Valuer-General v Radford and Co Ltd - [1993] 3 NZLR 721

High Court (Administrative Division) Wellington
4 February; 17 May 1993
Greig J

Valuation of land -- Government valuations -- Redevelopment site -- Existing leases -- Difficulties for lessor in obtaining vacant possession -- Whether value of land should be reduced by value of burden of leases -- Valuation of Land Act 1951, ss 2, 8, 11, 45 and 46.

The respondent, Radford and Co Ltd, was the owner of a block of land in inner-city Wellington. A retail shopping complex, known as the Shoreline site, had been built on the site. Radford had granted leases for the retail shops. In a revision of the district valuation roll the capital value and the land value of Radford's property were given the same value. It was common ground that the property should be valued as a redevelopment site, which meant on a vacant land basis without regard to any value of improvements. Radford objected to the valuation. One of the grounds of the objection was that the value on the district valuation roll should be reduced by an amount representing the burden of the leases. The Land Valuation Tribunal found in favour of Radford, determining a lower value for Radford's estate or interest in the land less the burden of the leases. The Valuer-General appealed.

Held:

1 On a plain reading of the relevant definitions and s 8 of the Valuation of Land Act 1951 the valuer must take into account the effect of the leases so far as they have any effect on the expected realisable value of the owner's estate or interest at the relevant time (see p 725 line 44).

McKee v Valuer-General [1971] NZLR 436 (CA) followed.

2 Sections 15, 41 and 46 of the Valuation of Land Act not only recognised the possibility of separate assessments in respect of leasehold interests, but also indicated a recognition of the likelihood of the fee simple interest, the lessor's interest, being affected and so requiring adjustment. The Land Valuation Tribunal had been correct in its conclusion that "the value of the objector's estate or interest in the Shoreline site was the marketable value of the fee simple estate less the marketable value of the nine leases" or as affected by the existence of those leases (see p 726 line 23, p 729 line 19).

Findlay v Valuer-General [1954] NZLR 76 followed.

Valuer-General v Addington Raceway Ltd [1969] NZLR 327 not followed.

Appeal dismissed.

Observation:

Section 45 of the Valuation of Land Act 1951, repealed in 1970, raised by implication the necessity of considering separate interests and so having regard to the interests of the lease and its effect on the value in estimating the owner's interest. Its repeal did not reverse the position (see p 729 line 19).

Other cases mentioned in judgment

Toohey's Ltd v Valuer-General [1925] AC 439 (PC).

Walters v Supreme Court Registrar and Manukau County [1936] NZLR 546 (CA).

Appeal

This was an appeal from a decision of the Wellington Land Valuation Tribunal.

C B Littlewood for the appellant.

F Miller and Jennifer Cassie for the respondent.

Cur adv vult

GREIG J.

The respondent is the owner of the fee simple of a small city block between Manners and Victoria Streets in Wellington City which is generally known as the Shoreline Retail Complex. In the revision of the district valuation roll as at 1 May 1987 the capital value and the land value of the property were shown at $11.8m. The value of improvements was therefore nil. In spite of the fact that there is a relatively new complex of retail shops on the property it was common ground that the property needed to be valued as a redevelopment site. The respondent objected to the valuation. One of the issues was whether the value as a redevelopment site was $11.8m or $11m. The Wellington Land Valuation Tribunal resolved that in favour of the appellant and there is no further issue taken in that respect.

The second issue, which is the principal issue in this appeal, is whether, as contended by the respondent, the value should be reduced by an amount calculated as the burden of the leases which it was estimated was an amount equal to $2.7m. The Land Valuation Tribunal found in favour of the respondent, determining the value of its estate or interest in the land less the burden of the leases as $9.1m. The Valuer-General appeals against that decision and, as well, contends that the basis upon which the respondent's valuer estimated the burden of the lease is in error.

The respondent acquired the land in two lots in the late 1930s and for many years conducted a retail furniture business from old buildings on the site. In or about 1982 it determined to redevelop the area and to promote it for modern retail shopping. This was to some extent a new departure and a new form of pioneering because that part of the city had become run down and was not considered as part of the central business retail area. Some nine retail shops and a small coffee lounge were constructed.

