

**BEFORE THE AUCKLAND  
LAND VALUATION TRIBUNAL**

**LVP No. 40/99**

**IN THE MATTER of the Rating Valuations Act 1988**

**A N D**

**IN THE MATTER of an objection to the revision of the  
District Valuation Roll for Waitakere City  
Council**

**BETWEEN PERPETUAL TRUST LIMITED**

**Objector**

**A N D WAITAKERE CITY COUNCIL**

**Respondent**

**TRIBUNAL:**

**Chair: His Honour Judge J D Hole**

**Members: P J Mahoney Esq, R M McGough Esq**

**Date of Hearing: 16 & 17 November 2000**

**Counsel: Michael J Steur, C B Richard Ellis for Objector  
Mr K W Berman and Mr R B Enright for  
Respondent**

**Date of Decision: 14 December 2000**

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**DECISION OF THE TRIBUNAL**

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## INTRODUCTION

[1] This objection relates to the Lynmall Shopping Centre at New Lynn in Waitakere City. The objection relates to the original section 13 valuation and a subsequent section 14 alteration to the roll following the amalgamation into the land of additional parcels of land. Since the date of the valuation, 1 September 1998, the buildings upon the land have been substantially renovated and extended. At issue is the assessment of the land value. Capital value has been agreed at \$138,000,000.00.

[2] Waitakere contends as follows:

|               |                  |
|---------------|------------------|
| Capital value | \$138,000,000.00 |
| Land value    | \$18,500,000.00  |
| Improvements  | \$119,500,000.00 |

[3] The objector contends as follows:

|               |                  |
|---------------|------------------|
| Capital value | \$138,000,000.00 |
| Land value    | \$11,000,000.00  |
| Improvements  | \$127,000,000.00 |

[4] In making its assessment of the land value the Tribunal is required to assess the value as if “no improvements had been made on the land”. However, land value, in terms of the Rating Valuations Act 1998, does include “invisible improvements” such as underground services, levelling of the site, and similar matters. In undertaking this assessment the offsite commercial, community and servicing infrastructure, which supports and enhances the land as a site appropriate for commercial development, is relevant.

## ISSUE

[5] The case for Waitakere is that Lynmall is in an established commercial area. It has large population base which is continuing to grow. This provides potential for future commercial vitality. It claims that the objector, which relies on two “Greenfields” sites on Auckland’s urban fringe, places undue emphasis upon lands which do not have those characteristics.

- [6] The objector argues that the Waitakere argument ignores:
- [a] The competition provided by adjacent shopping centres, especially St Lukes;
  - [b] The changing nature of the retail environment with the lessening of the dominance of Lynmall and the emergence of such centres as West City and Westgate; these tend to attract custom which previously was attracted to Lynmall;
  - [c] The obvious inherent potential for future growth in the “Greenfields” sites – especially Botany Downs.

## **THE SITE**

[7] The site has a total area of 73,501 square metres (7.3501 hectares) and is an irregular shaped site with frontages to Great North Road, Memorial Drive, Totara Avenue and Veronica Street. It is of generally level contour situated at road level and all normal utility services are connected to the site. Its zoning permits the land to be used for a comprehensive shopping mall.

[8] The Lynmall Shopping Centre is located in the heart of New Lynn approximately 12 kilometres from the centre of Auckland. New Lynn is one of Waitakere City’s key centres acting as a retail community and administrative centre. Several road links make New Lynn a major hub for traffic from the west as well as central Auckland. New Lynn has a well developed public transport infrastructure with bus and rail stations adjacent the land. Accordingly, New Lynn has an extensive, well-developed catchment which draws people from both Waitakere City and from the large population base of the Auckland City isthmus. However, there is no direct motorway or highway access to the Lynmall Shopping Centre and it is not as accessible as comparative sites at Botany Downs, Albany and St Lukes.

## **THE EVIDENCE**

### **(a) Method of Valuation**

[9] The evidence for Waitakere was given by Michael Godfrey, a registered valuer with Quotable Value New Zealand Limited. His evidence was supported by that of Michael Gamby, registered valuer of Auckland. However, Mr Gamby indicated to the Tribunal that he had not carried out an independent valuation and in the preparation of his evidence was acting under time constraints.

[10] In his determination of land value, Mr Godfrey described three possible approaches:

- [i] Gross floor area approach (“footprint approach”);
- [ii] Rate per square metre approach;
- [iii] Residual approach (upon which he placed no reliance).

