BEFORE THE LAND VALUATION TRIBUNAL AT ROTORUA

LVP 7/02

UNDER	The Rating Valuations Act 1998
IN THE MATTER OF	An objection to valuation
BETWEEN	SYNERGY PROPERTIES 350 LIMITED Objector
AND	QUOTABLE VALUE LIMITED ON BEHALF OF ROTORUA DISTRICT COUNCIL Respondent

Hearing: 7 February 2006

Appearances: Mr G R Gillespie, Valuer for the Objector
Mr M Power, Valuer for the Respondent

Judgment: 7 March 2006

JUDGMENT OF JUDGE C J McGUIRE AND MR KENNETH PARKER

BACKGROUND

[1] This is an objection pursuant to s.36 of the Rating Valuations Act 1998 by the objector, Synergy Properties 350 Limited. It follows a review by the respondent of the land value of the objector's property situated on the corner of Fenton and Ward Streets, Rotorua and an offer by the respondent to the objector of a land value assessed at $1,100,000.

THE OBJECTION

[2] The objector contends that the valuation should be $850,000. The operative date of the valuation is 1 September 1999.

THE SUBJECT PROPERTY

[3] The property is in three lots, being "Lots 1, 2, 3 DPS 9758; Certificates of Title 11B/908, 36B/348, 36B/349" and comprises a total of 1.2276 hectares, Lot 1 being 3330 m^2; Lot 2 being 4473 m^2; and Lot 3 being 4473 m^2. It has Resort B zoning. The property, situated on the corner of Fenton Street and Ward Street, is approximately two kilometres south east of the Rotorua Central Business District. It comprises three Lots forming a regular shaped rectangular property, which at the time was bare land, but which now has had constructed on it a high quality motel. The original rating valuation was set at $1,950,000 land value and capital value $1,950,000, nil improvements.

ROTORUA DISTRICT COUNCIL RESPONSE

[4] An objection was lodged as mentioned, and there was an initial proposal by Quotable Value on behalf of the Rotorua District Council to reduce the value to $1,275,000. After further discussions, there was an offer to further reduce the property's value to a figure of $1,100,000.

SALES EVIDENCE

[5] The sales evidence that had primary focus was in fact the sale of the subject property by auction some seven weeks after valuation date on 21 October 1999. That sale was handled by the Bayleys Realty Group. A considerable amount of publicity was given to the auction, with advertisements appearing in the major newspapers throughout the country and inclusion in Bayleys' own tourism portfolio magazine released throughout the country. Mr Gillespie, valuer for the objector, advised that at auction there were three bidders for the property. The property was passed in and the highest under bidder, the objector, successfully negotiated the sale with the vendors at a price of $850,000 plus GST.

[6] Mr Gilliespie's core submission is that the widely publicised auction of the property, at which there were three potential purchasers, provides the best and most compelling evidence of value. Mr Gillespie has also referred to other sales evidence,

notably the 3028 m^2 property on the corner of Fenton and Victoria Streets, ("the Ventura property") which sold in August 1994 for $900,000 and resold in July 1999 for $625,000. At the time of both sales, there were four residential dwellings on the property, which effectively had salvage value only. The more recent of the two sales is relevant for our purposes at the very least in respect of its timing. Furthermore, the property has been developed as a Motor Inn complex, as has the subject property.

[7] Mr Gilliespie also referred to sales at 326 Fenton Street in July 1995, 299 Fenton Street in February 1994, and the property on the corner of Ranolf Street and Malfroy Road in March 1995. While in respect of each of these properties there are some similarities, each having potential for redevelopment for Motel/Motor Inn development, the Ranolf Street/Malfroy Road property is remote from the subject property, and all of these sales are much earlier in time. They are therefore of limited value.

[8] Mr Power, Valuer for Quotable Value, also relied on the sale of the subject property, in the month following valuation date, and he too also used the sale in July 1999 of the Ventura property. He also used the 1995 sale of the property at 326 Fenton Street as Mr Gillespie had done.

