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NEW ZEALAND INSTITUTE OF VALUERS

Incorporated by Act of Parliament

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Vice-Presidents: G. J. HORSLEY, R. E. HALLINAN

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Rotorua-Bay of Plenty	D. J. Owen, Box 1318, Rotorua.
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Gisborne	R. Kelly, C/o. Ball & Crawshaw, Box 60, Gisborne.
Hawke's Bay	D. R. Buchanan, Box 458, Napier.
Taranaki	I. D. Baker, Box 746, New Plymouth.
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South Canterbury	M. A. McSkimming, Box 6, Timaru.
Otago	K. R. Taylor, Box 1082, Dunedin.
Southland	G. Parker, Box 399, Invercargill.

PAST PRESIDENTS:

1938 1940	N. H. Mackie, Palmerston North.
1940 1943 -	G. B. Osmond, Auckland.
1943 - 1947	A. W. A. Sweetman, Auckland.
1947 1949	O. F. Baker, Christchurch.
1949 1950	J. A. Wilson, Dunedin.
1950 1951-	O. Monrad, Palmerston North.
1951 - 1952	L. E. Brooker, Wellington.
1952 1953	L. A. McAlister, Wellington.
1953 - 1954	W. G. Lyons, Palmerston North.
1954 1955	S. E. Bennett, Auckland.
1955 - 1957	R. J. Maclachlan, Wellington.
1957 1958	V. W. Cox, Napier.
1958 - 1960	G. C. R. Green, Dunedin.
1960 1962	J. W. Gellatly, Wellington.
1962 1964	S. Morris Jones, Wellington.
1964 *1966*	*M. B.* Cooke, Christchurch.
1966 1968	D. G. Morrison, Whangarei.
1968 1970	A. R. Wilson, Napier.
1970 1971 -	J. M. Harcourt, Wellington.
1971 - 1974	R. S. Gardner, Auckland.
1974 1976	G. M. Niederer, Invercargill.
1976 1977	L. M. Sole, Rotorua.
1977 1978	E. J. Babe, Wellington.
1978 1979	P. G. Cooke, Nelson.
1979-1981 -	P. E. Tierney, Tauranga.
1981 - 1983	R. M. McGough, Auckland.

LIFE MEMBERS:

S. Morris Jones (1968)	R. J. Maclachlan *(1970)*	J. D. Mahoney (1977)
M. B. Cooke (1970)	J. Bruce Brown (1970)	E. J. Babe (1982)
	D. G. Morrison (1976)	

HONORARY MEMBERS:

N. H. Chapman	J. P. McVeagh	J. S. H. Robertson
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	F. B. Hunt	

JOHN M. HARCOURT MEMORIAL AWARD:

E. J. Babe (1975)	R. L. Jefferies (1979)	S. W. A. Ralston (1980)
K. J. Cooper (1981)	S. L. Speedy (1973)	

The New Zealand
Valuer

VOLUME 25 NUMBER 12

DECEMBER. 1984

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Business letters, subscriptions and advice of changed address, should be sent to the General Secretary. Deadline 2 months prior.

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Publications and Services available from the New Zealand Institute of Valuers

(ADDRESS ALL ENQUIRIES TO THE GENERAL SECRETARY,
P.O. BOX 27-146, WELLINGTON)

PUBLICATIONS	
URBAN LAND ECONOMICS (J. D. Mahoney 1974)	$4.00
LAND ECONOMICS - REPRINT OF ARTICLES FROM N.Z. VALUER. (For students of Economics)	$5.00
URBAN VALUATION IN N.Z. - VOL. 1. (R. L. Jefferies 1978) (Bulk orders of 10 copies or more $25.00 per copy)	$28.00
FINANCIAL APPRAISAL (Squire L. Speedy 1982)	$35.00
VALUATION OF UNIT TITLES (M. A. Norton 1975)	$2.50
LAND TITLE LAW Q. B. O'Keefe)	$3.00
THE PRINCIPLES AND PRACTICE OF RATING VALUATIONS IN NEW ZEALAND (J. B. O'Keefe 1982)	$23.00
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N.Z. VALUER (Back copies where available)	$1.00 per copy pre 1980 $3.00 per copy 1980
N.Z. VALUER (Index Vols. 20-24)	$1.00
GUIDANCE NOTES ON VALUATION OF COMPANY PROPERTY ASSETS FOR CURRENT COST ACCOUNTING (C.C.A.)	$5.00
PROCEEDINGS OF THE 8TH PAN PACIFIC CONGRESS OF REAL ESTATE APPRAISERS AND VALUERS	Free on request.
VALUER'S HANDBOOK (Revised 1984)	$20.00 members $18.00 students
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MISCELLANEOUS	
CERTIFICATE OF VALUATION FOR INSURANCE PURPOSES (Pads 100 forms)	$8.00
VALUATION CERTIFICATE - PROPERTY ASSETS (Pads 100 forms)	$10.00.
PAST EXAMINATION PAPERS	Photocopying and postal charges.

