BEFORE THE NORTH AUCKLAND
LAND VALUATION TRIBUNAL LVP 40/99 & 41/99

IN THE MATTER of the Rating Valuations Act 1998

AND IN THE MATTER of objections to the values on the Rating Valuation Role for the Far North District Council

BETWEEN	WAYNE YOUNG AND LORRAINE HILL
	Objector
AND	JOHN VAUGHAN COLEBROOK
	Objector
AND	FAR NORTH DISTRICT COUNCIL
	Respondent

TRIBUNAL CHAIR: His Honour Judge J D Hole

Members: D A Low, Esq
J F Hudson, Esq

Date of Hearing: 9 May 2002

Date of Decision:

DECISION OF THE TRIBUNAL

Solicitor for Plaintiff:
Solicitor for Defendant:

Land

[1] Mr Young and Ms Hill own a property at 16 Wellington Street, Russell. Mr Colebrook owns a property at 16a Wellington Street, Russell.

[2] Mr Young and Ms Hill are the registered proprietors of a one-half share in an estate in Fee Simple containing 1796 square metres being Lot 1 Deposited Plan 41788. In addition, they have an estate in Leasehold pursuant to a lease for 999 years in the old house on Deposited Plan 57176.

[3] Mr Colebrook has the other half share in the estate in Fee Simple in 1796 square metres being Lot 1 Deposited Plan 41788. In addition he has an estate in Leasehold for 999 years in respect of the new house on Deposited Plan 57176.

[4] The properties are zoned Residential 6 (Russell Township) under the Far North District Plan (transitional). This seeks to preserve the relatively low intensity development and historic appearance of the town of Russell, whilst still allowing appropriate development. The properties are at the northern end of Russell's waterfront. Both properties have the waterfront on one side and Wellington Street on the other. Both properties provide attractive views from the houses down the Russell foreshore and across the bay towards Paihia.

[5] Mr Young and Ms Hill purchased their house in 1991. It was a very rundown villa which had been built about 1900. Since that time it has been completely rebuilt and now has a floor area of 357 square metres and is fitted out to a high standard.

[6] Mr Colebrook owns an older style Lockwood home built in 1965 with a floor area of 109 square metres. It is generally sound but becoming dated.

Valuation in respect of Young/Hill property

[7] Quotable Values valuation as at 1 September 1998 is as follows:

Improvements	$450,000
Land value	$270,000

Capital value	$720,000
Special rateable value (s.26 Rating Valuations Act 1998)	
Improvements (as above)	$450,000
Land value	$320,000
Capital value	$770,000

Valuation of Colebrook property

[8] Quotable Values valuation as at 1 September 1998 is as follows:

Improvements	$160,000
Land value	$240,000
Capital value	$400,000
Special Rateable Value (s.26 Rating Valuations Act 1998)	
Improvements (as above)	$160,000
Land value	$290,000
Capital value	$450,000

Objections

[9] The objections raised by both property owners are the same. They contend that if either dwelling on the land were destroyed they would experience very real difficulties in replacing them. They say that it is unrealistic to place any value upon the land because it would be virtually useless in such circumstances. This objection, of course, relates to the land value assessed by Quotable Value and not the s.26 Special Valuation. The reason that they contend that the land is of little or no value in these circumstances is that the sites where the houses are currently situated are within a 23 metre *"set back"* from the water pursuant to the Far North District

Council Transitional Scheme. Indeed, under a new draft scheme the setback is to be 30 metres with a discretion to reduce this to 26 metres. Further, this is the only site on the Russell waterfront which does not have a recreational shoreline reserve in front of it; if there was an attempt to rebuild a recreational shoreline reserve would become established.

[10] Both properties have existing use rights. Mr Young, speaking for all the objectors, told the Tribunal that in 1991 he purchased his property for $175,000. The house was only worth $8,000 in its then state. Thus he paid $167,000 for the land. When he came to renovate the house he was unable to remove it completely and start afresh because of the attitude of the Far North District Council. He was required to effectively rebuild the house within the envelope provided in the Flat Plan and in accordance with the existing use rights attaching to the property. He is concerned that if the house were to be demolished by an act of God then he would not be able to rebuild. Mr Mitchel, for Quotable Value, indicated that he had spoken to officers of the Far North District Council who had expressed the view that in the event of either house being demolished, rebuilding would be possible (subject to some conditions). Neither the objectors nor Quotable Value produced any planning evidence in respect of this matter.

[11] Mr Mitchel referred to a similar situation existing in Mill Bay (which is near Manganui). There were two houses situated on a waterfront site having similar restrictions. Notwithstanding those restrictions, however, in February 2000 the entire property sold for $1.6 million. He submitted that purchasers are prepared to take the risk of having difficulties in rebuilding should an act of God occur and that the same situation would apply in respect of the subject properties.

[12] Of course, in respect of the Young/Hill property this is exactly what did occur in 1991. When they purchased the property they paid $167,000 for the land. The restrictions about which Mr Young has expressed concern to the Tribunal existed at the time of purchase. In reality, nothing has changed. If Mr Young, as a real estate agent, was prepared to take the risk in 1991 and pay $167,000 for the land, then plainly the land value in 1998 is in excess of the sum for which he purchased it in 1991.

[13] The other objection raised by both objectors is that in any event both land values (including the Special Rates s.26 valuation) are excessive. In this regard, Quotable Value produced some sales evidence to support its valuations. Mr Young,

for the objectors said that there had been no sales of similar cross-lease sites in the area and that he was unable to produce any valuation evidence. He noted that in 1991 there was a 37.5% difference between the sale price of cross-leased sites compared with the sale of freehold sites. Maybe this is so. However, for the Tribunal to be satisfied that the values as assessed by Quotable Value are incorrect, more comprehensive valuation evidence is necessary. Section 38 (2) Rating Valuations Act 1998 states that the onus of proof on any objection rests with the objector. There is insufficient evidence before the Tribunal to support any valuation other than that undertaken by Quotable Value.

Conclusion

[14] Both objections fail. The values as assessed by Quotable Value as at 1 September 1998 are upheld.

Judge J D Hole (Chairman)
North Auckland Land Valuation Tribunal