[9] Mr Power also relied to some extent on relativity with other Resort B properties. He referred to the Rydges Hotel site, the Kingsgate Hotel site and the Grand Tiara Hotel site, which have land values on valuation date which analyse out to $125 per square metre, $155 per square metre, and $157 per square metre respectively. He acknowledged, when questioned by Mr Gilliespie, that evidence of comparable sales would ordinarily "hold sway" over evidence of relativity with nearby similar properties.

THE RESERVE STRIP

[10] The suitability of the subject property for Motel/Motor Inn development is affected greatly by the ability of the owners to create access direct from Fenton Street. Standing in their way is a 10 metre wide reserve strip which we understand is vested in the Rotorua District Council. At the time, when the objector purchased the

property after auction, there were no planning consents in existence to access the site from Fenton Street over this reserve strip. However, the nearby Kingsgate Hotel and nearby Grand Tiara Hotel properties relied, on by Mr Power for relativity purposes, both have access over the reserve strip and, based on what we have heard, we conclude that obtaining access over the reserve strip on the part of the owner of the subject land, whilst not a formality, was, in our view, going to be straightforward. Accordingly, we largely discount this factor as one likely to negatively influence the value of the property.

GEOTHERMAL EXCLUSION ZONE

[11] Due to its position within the 1.5 kilometre geothermal exclusion zone, the owners of the subject property are effectively prohibited from using previously available natural heating resource that has traditionally been used by hotels and motels in Rotorua. This situation, in respect of the subject property, contrasts with that of the Ventura property, which enjoys access through a memorandum of easement, to the natural geothermal resource for space and water heating purposes.

[12] Mr Gilliespie considers that the absence of access to the geothermal resource could increase water/space heating costs for an accommodation complex to something in the order of three to four percent above competing operations which enjoy geothermal energy. Plainly therefore, access to this resource has a value.

THE MARKET IN 1999

[13] Mr Gilliespie told the Tribunal that in the early 1990s, the local economy was recovering from the sharemarket reversal of 1987 and there was significant growth in the number of visitors to the city, which in turn led to increased demand for tourist accommodation. He said that in or about late 1995, there were signs in the marketplace that the available bed numbers had reached equilibrium with "bed demand" and previously improving occupancy rates began to level and later declined.

[14] In 1997, New Zealand was affected by the Asian financial crisis and this continued to have an impact throughout 1998, and to a lesser extent in 1999. Rotorua was very much dependent upon tourists and forestry industries and was perhaps more affected than other centres where focuses on accommodation outlets were perhaps more centred towards the corporate traveller. Throughout the 1997/1998 period, there was limited interest in any form of commercial development in the city and, according to Mr Gillespie, later evidence suggests that investor confidence in commercial development did not show signs of recovery until or about late 2000 or early 2001. We accept his evidence in this regard and, if anything, the dearth of sales in the two years prior to the subject date bears this out.

CONSIDERATION OF THE SALES EVIDENCE

[15] Our focus is, for the reasons already given, primarily on the subject sale and the sale of the Ventura property.

[16] Much has been written and said about the willing buyer/willing seller concept in valuation textbooks and in the decided cases. Land value is defined in the Rating Valuations Act as follows:

> "... means the sum that 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—
>
> (a) Offered for sale on such reasonable terms and conditions as a bona fide seller might be expected to impose; ..."

[17] In *Spencer v Commonwealth* [1907] 5 CLR 418, Isaacs J said this:

> "To arrive at the value of the land at that date, we have, as I conceive, to suppose it sold then, not by means of a forced sale, but by voluntary bargaining between the plaintiff and the purchaser, willing to trade, but neither of them so anxious to do so that he would overlook any ordinary business consideration. We must further suppose both to be perfectly acquainted with the land, and cognizant of all circumstances which might affect its value, either advantageously or prejudicially, including its situation, character, quality, proximity to conveniences or inconveniences, its surrounding features, the then present demand for land, and the likelihood, as then appearing to persons best capable of forming an opinion, of a rise or fall for what reason soever in the amount which one would otherwise be willing to fix as the value of the property."

