the valuation under objection.

Sale 1 – Walker/Franz and Keyser

[13] This site is the most comparable to the subject land. Its erosion problems are not as pronounced but access is significantly more difficult. The property was sold in December 2001 for \$300,000. From our inspection of the property we are satisfied that the estimated land sale price of \$240,000 is fair.

Sale 4 – Newton/Andrews

[14] This sale occurred in November 2001. The sale price was \$250,000 and the estimated land sale price is \$157,000. This property adjoins the subject land and is also affected by the erosion from the creek to a similar extent as the subject land. It has limited sea views and the ground is lower than the subject land. Compared with the subject site, it is undoubtedly inferior. This is notwithstanding the foreshore erosion applicable to the subject land.

[15] Having viewed this property, the Tribunal considers that an indicative land sales price of \$157,000 is not excessive: it is difficult to ascribe \$93,000 to the “modest Kiwi bach”, sleepout and chattels.

Conclusion

[16] If one considers these two sales with reference to the subject land, and then ignores the erosion difficulties, the Tribunal is satisfied that a land value well in excess of \$175,000 was justified. The Tribunal considers that a generous allowance for the erosion problems has been made.

[17] The Tribunal dismisses the appeal and confirms the 1 September 2001 valuation.

Judge J D Hole
(Chairman)