In order to attract tenants and to obtain occupation of the premises relatively generous terms of lease were provided. The leases, which all commenced during 1983, were for terms of 10 years with a right of renewal for a further period of 10 years. Base rent was payable, reviewable at two-yearly intervals, and the lessees were required to meet a proportion of the operating expenses of the respondent including rates, insurance and other outgoings but not including land tax which remained payable by the respondent lessor. There was no provision in the leases which would permit the lessor to terminate the lease if it wished to demolish existing buildings and redevelop the site. It may be observed that the leases were of the internal space of the buildings, that is, from the upper side of the floor slab to the lower side of the ceiling and the internal side of the walls.

In the years which followed there was very substantial redevelopment in the Manners Street vicinity, such that, although the property was only recently developed, by 1987 the only sensible option was to redevelop the whole property. That could only be done by obtaining vacant possession from the lessees. By early 1987 some efforts had been made to obtain vacant possession and a sum of $200,000 each was offered to them. Four declined that offer and demanded greater sums between $350,000 and $730,000. In the end no development took place.

It was common ground that the property should be valued as a development site which meant on a vacant land basis without regard to any value of improvements. The Valuer-General contends that in practice, principle and proper construction of the statutory provisions the amount of the land value and the capital value of this property should take no account of the existence of the lessees' interests.

The argument, based on practice, was founded on the evidence of the Assistant Valuer-General that to his knowledge the department, preparing valuation rolls, has never taken into account the existence of leases when valuing the owner's freehold interest. The determination of lessees' interests and their value was only taken into account for certain purposes of land tax and at the instigation of the Commissioner of Inland Revenue. The problems or difficulties of the result of the tribunal's decision were said to be the multiplicity of entries that would be required, thus in this particular case the district valuer would be obliged to create new entries in the roll for the respondent's interests and also for the interests of the nine lessees, making 10 entries in all. In larger high-rise buildings there could be many more separate entries to be created. I observe that the witness for the Valuer-General, the Assistant Valuer-General, accepted that the practice and understanding of the department was subject, of course, to the determination and decision of the proper authority, the tribunal or the Court.

The argument on principle was based on the underlying necessity of the creation and the continuation of a stable, consistent and equitable basis among all owners for the assessment of rates by local authorities. Although the Valuation of Land Act 1951, its officers and their duties and functions are separate and independent from local authorities and their rating under the Rating Powers Act 1988 or its predecessor the Rating Act 1967, the latter depends upon the valuation rolls which are the basis for preparing the local authority rolls for rating purposes. Moreover the expressions "land value", "capital value" and "annual value" upon which rates are assessed, paid and levied, are all identical to those in the Valuation of Land Act. It is the entries of these values in the valuation rolls which are the bases of the actual rates. Thus it is the occupier of any rateable property who is primarily liable for rates under the rating statutes and that is the same person as is defined as occupier under the Valuation of Land Act. So it is contended that the focus of rating being upon occupiers, adjacent properties in the same neighbourhood of same or similar nature should pay the same rates or at least on a uniform basis. The liability of persons such as the owner or a lessee or any person with another interest in the property is entirely secondary. Furthermore, the rates payable by owners should not depend upon the particular contractual arrangements they may have made with lessees as this would tend to disrupt the consistency of a rating system and make rates depend upon or become affected by factors pertaining to a particular property rather than factors which affect properties generally in a particular district or neighbourhood of similar size and circumstances.

While both these arguments as to practice and principle can be accepted and given weight, they cannot override the true meaning of the statute. The argument as to principle, in any event, assumes the fundamental importance of the occupier of the property but if it is a question of interest in the property then the consistency must be between those with the same interest. In any event it may be questioned whether the stability or consistency of valuation and rate assessment requires that properties be treated as if they were all in the one form of ownership. It may be rather that the burden of rates should be spread equally among all properties proportionate to the value of them. That object can be achieved though there may be more than one person taking a proportion of the burden in respect of any one property. Thus two neighbouring properties will pay the same rates, or a proportionate equitable share of these, though one in single ownership and occupation will be met by one person only and another with multiple occupation or interests may have the amount paid by more than one.

Turning then to the construction of the statute. It is appropriate to start with the Valuer-General's obligation under s 11 of the Act on a revision to make "all such alterations as are necessary in order that the capital and land values and value of improvements . . . may be readjusted and corrected so as to represent the correct

values as at the time of revision". Because the question of improvements does not enter into the matter, it is the land value which is the crucial item. That is defined in the Act as follows:

> "'Land value', in relation to any land, means the sum which the owner's estate or interest therein, if unencumbered by any mortgage or other charge thereon, 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 impose, and if no improvements (as hereinbefore defined) had been made on the said land:".