[11] The gross floor area approach assumes that the land is used to its maximum capacity and relates land value directly to its building envelope. The basis of the approach is that the true value of any land will invariably reflect the income earning capacity of the improvements capable of being placed on it.

[12] The rate per square metre approach is the traditional method of valuation and relies upon interpretation of varying sites using adjustments for location and other factors that influence value.

[13] In the case of the Lynmall land, it does not matter whether the gross floor area approach or the rate per square metre approach is used. However, if the gross floor area approach is used, it has to be accepted that a comprehensive shopping centre is the highest and best use of the land. Whilst neither the objector nor Waitakere seemed to doubt that the use of the land as a comprehensive shopping centre was its highest and best use, nonetheless, neither party adduced any evidence that this was so. In the absence of any evidence either way, the Tribunal, for the purposes of this

decision, accepts that the use of the land as a comprehensive shopping centre is its highest and best use.

**(b) Expansion Purchase**

[14] Waitakere referred to land which had been acquired for expansion purposes. This is land which is acquired to enable an existing shopping complex to expand. Waitakere treated prices paid for such land as indicating an upper limit of land value. Whilst Waitakere considered that no great weight should be placed upon land values associated with land purchased for expansion, nonetheless, Waitakere did regard it as evidence of land purchase within a viable locality. At paragraph 35 of his evidence, Mr Gamby thought that such land might have greater significance, arguing that the high price paid for such land could represent a realistic value for the entire land comprised in a development. The Tribunal, like Mr Steur, was unconvinced by this argument. The Tribunal adopts Mr Steur's statement when he said:

*“The land which has sold adjacent to a shopping centre to the adjoining owner which owns that shopping centre, can more often than not pay a premium over and above what would be paid for a site which did not have a developed shopping centre from which to expand. The reason for this is quite simple, namely the cost of building up the trading goodwill and the cost of obtaining the anchors already being met. In many instances, the expansion of shopping centres does not entail having to negotiate at arm's length with new anchor tenants, and in many instances also, it involves merely the addition of speciality shops (which command a higher rental). This in fact occurred with Lynmall in 1998 where no anchor tenants were required to create the floor space for which the additional land was required. Therefore the use of expansion land comparable sales to derive a value for the Lynmall site is fundamentally flawed.”*

**(c) Lynmall vis-à-vis Milford and Highpoint**

[15] Paragraphs 2 and 4 on page 6 of Mr Godfrey's evidence comprise the core of Waitakere's argument. He submits that in respect of established commercial areas the location risks are already known, whereas this is not the case for what he terms “Greenfield” sites. He says that the evidence naturally shows higher rates per square metre for established sites than is the case with “Greenfield” sites. In the case of Lynmall he claims that it is a site with a tried and proven track record as a shopping centre established over many years. He submitted that its viable position is proved

by the completion of yet another extensive expansion programme on the land. Should the shopping centre be destroyed, then the risk of re-utilising the land as a shopping centre would be minimal.

[16] In reliance upon this hypothesis he used as evidence sales of land for other established shopping centres. He placed the greatest reliance on shopping centres at Milford and Highpoint.

[17] In the case of Milford he noted its land area of 3.2586 hectares with a sale price excluding GST of \$7.590862 million as at a sale date of August 1993. When this price is equalised out and due allowance is made for location and size, he recorded a valuation of \$298 per square metre as at August 1993.

[18] In the case of Highpoint he noted an area of land of 1.4347 hectares with a sale price of \$2,058,750 as at November 1993. This equalises out at \$232 per square metre. In reliance upon this and other established shopping centres where the land was purchased between August 1993 and March 1995 he established a valuation of the land at Lynmall at \$18,500,000 which is \$250 per square metre.

[19] The objector submitted that it was unsafe to rely upon the sales of land at Milford and Highpoint. In particular, the objector submitted:

- [a] Both the Milford and Highpoint transactions were negotiated about five years before the date of valuation. The retail market in 1993 was significantly different to that of 1998. In particular, Westfield has been introduced to the market and Westfield is a very aggressive player with significant expansion plans throughout the Auckland region. At the relevant valuation date Glenfield was a confirmed development and it was inevitable that this would impact dramatically on Milford Shopping Centre. For the objector, Mr Michael Steur advised that he had re-valued both the Milford Shopping Centre and Highpoint in 1998 and had noted that anticipated returns from both centres in 1993 had not reached their expected potential in 1998. He doubted that the land

comprised in either development would reach the 1993 sales price in 1998.