Editorial Comment

BIG YEAR FOR PROFESSIONAL SELF-EMPLOYED.

If we as valuers must ever recognise that we live in fast changing times, then this surely must be such a time. Within a twelve month period valuers have had to come to grips with significant technological change, competition within our fee structure and the removal of our scale of charges, a greater call for a more flexible reporting standard, and in 1986 taxation on professional services.

Until now we have been insulated to a large *degree from the administration chores relating to taxation measures other than P.A.Y.E. on employees, and of course our own personal tax assessments. But with the proposed taxation on professional services in 1986 we have an added administrative function, and one which inevitably must further increase the costs of running a professional practice.*

Traditionally our fee scale has been a moderate one, largely because our overheads are relatively low when compared with the professional giants, notably lawyers and accountants. Those days too are numbered. Technology changes, coupled with the demand of a greater range of client requirements, point to a greater degree of sophistication required by valuers. Sophistication costs money; this will result in increased overheads and we will join other professional bodies in needing to look hard and critically at our existing operations.

I refer in particular to the tendency amongst other professions and business enterprises to form larger and stronger groups both within their own profession and in conjunction with other specialist professions. The needs of national based insurance and trading companies cannot easily be encompassed by the sole practitioner or small valuation practice.

Likely changes inevitably bring with them higher costs, and while there will always be the need for the independent or suburban valuer in a small practice, we are probably to see a greater divergence in this decade than in the history of our institute to date, in the type of work and the structure of professional practices.

The seeds have been sown. Overheads will rise for all valuers, and more noticeably for some. Administrative functions will increase and in the future we will be acting as a taxation collection agency. A call for a wider range of reporting standards will intensify. In the residential field a greater number of lenders are looking for the same protection from valuers but based on a faster service, a slimmer report and a reduced fee. While the demands of our clients may be incompatible from a valuation viewpoint, the problems must be faced and overcome.

To satisfy clients' varying needs the services provided by the public practising valuer will differ markedly between valuation practices, and reporting standards may need to be varied to suit the client.

This does not involve a lowering of standards but does involve meeting a market demand. Inevitably some fees will rise and others will fall. Eventually only the larger practices may have the facilities and depth of expertise to undertake the more detailed or extensive valuation exercises on an economic basis. This problem is already being met by our professional associates, who have looked to one another to increase their strength, and to remain *economic in a competitive market. It has finally hit home to the professional valuation practices and will become more evident within the next 12 month period.*

Report on Mid-year N.Z.I.V. Council Meeting

by the Editor

The meeting was conducted on 7th and 8th October under the Chairmanship of the President, Mr R. M. Donaldson.

Mr K. (Ken) E. Parker was welcomed as the new Councillor for Hawke's Bay.

Mr R. Chappell replaces Mr A. B. Fear as a Member of Executive. Congratulations were extended to Mr S. W. A. Ralston, the Valuer-General Designate.

The minutes of the previous meeting as circulated to Councillors were signed by the President as a true and correct record.

Tariff: Rule 69 (f) concerning the appointment of a subcommittee to examine professional charges could prove difficult for some smaller branches to implement. A suggested new wording for 69 (f) will be presented to the April 1985 Annual General Meeting.

Pan-Pacific Congress: The venue for the Congress has been fixed as the Sheraton Waikiki in Hawaii with registration to commence on February 8th, with the Congress to run from 9th to 14th February, 1986.

Executive appointed a steering committee of three to handle the 1988 14th Pan-Pacific Congress. Members are:

A. L. McAlister - Convener.
G. J. Horsley.
R. E. Hallinan.

Valuers Act Review: Council considered suggestions put forward by branches. Council resolved that as it could be unworkable to protect the term "valuer" a suggestion would be made that the new legislation include a provision that - "no person shall make a valuation of land under any statute or act of Parliament for fee or reward unless he is a registered valuer".

A further motion was carried recommending submissions be made to the Minister following the obtaining of a legal opinion on the automatic publication of names unless directed otherwise by the Registration Board.

Land Valuation Tribunals: Council empowered Executive:

To prepare a submission to Government seeking the appointment of a permanent judge to preside on land valuation matters, and that the support of the Valuers' Registration Board be obtained to this initiative.