[18] In instances where there are a number of comparable sales to choose from, valuers routinely reach a median. They place less reliance upon sales that, in their judgement, are either high or low, even though those high or low sales may otherwise satisfy the willing buyer/willing seller principle and, in particular, the definition in the Rating Valuations Act.

[19] Here, although the subject property sale after auction was some seven weeks after valuation date, we are satisfied that it was unlikely the market had shifted significantly during that short time. It is routinely asserted that a public auction is the truest way to ascertain what a property is worth. There is no doubt at all that with the wide publicity given this auction, potentially interested purchasers had no excuse for not having the opportunity to buy the property.

[20] The former owners of the property were Japanese. They had paid $1.4 million for it in 1990. In addition to the subject property, two other Rotorua tourist properties which they owned were offered for sale at the same auction. Mr Gillespie advises that the subject property was the only one of the three which sold. It had not reached the reserve. This was against a backdrop of the Asian financial crisis of the preceding two years. What happened suggests that in terms of the quintessential definition of the willing seller, in the case of the subject property, the vendor was more eager than usual to sell. And, public auction notwithstanding, this was a low sale.

[21] The proposed amended rating valuation following the objection review stands at $1,100,000 or approximately $90 per square metre. The nearby Kingsgate Hotel, occupying almost twice the land area, has a land value rate of $155 per square metre and the nearby Grand Tiara Hotel, being of a similar size to the subject property, has a land value of $157 per square metre. Although these two properties originally had access to the geothermal resource, we are advised that neither hotel now has access to that resource and relies on alternative sources of energy for heating. It is unclear what the position was with these two properties as at valuation date of 1 September 1999.

[22] Even assuming that Kingsgate and Grand Tiara had access to geothermal energy as at valuation date, the Grand Tiara property, in particular, being very similar in size and location, has a per square metre land value ($157) that frankly appears high compared with the proposed amended rating valuation of the subject property with a per square metre value of approximately $90.

[23] When comparison is made with the other significant sale, namely the Ventura property, the latter property shows an analysed land value per metre of between $193 and $198. Apart from the access to the geothermal resource, the Ventura property has the added features of being closer to the CBD and smaller in size. At 3028 m^2, it is approximately one quarter of the size of the subject property. The central location of the Ventura property, we consider not to be a factor of huge significance. The value of being closer to the CBD in contrast to being closer to Whakarewarewa, is diluted in by the intrusion of increased traffic flows. We think it is reasonable to assume that a purchaser would seek a discount of 25-35% on a per square metre rate, if buying the much larger subject property.

[24] Next there is the issue of the margin that a willing buyer would pay for access to geothermal energy. Factors a valuer might weigh would include:

a) Whether or not the resource will be available in perpetuity;

b) Compliance issues including – Resource Management consents likely to be required in the future – OSH matters/safety/periodic inspections and certification;

c) Maintenance costs;

d) Prospects of future taxes/levies for use of the resource;

e) Whether or not continuity of the resource is assured.

[25] We consider that a prudent purchaser may be willing to pay a premium of approximately 10-15% for such access.

[26] If the Ventura sale is therefore discounted by 35% for size and location and by 15% for access to geothermal energy, a per metre land value rate of approximately $96 is achieved. This compares with Quotable Value's offer on the subject property of approximately $90 per square metre.

[27] Accordingly, we conclude that the proposed amended rating valuation of $1,100,000 offered by Quotable Value on behalf of Rotorua District Council is a fair, even a generous one.

[28] Whilst the maintenance of relativity is not, as we have said, the most important factor to be considered, there have been numerous cases in which the Courts have asserted that uniformity is desirable. See eg *Re Wright's Objection* [1959] NZLR 920, 925 and *McPherson v Valuer-General* LVC Invercargill 11/53.

[29] In the present case, uniformity is somewhat stretched even with the Quotable Value offer. We would, particularly in the light of the analysis that we have done, be unwilling to stretch uniformity further.

[30] For these reasons, the objection is declined.