- [b] The only similarity between the Milford and Highpoint sites and Lynmall was that they were within established developed urban areas. Whilst he accepted that this was significant, nonetheless the objector was not satisfied that it should be regarded as conclusive. The market had changed quite markedly between 1993 and 1995.
- [c] The objector noted that both the Milford and Highpoint sites were significantly smaller than that of Lynmall. In his view neither of those sites provided a sufficient area to support a comprehensive shopping centre similar to Lynmall. It was not a comparison of like with like.
- [d] In his analysis of land sales, Mr Godfrey provided certain sums for site development. A million dollars was put aside in the case of Milford; \$700,000 in the case of Highpoint. Mr Gamby expanded on what was meant by site development works and mentioned drainage, subsurface electrical articulation and sub-drainage for the Lynmall carpark development. He claimed that the costs associated with these works should be included in site development costs affecting the land value. Neither Mr Gamby nor Mr Godfrey gave details of the nature of the works which were undertaken: however, the Tribunal needs to be cautious about accepting at face value the proposition that the moneys expended on site development totally affected land value. It is likely that some of those costs are more applicable to the value of improvements upon the land.

[20] When one looks at Waitakere's evidence supporting comparability between Milford and Highpoint on the one hand, and Lynmall on the other, and then analyses it in the light of the evidence for the objector, the inescapable conclusion is that with the more up to date evidence available to the objector, the Tribunal must have real doubts as to how comparable the respective sites are. The Tribunal is not satisfied on the evidence before it that the Milford and Highpoint sales constitute true market

comparisons with Lynmall. This is particularly so when it is realised that there is more relevant evidence available: in particular, the Botany Downs development.

**(d) Lynmall vis-à-vis the “Greenfields” Developments**

[21] The Botany Downs development and the Albany development were regarded by Waitakere as of little significance as “Greenfields” developments. This is because these so-called “Greenfields” developments needed to endure a period of time to evolve and become established and successful. As a result, it was contended that the price paid for the land contained in those two developments (between 1996 and 1998) was less than that which would be payable for a similar site in a developed urban area. The objector satisfied the Tribunal as to the fallacy of Waitakere’s submissions on this significant issue.

[22] Evidence for the objector was given by Mr Greg Davis who is a director of Hames Sharley which is a firm of architects and planners. Hames Sharley, with the assistance of another research organisation, had undertaken over a period of time a detailed strategic retail and market analysis of the Botany Downs development and compared it with Lynmall. Whilst much of the evidence given by Mr Davis was in respect of analyses undertaken after the valuation date of September 1998, it was apparent that the conclusions indicated by him merely served to reinforce information in existence in September 1998. The developer of the Botany Town Centre had relied on this information in proceeding with its development. Hames Sharley undertook a study to determine the available retail expenditure per household for each development within a five kilometre radius of each development. In 1996 Lynmall attracted 16% of the market share which amounted to annual sales of \$94,400,000. With its then total floor space of 24,516 sq. metres, this amounted to \$3,851 per sq. metre. By 2001 the expanded centre of 30,000 sq. metres would still attract only 16% of the market share or \$3,509 per sq. metre. In contrast, Botany Town Centre (not built in 1996) would attract 47% of the market in 2001, which for its 36,041 sq. metres would result in annual sales of \$6,872 per sq. metre or almost double that of Lynmall. The difference was said to be accounted for by the greater wealth in the Botany catchment with the lack of a St Lukes or West City competition. The only competition affecting the Botany Development is at



Pakuranga and that is relatively diluted. The evidence of Mr Davis satisfies the Tribunal that the various risks claimed by Waitakere as incidental to the so-called “Greenfields” developments are unwarranted. Indeed, it seems that there are greater risks associated with a development at Lynmall because such a development faces very strong competition from St Lukes Shopping Centre together with West City and Westgate.

[23] It follows that to compare Botany with Lynmall is realistic, particularly if it is accepted that a comprehensive shopping development is the highest and best use of the land. Significantly, the rentals being generated by Botany are within about 5% of those generated by Lynmall.