Harcourt Memorial: The rules governing the John M. Harcourt Memorial Award were conifrmed by Council as being still appropriate. The rules are published in this issue of "The Valuer". The names of recipients of the award will be recorded on the inside front cover of "The Valuer".

Education Committee: Mr Ralston presented his report on behalf of the Education Committee and Board of Examiners. Meetings with the three universities are now accepted as an effective and worthwhile means of communication. The degree courses are now well established, with adequate and stable student numbers.

Squire Speedy has produced a second edition of the publication "Land Compensation in New Zealand". This should be published at an early date.

Valuation Reports: There was considerable discussion on the "Task Force" report and recommendations. Arising out of that discussion Council resolved that a sub-committee be formed to look at clauses 17 and 17a of the Code of Ethics.

Statistical Bureau: In accordance with the April 1984 Council Meeting, Executive appointed a Statistical Committee which comprises:

L. Grace - Statistical Officer.
K. Allan General Secretary.
John Wall - Chairman.

The micro-fiche sales format is to be altered to provide the residential categories RB to R8 in one grouping with other categories s'ich as VR, FO, VI, IN, VC, CC, etc., each in individual groupings, the main advantage of this new format being the separation of residential sales from commercial and industrial sales. It is anticipated that the total 1984 year's sales on the December micro-fiche will be in this new format.

Re-printing of the handbook has now commenced and this should be available before the end of the 1984 year. Bulletins will continue in their present form but will additionally incorporate permanent records that can be extracted and used within the handbook.

New Technology: The sub-committee reappointed is:

K. Allan - Convener.
R. Hargreaves.
T. Marks.
A. Stewart.

The electronic sales access system is now operational, with 14 users subscribing to date in the disc form.

The Committee is examining a further prospect for the dissemination of sales data known as Videotext. This. offers a relatively comprehensive coverage without the high capital cost of in-house hardware.

Discussions are proceeding with the authors of valuation software packages for the purchase and/or distribution of these facilities.

Publicity and Public Relations: After discussions with the Inland Revenue Department, the Institute will allow members to be associated with charitable trusts provided that approval is ifrst obtained from the Institute and from the Inland Revenue Department. In general, the association will be permitted provided that it meets the requirements of good taste, dignity and restraint. A copy of these provisions are to be forwarded to branches.

It is desirable that the state of the market report be released not later than the end of January, 1985.

The text for two information brochures has been finalised and a further five brochures are planned.

Council resolved that the report of the Publicity Committee be adopted, that an advertising fund be set up and that further research be undertaken into the manner in which this could best be utilised for the benefit of the Institute.

Council determined that the fund be set up based on $50 per practising member and $20 per non-practising member of the Institute.

Financial and Subscriptions: It was decided that the proposed building alterations to Westbrook House be paid for out of cash reserves.

Council adopted the recommended subscriptions for the 1985 year as follows:

Members:	
Public Valuers	$160.00 pa.
Non-practising	$ 95.00
Retired (Rule 14.1)	$ 4.20
Retired (Rule 14.2) Life, Honorary	-
Non-members:	
Affiliates	$ 60.00
Students	$ 20.00

A proposal was carried by Council that a proposed rule change be introduced at the next Council Meeting as follows:

> Members retired under Rule 14.1 be required to pay a subscription determined from time to time by Council.

The recommended capitation for 1985 was agreed at $200 per branch, $10 per practising and non-practising members and $5 per affiliate and student.

N.Z.I.V. Services Limited: The directors are:
Mr G. J. Horsley (Chairman).
Mr G. Kirkcaldie.
Mr J. N. B. Wall.

R.I.C.S.-N.Z.I.V.: Council empowered Executive to open discussions with the R.I.C.S. on the issue of reciprocity.

L.P.M.S.I.: Mr McAllister indicated that the membership for the surveyors and valuers now stands at 191 ifrms, with 45 new valuation firms having joined during the past year.

Professional Practices: The sub-committee has been set up to work on the preparation of background papers to run in conjunction with the guide to professional charges published in July, 1984.

A task force has been set up to give further consideration to the asset valuation standards. Proposed standards have been prepared and were circulated to Councillors.

"N.Z. Valuer": An Editorial Board will be set up for the "N.Z. Valuer".

The December, 1984 issue is the final of Volume 25. A fully updated and integrated index will be prepared on completion of Volume 25.

T.I.A.V.S.C. - Property Asset Standards: Council resolved to bring a Notice of Motion to the Annual General Meeting regarding the wording of clause 16 and the addition of a new paragraph concerning the issue or publication of guidelines, standards or practice notes for the assistance and direction of members.