It is appropriate to add here the definitions of improvements, land and owner:

"'Improvements', in relation to any land, means all work done or material used at any time on or for the benefit of the land by the expenditure of capital or labour by any owner or occupier thereof in so far as the effect of the work done or material used is to increase the value of the land and the benefit thereof is unexhausted at the time of valuation; but, except in the case of land owned or occupied by the Crown or by a statutory public body, does not include work done or material used on or for the benefit of the land by the Crown or by any statutory public body, except so far as the same has been paid for by way of direct contribution:

"Provided that work done or material used on or for the benefit of the land by the expenditure of capital or labour by any owner or occupier thereof in the provision of roads or streets, or in the provision of water, drainage, or other amenities in connection with the subdivision of the land for building purposes shall not be deemed to be improvements on that land or any other land:

"Provided also that work done on or for the benefit of the land by any owner or occupier thereof in --

"(a) The draining, excavation, filling, or reclamation of the land, or the making of retaining walls or other works appurtenant to that draining, excavation, filling, or reclamation; or

"(b) The grading or levelling of the land or the removal of rocks, stone, sand, or soil therefrom; or

"(c) The removal or destruction of vegetation, or the effecting of any change in the nature or character of the vegetation; or

"(d) The alteration of soil fertility or of the structure of the soil; or

"(e) The arresting or elimination of erosion or flooding - shall not be deemed to be improvements on that land or on any other land:".

"'Land' means all land, tenements, and hereditaments, whether corporeal or incorporeal, in New Zealand, and all chattel or other interests therein, and all trees growing or standing thereon:".

That includes leasehold interests. Owner is defined:

"'Owner' means the person who, whether jointly or separately, is seised or possessed of or entitled to any estate or interest in land;".

The Valuer-General's primary obligation under s 8 is:

"8. Preparation of district valuation roll -- (1) . . . set forth in respect of each separate property the following particulars:

"(a) The name of the owner of the land, and the nature of his estate or interest therein, together with the name of the beneficial owner in the case of land held in trust:
"(b) The name of the occupier . . .
"(c) The situation, description, and area of the land:

"(d) The nature and value of the improvements:
"(e) The land value of the land:
"(f) The capital value of the land:
"(ff) Where applicable, the special rateable value or the rates-postponement value of the land:
"(g) Such other particulars as are prescribed."

In estimating the land value without improvements the valuer has to assume that there is nothing on the property in the way of improvements: see Toohey's Ltd v Valuer-General [1925] AC 439 at p 443. He is required to assume the buildings which have already been erected be regarded as removed: see McKee v Valuer-General [1971] NZLR 436 at p 446. That, however, does not mean that a lessee's right of occupation is to be ignored. There may be no buildings and so no shops or shop tenants but the rights of a lessee are still extant with the notional removal of the building. It does not make a difference, in my judgment, that the premises leased to the lessee are the internal space of the building and not any part of the land, on its surface, below it, or in the air above the building. There is a lease of the land or that part of the land in the airspace in the inside of the building. It is not, I think, to be assumed on the notional removal of the buildings that they have been destroyed by fire or earthquake under the terms of a lease which terminate it in those circumstances. The exclusion of mortgages and other encumbrances, mortgage or other charge, does not include a lease. It is not possible to add to that exclusion the lease or the interest in it.

Mr Littlewood argued that the reference to separate property in s 8 which is, in itself, an undefined term, meant that that comprised all of the bundle of rights relevant to a specific and legally defined area of land. That, he submitted, reinforced the practical and principled approach of the Valuer-General, maintaining a single roll entry for each separate property as a whole. He submitted therefore that the reference to the land in para (a) of s 8(1) meant separate property, thus it was the name of the owner of the separate property and the nature of his estate or interest therein which was required to be valued. That focused on the "property occupied and used as one holding", in the words used by Ostler J in Walters v Supreme Court Registrar and Manukau County [1936] NZLR 546 at p 550, and meant that only one value of any separate property could be assessed. That it was not appropriate, his word, to assess one value for an owner and another different value for a lessee. The Walters case raised an issue of geographic separation. The property was intersected by two roads but was in one ownership occupation and used as a farm. Clearly persons can leave different interests in a separate property and the "particulars" required in s 8 include "the nature of his estate or interest therein" and the "name of the beneficial owner" in land held in trust. The section contemplates in respect of any separate property a division of interest or estate and consequently a value or values for those interests and estates in "the land" as distinct from the separate property.