[24] Evidence for the objector was given by Michael Steur. He is a valuer with great experience in this field. He has an intimate knowledge of the industry and has valued the majority of shopping centres in New Zealand. His evidence was comprehensive and detailed and the Tribunal has no difficulty in accepting that his evidence satisfies the burden of proof on the objector in terms of section 38(2) of the Act. He referred generally to the same body of sales evidence as Waitakere, but unlike Waitakere he considered that Botany provided the best comparable evidence. In addition, he referred to other sales which had occurred closer to the relevant date. He considered that Botany Downs (comprising approximately 17 hectares) and the adjacent Hub site (at approximately seven hectares) were valid comparable sites because they were contemporary and (unlike the Albany site) could be developed immediately. He thought that there was no significant difference between land being used for a comprehensive shopping development or a bulk retail development. This was confirmed by the respective prices paid for the Botany Downs and the Hub sites respectively.

[25] At page 23 and thereafter of Mr Steur’s evidence he set out factors which clearly demonstrated their comparability. He took into account:

- The cost of developing a building platform at the Botany site as he appreciated that the Lynmall site required no significant earthworks.

- He accepted that Lynmall was within an established urban location which included an established commercial area with a proven track record. Nonetheless, he pointed out that both Botany and Albany had been identified as major growth areas within Auckland, whereas Lynmall had little capacity for further growth. He referred to Mr Davis' evidence which supports this proposition.
- All building services are available to the Lynmall site. This is not the case in respect of Botany and Albany but appropriate allowances have been made.
- He referred to the retail catchment areas of both Botany and Lynmall and recognised that the catchments pertaining to Albany and Botany were more immature. Nonetheless, as already indicated, both Albany and Botany offer greater potential than Lynmall.
- He recognised that it is possible to develop the Lynmall site (assuming it is devoid of buildings) immediately, whereas some time must elapse before the construction at Botany could be completed. However, he did point out that Botany's development has proceeded with great alacrity. Thus the issue is not a major one. He acknowledged that in the case of the Albany site, there had been a strategic deferral by the developer and it is for this reason that he refrained from basing too much reliance upon it.
- He referred to the competitive environment affecting each of the sites and observed that the competition affecting Lynmall is significantly greater than that affecting Botany.
- Finally, he commented that Lynmall has a resource consent which he accepted that, according to Quotable Value, could be taken into account in the assessment of land value. In the case of Botany, however, the costs of obtaining resource consent needed to be allowed for.

(Some caution needs to prevail when taking resource consents into account in assessing land value. In this regard section 2 of the Rating Valuations Act 1998 and the definition of "improvements" is relevant. There may be some resource consents which can be taken into account in the assessment of land value. However, other

resource consents may relate to the value of improvements. In some cases resource consents can relate both to land value and the value of improvements. There are obvious difficulties in identifying these).

[26] The Tribunal agrees with Mr Steur that the appropriate square metre rate for the Botany sale is \$102 per sq. metre rather than the \$127 per sq. metre as indicated by Messrs Godfrey and Gamby. That difference is made up of the GST component, the time involved, and the incentive for the supermarket operation.

[27] From a starting point of \$102 per sq. metre, Mr Steur accepted that an upwards adjustment for Lynmall was needed. This is necessary to account for such factors as size, that Botany would not be immediately developed to full potential, contour, services, and resource consents. Having considered the adjustments made by Mr Steur together with his accepted starting point of around \$100 per sq. metre, the Tribunal is satisfied that his resultant \$150 per sq. metre is more appropriate than Waitakere's \$250 per sq. metre.

## **CONCLUSION**

[28] The Tribunal accepts the evidence of Mr Steur (which to some extent was confirmed by Mr Davis) that Botany and Lynmall should be regarded as valid comparisons. It follows that the assessment of land value undertaken by the objector must be accepted and the value of the land at Lynmall be calculated at \$150 per square metre. Accordingly, the objection is allowed with values being fixed as follows:

|               |               |
|---------------|---------------|
| Capital value | \$138,000,000 |
| Land value    | \$11,000,000  |
| Improvements  | \$127,000,000 |

[29] It will be apparent that this is a decision which is based on the evidence presented to the Tribunal. The sales evidence was common to both parties. However, the objector presented a significant amount of additional relevant supplementary evidence which satisfied the Tribunal that it was safe to rely on Botany as a comparable sale. This was not countered by Waitakere which meant

that the evidence was somewhat one-sided. Because this decision is made on the particular facts presented, it has little or no precedent value.

**Judge J D Hole (Chairman)**