Council Meetings and A.G.M.: The Council Meeting/A.G.M. 1985 is set down for Palmerston North. The venue is the Palmerston North Convention Centre and accommodation will be at the Fitzherbert Motor Inn. The Council Meeting will be held on the 20th and 21st April, followed by the Seminar and A.G.M. on 22nd and 23rd April, 1985.

The 1986 Council Meeting/A.G.M. and Seminar will be held in Northland with the Council Meeting set down for Saturday the 12th and Sunday, 13th April, followed by the Annual General Meeting and Seminar on 14th and 15th April, 1986.

VALUERS' REGISTRATION BOARD.

VALUERS ACT 1948 S42(1) IMPROPER USE OF WORDS, INITIALS, ETC. IMPLYING REGISTRATION OR MEMBERSHIP OF INSTITUTE.

A complaint was laid by the N.Z. Institute of Valuers on 5th January, 1984 concerning a valuation carried out by Mr R. L. Pollock of Levin. Since the matter related to an offence under Section 41, charges were laid by the Crown Law Office under the Summary Proceedings Act.

The case was heard in the Levin District Court on 21st August, 1984 when Mr Pollock entered a plea of guilty and was fined.

PUBLICATIONS RECEIVED AND NOTED.

by the Editor

Report of the Valuation Department:

Report for the year ended 31st March, 1984. Provides a general comment on the real estate market, both urban and rural.

"During 1984 the Department intends to introduce a series of trials to test the feasibility of introducing an annual revaluation cycle where 20% of the properties in each Local Body would be inspected annually, computer adjusted estimates of value would be produced and the roll of each district would be completely updated on a year-by-year basis. Full objection rights would attach to each assessment."

Land Titles Reform:

A publication of the Legal Research Foundation Inc. (Publication No. 22, 1983), includes a paper on computerised land title and land information sketching the current Australian developments and land title, registration procedures and land information services. A separate book review is included in this issue by Byron O'Keefe.

Valuation:

Volume 29, No. 1 by the American Society of Appraisers. Page 62 a paper on the valuation of partial interests in real estate. A study of actual open market sales of minority interests in real estate to unrelated purchasers clearly indicates that the price paid is substantially discounted below the share represented by the minority interest. The data in the article indicates that typically undivided interests of between 40% and 60% and somewhat smaller have a market value of around 33 3%o below the share indicated for the interest.

National Housing Commission Research and Information Series:

Research paper 83/3. Incentives for the greater private sector involvement in rental housing. On the 1981 census, approximately two-thirds of the national rental stock is provided through private landlords. The indications are that the "service industry" of letting houses is declining.

Farm Costs and Prices 1984:

Technical paper 1/84 produced by the Economics Division of the Ministry of Agriculture and Fisheries, Christchurch. The publication provides information on the costs paid and prices received by farmers, with all farm input prices those ruling on or about 1st January, 1984.

National Housing Commission Research and Information Series:

Research paper 83/2 - survey on the housing needs of migrants. This is a technical paper containing a selection of tables which can be used to make projections of housing demand and housing need. The distribution of migrants differs considerably from that of the resident population. The areas in which demand for housing by migrants is likely to be greatest are Auckland, Wellington and Christchurch.

Valuation Department:

The urban real estate market in New Zealand 1983 - research paper 84/1. The rural real estate market in New Zealand 1983. Research paper 84/2. The publications are part of an on-going series which provides, in table form, analysis of urban property and rural farm by category and district showing relative changes in market prices over a selected number of years.

National Housing Commission - "5-yearly Report":

This is the second "5-yearly report" and covers a wide range of housing issues. It reflects the accumulation of comment and recommendations carried out in the 60 research papers published by the Commission.

Energy Cost of Houses and Light Construction Buildings:

A publication by the New Zealand Energy Research and Development Committee Report No. 76, November, 1983. It was found that the construction of buildings is an important area for energy conservation. An informed choice of materials from the standard ranges available could substantially reduce the energy required for building construction. The report includes a summary of quantities of materials, costs and gross energy requirements of the N.Z. Institute of Valuers national modal house.

Planning Quarterly:-

September, 1983 No. 71.

Consideration of Section 90 of the Town and Country Planning Act 1977 with case references concerning the use of land or building, identifying the point in time at which the existing use rights arose, change of character, intensity and scale, lawful establishment, special cases and discontinuance.

Conveyancing Bulletin:-

Volume 2 Issue No. I October 1983.

Insurance on cross-lease and unit titles. Volume No. 2 Issue No. 2 November 1983. Continuing insurance on cross-lease and unit titles.

National Housing Commission Research and Information Series:- 83/1.