The question in the end, however, is the estimate of the realisable value of the owner's estate or interest at the relevant time. What was the respondent's estate or interest? It was fee simple, a freehold estate or interest in the whole of the land in that separate property. Without improvements and unencumbered by any mortgage or other charge it remains affected, from the point of view of realisation, by the leases. A bona fide seller offering for sale his freehold estate subject to these leases will realise or expect to realise a sum, which takes into account the benefit or detriment of those leases. In my judgment, therefore, on a plain reading of the relevant definitions and section the valuer must take into account the effect of the leases so far as they have any effect on the expected realisable sum. That seems to be consistent with the assumption that the land, though notionally vacant and without buildings, is not restored to its primitive or primeval state but is subject

to all the existing chances which may affect its value at the date of valuation. Thus, as in McKee's case, the chance which the owner of the land may have of obtaining a consent to a particular use and likewise the opportunity to sell as a development site are all matters to be taken into account. A lease, though a private contractual arrangement and not an environmental factor applying unilaterally and without any contribution by the owner, is still a present feature or factor which needs to be taken into account.

There is elsewhere in the Act reference to leases. For example s 15 which permits the Valuer-General to make alterations or adjustments of value in leased land which may be necessary for the purposes of "correctly assessing the respective interests of the respective owners at any specified time". Further, s 41, which provides for new valuations on request of any land or of any estate or interest in land, provides in subs (7) that, where there are more interests in the land than one and a valuation is required of any interest in the land, the value of that interest, when added to valuation made at the same date of the remaining interests, will be equal to the value of the land "as if it were held by a single owner in fee simple and free from any lease or encumbrance". A similar phrase is used in subs (8) limiting the right of objection to new valuations made under s 41. Section 46 also makes reference to leases and any onerous conditions on the lessee. The Valuer-General in his discretion may make allowance to the lessee in respect of the detrimental effect on the lessee "in assessing the capital value of the lessee's and lessor's interest in the leased land".

Not only therefore do these sections recognise the possibility of separate assessments in respect of leasehold interests but they indicate a recognition of the likelihood of the fee simple interest, the lessor's interest, being affected and so requiring adjustment as set out in these subsections.

Mr Littlewood emphasised the particular purposes of ss 15 and 41 and linked them to the provisions of s 45, repealed in 1970, when that was part of the Act. That does not, however, dispose of the underlying effect of those sections or the fact that, in spite of the repeal of s 45, the sections have remained in force. They must serve some purpose apart from s 45. It is curious, too, to note that s 46 refers still to s 45 as the last preceding section although it no longer exists.

Something more needs to be said about s 45. This involves a discussion of two authorities which are apparently in conflict but which bear upon the question of issue in this case. The first of these was relied upon by the tribunal in coming to its decision. That case is Findlay v Valuer-General [1954] NZLR 76, a decision of the Land Valuation Court delivered by Archer J whose long experience gives to his judgments particular authority.

This arose out of an appeal by the owner of a house property which was divided into two flats. He objected to the valuation placed upon the property upon a revision of the district valuation roll. It was common ground that the flats were tenanted; that if offered for sale on a "vacant possession" basis, the property might reasonably be expected to realise the amount fixed by the land valuation committee as its capital value (:2725); and that, if offered for sale subject to existing tenancies, it would not realise that amount. It was contended by the owner, as objector before the committee and as appellant before the Court, that she was entitled to have the property valued for roll revision purposes on the basis of the price it might be expected to realise if sold as a tenanted property. The question before the Court was limited to that issue.

The judgment of the Court, delivered by Archer J, after stating the primary purpose of the Act was to establish district valuation rolls as a basis for rating and thus to provide an equitable basis for the assessment of rates, went on to state four propositions, at p 79, as follows:

> "1. That the owner of any estate or interest in land is entitled to have that estate or interest valued and entered upon the district valuation roll.
>
> *[1993] 3 NZLR 721 page 727*
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> "2. That, in valuing that estate or interest, any mortgage or other charge thereon is to be disregarded.
>
> "3. That, where in respect of any land there are more interests and more owners than one, the united capital values of the interests of all the owners must not be less than the capital value of the land if held in fee simple by a single owner free from encumbrances.
>
> "We think that a further and consequential proposition based upon these propositions may be enunciated:
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> "4. That no deduction may be made from the capital value of land by reason of a charge thereon which does not constitute an estate or interest in land, or which, though it may constitute an interest in land, has no value or cannot be valued."