Prospects for co-operative housing in New Zealand. The report includes a review of overseas approaches to co-operative housing and considers various aspects in the New Zealand context beginning with the legal framework. There are detailed case studies of successful and unsuccessful housing co-operative initiatives in New Zealand and it concludes that while there is no great demand for co-operative housing at present, there is considerable potential demand.

School of Architecture Prospectus 1985:

Courses in architecture and property administration (B.P.A.). The publication includes prizes and awards offered, costs, description of careers in property administration and an historical survey of the Auckland course.

Membership

ADMITTED TO INTERMEDIATE:

Bailey, R. W.	Rotorua.
Brandon, N. T.	Auckland.
Carr, T. E .	Rotorua.
Cresswell, C. W. M.	South Canterbury.
Cullen, R. F.	Canterbury/Westland.
Fouhy, M. J.	Waikato.
Morris, J. B.	Southland.
Robson, H. T.	Otago.
Tietjen, M. F.	Auckland.
Whittaker, T. J.	Taranaki.

ADVANCED TO ASSOCIATE:

Brake, E. M.	Auckland.
Burke, J. G.	Rotorua/Bay of Plenty.
Chadderton, A. J.	Southland.
Chisnall, A. W.	South Canterbury.
Harvey, F. D.	Taranaki.
Hutchison, R. L.	Northland.
Jans, D. R.	Taranaki.
Lim, Thiam Hock	Overseas.
Morse, M. P.	Auckland.
Orchard, C. S.	Wellington.
Vickers, R. M. J.	Taranaki.

RESIGNED:

Coxhead, J. D.	Waikato.
Hall (Miss) A. M.	Waikato.

DECEASED:

Gay, C. S.	Hawke's Bay.

PRACTICAL AND ORAL EXAMINATIONS 1984.

The following candidates were successful in the 1984 Practical and Oral Examinations:-

R. S. Bennett	Auckland.
R. J. Vink	Wellington.
K. R. Stewart	Rotorua/BOP.
G. E. Rose	Wellington.
S. L. McCarroll	Wellington.
A. T. McQueen	Nelson/Marlborough.
A. B. Preston (Mrs)	Wellington.
R. H. Barton	Wellington.
T. W. Lucas	Christchurch/Westland.

John N. Harcourt Memorial Award

In 1974 Council approved the striking of an embossed medallion to be awarded as the John M. Harcourt Memorial Award, to any person who has given outstanding service to the profession of valuing.

Recipients of the John M. Harcourt Memorial Award will in future be published on the inside front cover of each issue of the Valuer.

To date, recipients in order are:-

E. J. Babe	(1975)
R. L. Jefferies	(1979)
S. W. A. Ralston	(1980)
K. J. Cooper	(1981)
S. L. Speedy	(1983)

RULES GOVERNING THE JOHN M. HARCOURT MEMORIAL AWARD.

(a) This Award shall be made annually to any person not necessarily a member of the Institute whom the Award Committee considers to have given outstanding service to the Profession whether during the calendar year, or over a longer period. In this respect Branches are to be left with the widest discretion in the determination of "outstanding service" though it should be noted that long service to the Institute, for which other forms of recognition are available, will NOT be a paramount consideration.

(b) The John M. Harcourt Award Committee to comprise the President and the two Vice Presidents whose decision must be unanimous.

(c) Only one award is to be made each year.

(d) The award not to be made in any year in which the Award Committee considers that no nominee has reached the desired standard.

(e) Each Branch to forward its recommendation, if any, supported by a suitable citation over the signature of the Branch Councillor to the General Secretary before the 31st December in each year.

The Award to be made by the Award Committee before the Council Meeting for the year and a report thereon to be made to Council.

The Award take the form of a suitably engraved silver plate or box with an accompanying Award Certificate.

The Award Committee may make the Award to any person - not necessarily one of those nominated by Branches.

VALUERS' REGISTRATION BOARD.

BOARD PRIZES.

The Valuers' Registration Board awards a yearly prize as an encouragement to valuation students undertaking courses which meet the Bo ard's requirement for a registrable qualification.

The awards, currently $100 each, are made by the University Councils on the recommendation of the appropriate faculty or professional board to the students showing the greatest promise of being successful valuers.

The 1983 prizes were awarded to Auckland University - Miss S. S. Tay, Singapore; Massey University - Mr P. Funnell, Palmerston North; Lincoln College Mr A. L. Nobes.

New Valuer General Appointed

Valuer General Retires

STAN. W. A. RALSTON.

Mr Stan. W. A. Ralston has been appointed Valuer-General to succeed Mr Murray Mander.