He noted that the Valuer-General had disregarded the tenancies following his usual practice, stating at p 80:

> ". . . and one which he claims to be both in accordance with the Valuation of Land Act, 1951, and logically desirable in the preparation of a roll to be used for rating purposes."

That mirrors the submissions made before me in this appeal which underlines the long period during which this practice has been followed. It was conceded in the case by the appellant that, although there was no evidence as to what rights the tenancies created, the tenants were not possessed of interest in land. It was held, therefore, that the provisions of s 45 did not apply because it was not a case in which there were more interests in the land or more owners than one. The judgment then proceeds, at p 81:

> "What has to be valued, according to s 8, is the estate or interest of the owner in the land. The definition of capital value makes it clear that the owner's estate or interest is to be valued as if unencumbered by any mortgage or other charge thereon. Section 45 provides that, where there are leasehold or other interests, and, therefore, more owners than one, the aggregate of the capital values assessed shall not be less than the capital value of the land 'if held by a single owner in fee simple free from any lease or encumbrance.' These words indicate, in our opinion, that an owner of land must be assessed with the full value of the unencumbered fee simple unless he can show that he has divested himself of a leasehold or other interest which is capable of separate valuation.

"To approach the matter from a slightly different angle, we are of opinion that the primary function of the Valuer-General under the Valuation of Land Act, 1951, is to value estates or interests in land, disregarding mortgages and charges or encumbrances which do not constitute interests in land. By this means, the Legislature has sought to ensure that every property bears its fair share of liability for rates. Its intention, as set out in the Act, is that, where an owner in fee simple has divested himself of a lesser estate or interest in land, the value of the land, and the consequent liability for rates, may be apportioned between the owners of the various interests in the land in accordance with the values of their respective interests."

He summed up the matter in this way at p 81-82:

"To sum up, we are of opinion that an objection by the owner of a property which is apparently held in fee simple and which has been correctly valued as such upon the revision of a district valuation roll can succeed only if the objector can show that he has divested himself of an interest in the land, the value of which can be separately assessed."

It is, I think appropriate to quote s 45 as it was before its repeal in 1970. It was as follows:

"45. Estimating various interests in land -- (1) Where land is subject to a lease or in any other case where there are more interests therein and more owners than one, the united capital values, values of improvements, and unimproved values respectively of the interests of all the owners shall not be estimated at less than the capital value, value of improvements, and unimproved value of the land would be estimated at if held by a single owner in fee simple and free from any lease or encumbrance, anything to the contrary in this Act notwithstanding.

"(2) For the purposes of this section --

"(a) The interest of a lessor is the present value of the net rent under the lease for the unexpired term, plus the present value of the reversion to which he is entitled:

"(b) The interest of a lessee is the present value of the excess (if any) of five per cent per annum upon the capital value of the leased land over and above the aforesaid net rent for the unexpired term, plus the present value of any right to compensation or of purchase or other valuable consideration to which he is entitled under the lease, and minus the interest (if any) of a sublessee:

"(c) The interest of a sublessee shall be computed in the same manner, with the necessary modifications, as that of a lessee, and so on in like manner for any interest inferior to that of a sublessee:

"(d) All apportionments of the interests of lessors, lessees, and sublessees in respect of improvements and of land exclusive of improvements shall be made in the proportion that the capital value of the leased land bears to the value of the improvements thereon and to the unimproved value thereof respectively, subject pro tanto to any provisions of the lease whereby the lessee or sublessee has a special interest in the improvements or in the land exclusive of improvements, as the case may be:

"(e) All computations of present values shall be made on a five per cent per annum compound interest basis:

"(f) 'Lease' includes agreement to lease, licence, and any other written document for the tenancy or occupancy of land; 'rent' includes premium, fine, royalty, and any other consideration for the tenancy or occupancy of land."

In 1968 there came before the Land Valuation Court another appeal. It was then presided over by Tompkins J who gave the decision of the Court reported in Valuer-General v Addington Raceway Ltd [1969] NZLR 327. This was an appeal against the unimproved value fixed on a periodical revision as at 1 November 1965. The land was owned in fee simple by the North Canterbury Hospital Board and was leased to Addington Raceway Ltd for 10 years, renewable until 26 November 2047. There was some 80 years still to run. The judgment sets out a number of principles applicable in fixing the unimproved value, the second of which was as follows at p 329:

"2. The unimproved value must be calculated as if held by a single owner and free from any lease or encumbrance: s 45 (supra)."

The application of s 45 and its meaning and effect as regards the lease was clearly an issue in the case. It was argued for the raceway that the section did not forbid taking the lease into account but that was rejected, the Judge saying, at p 330:

"Section 45 says categorically that, in fixing the unimproved value, the lease must be disregarded."

That was repeated at p 331 in these words:

> "We are concerned here only with unimproved value and s 45 provides that the unimproved value shall be estimated as if held by a single owner, in fee simple, free from any lease. In our view the section forbids taking the lease into account, even when considering the chance of a change of zoning."

I note that, although a number of cases are recorded as being cited and referred to, no reference is made to Findlay's case.

The last quotation above contains a reference to the final words in subs (1) of the former s 45. They are intended to govern the global or whole value of all the interests. It refers clearly and specifically to any lease. But in order to find the global interest, the whole value, then it is necessary to ignore leases and all other encumbrances, not just mortgages and charges, because otherwise the total freehold value would not be ascertained and thus the separate interests, when added together, would not come to the total figure. For that limited purpose, then, leases must be ignored. But with respect I think Tompkins J went too far if what he said was intended to mean that leases are to be disregarded in fixing the unimproved value of the land.

What is, I think, clear enough is that before 1970, when it was repealed, s 45 raised by implication the necessity of considering the separate interests and so having regard to the interests of the lease and its effect on the value in estimating the owner's interest. Its repeal, however, does not reverse the position, nor does it make the pronouncements in Findlay's case no longer applicable. With respect, I think Archer J was correct in his view on the matter and I believe that the repeal of s 45 does not change that. The Act in all other respects remains the same and there are still the sections which I have referred to which, at least implicitly, acknowledge and recognise the need to take into account the leasehold interest. In my judgment the tribunal was correct in its conclusion at p 15, that "the value of the objector's estate or interest in the Shoreline site was the marketable value of the fee simple estate less the marketable value of the nine leases", or as affected by the existence of those leases.

It was the appellant's further contention that, as he put it, there was an incorrect methodology in the presentation of the expert evidence which was so unsatisfactory that it ought not to have been relied upon in respect of the valuations he gave to the lessees' interest in the property in question.

What the valuer did, in this case, was to estimate the cost of acquiring the vacant possession or the lessees' interest. He had a number of comparative examples and concluded his opinion that the value of each tenant's interest in the property was in the order of $300,000. In coming to that conclusion he noted, firstly, that there was no fixed formula for the assessment of the value of leasehold interest including, in some cases, a benefit in the rent where the current rent payable was less than might have to be met in alternative premises; secondly, that there are costs to the tenants in setting up new premises; and, thirdly, the amount to be paid by a developer as an inducement to obtain the surrender of the tenants' rights of occupation. There was no challenge, at least in the sense of any contrary evidence, nor does there appear to have been any challenge in cross-examination of the valuer as to that methodology. I think the tribunal was in error in saying, as it did, that Mr Littlewood had accepted the value of the leases as estimated by the valuer, although there was a concession that a lease could have a separate value.

As I have said, what was required to be done was to value the owner's interest, that is to say the freehold interest affected, as it was, by the existence of the leases. It was not a question of valuing the leases but valuing the fee simple and the effect of the leases on that having regard to the redevelopment purpose. In those circumstances the principle adopted that it was, in effect, the cost of obtaining

surrender and freeing the land for redevelopment must be appropriate and in the absence of any other evidence the tribunal was entitled, and indeed bound, to accept the evidence before it. That was well justified and had some confirmation from the evidence of Mr Radford, on behalf of the owner, and his discussions and attempts to obtain by purchase the surrenders of the leases. In the result, then, the amount so allowed at $2.7m cannot be challenged.

The decision made by the tribunal was that the district valuation roll, as revised, should show separate entries in respect of the objector's estate or interest in property as well as the interest of each of the lessees, the total to equal $11.8m.

They then went on to determine the value of the objector's estate or interest as $9.1m. The latter was all that was in issue in the case before the tribunal. It may be that the inevitable result of that is the necessity for separate entries being made in the district valuation roll but that is not, as I understand it, an order or direction made by the tribunal.

In the result the appeal is dismissed. No question of costs was raised in this matter and so no order is made.Appeal dismissed.

Solicitors for the appellant: Crown Law Office (Wellington).

Solicitors for the respondent: Chapman Tripp Sheffield Young (Wellington).