Mr Ralston was appointed to the public service as an urban field cadet in the Dunedin Office of the State Advances Corporation in April 1947. After service in the Auckland, Dunedin, Invercargill and Hamilton Offices of the Corporation, he was appointed Senior Property Supervisor in the Rotorua Office. In November 1964 Mr Ralston transferred to the Hamilton Office of the Valuation Department as District Valuer, where he served for 4 2 years before returning to the State Advances Corporation where he was appointed Chief Valuer in Head Office. In 1974 he was appointed Chief Valuer, Valuation Department, Head Office and in April 1975 became Deputy Valuer-General.

Mr Ralston has completed the Diploma in Urban Valuation from the University of Auckland, he is a Fellow of the N.Z. Institute of Valuers and is currently Chairman of its Education Committee and Board of Examiners, as well as being a member of the National Executive. He has occupied these positions for the past 10 years. In 1980 Mr Ralston received the N.Z. Institute of Valuers "Harcourt Memorial Award" for his contribution to the field of education. He has always retained a keen interest in Institute affairs at all levels and has had the opportunity to present technical papers at international conferences.

MURRAY RAYMOND MANDER.

After attending New Plymouth Boys' High School, Mr Mander joined the Public Service in 1942 as a rural field cadet. He served in the Royal New Zealand Navy in the United Kingdom during World War II and in 1948 gained his Diploma in Valuation and Farm Management from Lincoln College obtaining the highest aggregate mark and gold medal for the course. He transferred to the Valuation Department in 1949 after service in the State Advances Corporation and Maori Affairs Department. He was appointed District Valuer Rotorua in 1956 and in 1964 was further promoted to the position of Supervising Valuer, Palmerston North. He has been located in Head Office of the Department since 1969 being initially appointed there as Chief Valuer. He was subsequently promoted to Deputy Valuer-General in 1973 and has been Valuer-General and Chairman of the Valuers' Registration Board since 1975.

Mr Mander has throughout his career always strived for the highest standards of professionalism, both within the Valuation Department itself and the profession generally. In his early career he became well known as a capable expert witness on valuation matters. His expertise and knowledge of valuation has attracted interest overseas and he has presented papers and participated in a number of international conferences as well as hosting numerous overseas valuers here in New Zealand.

Mr Mander is held in very high regard by the valuing profession both here in New Zealand and overseas. Prior to his appointment as Valuer-General in 1975 he held various positions with the N.Z. Institute of Valuers at branch and national level and was made a Fellow of the Institute in 1973. He has in the past acted as

an examiner in rural valuation for the practical and oral examinations, he served for a period as Chairman of the Board of Examiners, the Valuer-General's representative to Council and as a member of the Executive. Committee.

As Valuer-General for nearly 10 years Mr Mander has initiated a number of changes which have greatly enhanced the Valuation Department's effectiveness. Perhaps the most significant has been the general upgrading of the department's computer systems and the introduction of an on-line enquiry computer terminal net work which links each district office in the country. The establishment of a computerised property sales recording and retrieval system within the department has been of major benefit and with Government approval this sales data is released for dissemination to the profession at large.

Lincoln Institute of Land Policy:

The Lincoln Institute of Land Policy is an educational institute dedicated to the development and exchange of ideas and information pertaining to land policy and property taxation. It is a school offering opportunities for instruction and research. It welcomes government officials, working practitioners and students to the pursuit of advanced studies in land economics and property taxation. It is a centre for linking the university and the practice of government, for bringing together scholars and professionals and officials, and for blending theory and practice of land policy. It provides a meeting ground for identifying and exploring key policy issues and emerging problems in the development of land policy and property taxation. It also provides an extensive network of international resources, both professional and educational. The counsel and advice of the institute's faculty and staff are made available to public agencies and educational organisations.

Historically, the Lincoln Institute was established in January 1975 as a non-profit corporation under the laws of the State of Connecticut. It is supported by the Lincoln Foundation, a non-profit corporation organised in 1947 under the laws of the State of Arizona and established through the generosity of John Cromwell Lincoln, Cleveland industrialist, to foster interest and study in the economics of land and property taxation.

Programmes include:

- Courses, seminars and workshops;
- In-house and contracted research designed to meet the institute's purposes;
- Demonstration projects and publications;
- The counsel of its faculty and staff to public and educational organisations.

World Congress on Computer Assisted Valuation:

The World Congress is set down for August 11-16, 1985 at Cambridge, Massachusetts, U.S.A., at the Harvard Law School, in co-operation with the international tax programme.

Re-printed below is the proposed programme, call for vendor presentations, papers and registration information.

PROGRAMME:

The Lincoln Institute of Land Policy will hold its second World Congress on Computer Assisted Valuation on August 11-16, 1985, at the Harvard Law School in Cambridge, Massachusetts, U.S.A. The purpose of the Congress is to assemble a body of literature and advance the state of understanding and practice of the use of computer technology to assist in the process of estimating the value of land and buildings. The meeting will include formal paper presentations, panel discussions and working system demonstrations.

The Congress will create an opportunity for worldwide contacts to help you make decisions involving:

Hardware:

- Micros, minis, or mainframes.
- Buy or lease.
- Own or share.
- Video hardware (plotters, video-tapes, laser disks, mappers, property sketchers).

Software:

- Develop in-house.
- Purchase from vendor.
- General-use packages.
- Tailored systems.
- Valuation methodologies.

Data Administration:

- Collection.
- Management.
- Updates.
- Amount.
- Format.

Economics:

System development cost.

System maintenance cost.

Cost-benefit analysis.

Legal and Political:

Statute changes.

Court challenges.

Public relations.

Regulations.

^ Equity and equalization.

Combining tax jurisdictions into appraisal units.

Training:

In-house.

By vendors.

By state or regional organizations.

By trade associations.

By schools.

The Congress will also include a state-of-the-art brainstorming session. The Lincoln Institute's Course No. 101, Computer Assisted Mass Appraisal - MULTIPLE REGRESSION ANALYSIS BASICS, is scheduled for the week prior to the Congress (August 5-9) and Course No. 102, CAMA ADVANCED MODEL BUILDING, is scheduled for the week after the Congress (August 19-23).

Call for Vendor Presentations:

A portion of the World Congress programme will be set aside for presentations by vendors. Any company engaged in the marketing of mass appraisal services using computer technology will be eligible to participate in this part of the pro. gramme. Time will be allocated on the basis of the Organizing Committee's decision about the general appeal of the material for the Congress participants. Vendors are asked to submit a two-page abstract of their presentation before February 1, 1985.

Call for Papers:

The World Congress will accept 12 papers written on the major conference topics and associated sub-topics. Authors will receive a $300 honorarium plus free conference registration. Papers should be 3000-4000 words in length and each paper must be accompanied by a two-page outline that will become part of the registration packet received by Congress participants. The author will be asked to present his paper at the appropriate Congress session.

Registration Information:

The Congress is limited to 300 participants, and these participants will be accepted in the order in which their pre-paid registrations are received. The registration fee is $395 before May 15, 1985, and $450 after May 15, 1985, payable in U.S. dollars to the Lincoln Institute. Refunds will be made for cancellations received prior to July 15, 1985.

The Lincoln Institute has reserved both hotel and dormitory rooms for participants, which range from $25 to $80 per night for single rooms. Sleeping room information, along with other logistical information, will be mailed to all course registrants.

If you wish to pre-register or receive more information about the Congress, please write to:

Sharon Shea,
Lincoln Institute,
26 Trowbridge Street,
Cambridge M.A. 02138,
U.S.A.

The Congress has a great potential for efficiency, and there should be concentrated at Harvard information on the subject that should be the best in the world at the present time. There will be high and low tracks available with workshops of 20-30 people. Although not mentioned in the brochure, the organisers intend catering for the private sector, and there is also a programme being prepared for wives and others who accompany delegates. This is not intended purely as a Congress for government agency valuers.

Book Review

LAND TITLES REFORM

by A. G. Lang and T. S. Stein, 1983.

Publication No. 22 by Legal Foundation Incorporation, Auckland, N.Z., 67 pp., $5.00.

This useful addition to the valuer's bookshelf comprises two informative papers "Preventing Riding Over the Register" by Dr Stein at Sydney University, and "Computerised Land Title and Land Information" by Associate Professor Lang at MacQuarie University in New South Wales. These papers were originally presented to the Australasian Universities Law Schools Association Conference held in Auckland last August.

We in New Zealand have been in the forefront of reform recommendations. Back in 1970-71 there occurred two events foreshadowing the work carried on in part by Lang and Stein. First there was the massive 48-page essay by L.

Esterman and J. A. B. O'Keefe "The Impact of Other Statutes on the Land Transfer System" in New Zealand Torrens System Centennial Essays, 1971, ed by G. W. Hinde, Butterworths, Wellington, Then followed the Legal Research Foundation Symposium in October 1971 on "Computers and the Law". The 144 page Papers and Commentaries, eds. F. McCarthy and J. A. B. O'Keefe, was published by the Foundation. This reviewer's commentary paper is on pp. 123-126, and he reiterates a stricture expressed then that like "atomic energy, the news media, fire, sex, or the creation of credit, computers are good servants but bad masters."

Now to get on with what Lang and Stein offer us. What is an "overriding interest?" They answer this by saying what we said in 1970-71.

> "To [the Statutes] may be added those equitable interests which cannot be registered, and, although there is a general principle of the "curtain," in common law jurisdictions, it is not uniform. This article will concentrate its examination upon interests arising under overriding statutes and over overriding interests specifically excluded from the benefits of registration as secured by title by registration statutes."

They cite Stewart-Wallace, "Land Registration under the Law of Property Act 1922 (UK)" (1924) 9 Conveyancer, 92. What he said is worth repeating here.

> "A partial register is rather like a boat with a leak in it. You may not be drowned but you are sure to be uncomfortable. The register must be final and conclusive in all cases and for all purposes, or its utility is diminished as a practical alternative to the present system of conveyancing with its high technicality and mystic jargon, a cardinal defect of which is that the meaning being hidden from babes is revealed by the wise and prudent - for a fee."

On computerisation, the views of the Law Reform Committee of the Australian Capital Territory, Report on the Law Relating to Conveyancing, 1976, p. 58 have been usefully republished in the papers under review. The essence of it is captured in the following extract from the 1924 Report.

> "We believe that computerisation of the Torrens register should be a goal to be aimed at. Its final achievement may well result in changes in conveyancing practice as great as, or possibly greater than, those brought about by the introduction of the Torrens system. Moreover, it is clear from the experience that has now been gained in other jurisdictions that the achievement of this goal may, and ought to, come about by a series of progressive steps. The peripheral aspects of keeping a Torrens registry such as the keeping of the various indexes and of survey records are appropriate and essential first steps in the process. Later, the heart of the registration system, and Register Book as it now exists, can be computerized."

What is all this to valuers? Frankly, a great deal, because land is the basis of our profession; and we should know as much as practicably possible about it; and also we must be part of the team of lawyers, politicians, real estate agents, financiers and others whose centre of gravity is land, and who must be engaged in the ongoing process of continuing education and promotion of reforms.

Lang and Stein's papers are a contribution to this process. They are not, however, bed-time reading for valuers, unless one has sharpened one's awareness of the niceties of land law set out in Chapter 10 (63 pp.) of O'Keefe and Farrand's Introduction to New Zealand Law, 4th ed, 1980, Butterworths, Wellington, and then honed it up in O'Keefe's Land Titles Law for Valuers, 1976, N.Z. Inst. of Valuers (50 pp.). Only thus equipped, will the practising valuer enter with relish the domain opened up by Lang and Stein. It is well worth the visit, and we are grateful to them for the diligent and rewarding research put into their papers which are written by lawyers for lawyers, but which also have a supreme relevance to the valuation profession in this era for increasing sophistication. There are useful references to legal pitfalls which quite often can become appraisal pitfalls. They do not mention one which occurs to the writer of this review. Suppose you are valuing one of five nearby farms all of which share the use of an air-landing strip located on one of them. Mutual air-landing strip easements are entered on the titles. The easement itself is a form of contract. There are clauses providing for certain things to be done preparatory to using the landing-strip for aerial topdressing, e.g., the servient tenant (on whose land the strip is) must be notified to open the gates of certain paddocks and shift the stock and implements. These things are called in law "Conditions precedent", and, where they occur, it may be that the provisions of the Perpetuities Act 1964 apply so that although you search the title and ifnd an easement memorialised you may find on a closer look at the wording of the easement instrument that it has died a natural death by "overriding statute" at, say, the age of 21!

A little learning is no longer a dangerous thing: lack of it is.
(Byron O'Keefe.)

N.Z.I.V.

New Zealand Institute of Valuers

46th Annual General Meeting

and Seminar

to be held at the

CENTENNIAL CONVENTION CENTRE, PALMERSTON NORTH

on 22nd-23rd APRIL, 1985

preceded by Council Meeting

19th-21st APRIL, 1985

AN INVITATION IS EXTENDED TO ALL MEMBERS

To participate with the Central Districts Branch

at this the Institute's Major Annual Seminar and Social Gathering.

THE PROGRAMME SPREAD OVER 2 DAYS WILL INCLUDE:

1. The Annual General Meeting, frequently controversial and lively, being member's one opportunity to air their views on the direction the Institute is moving nationally.
2. An opportunity to meet and socialise with your fellow valuers is provided by the Cocktail Party and Cabaret on the Monday night.
3. A comprehensive spouses' programme has been arranged - see details on enclosed programme.
4. The theme for day 1 will be The Valuation of Urban and Rural Properties as Company Assets. It is intended that this topic will be widely covered in the light of recent publicity concerning the diversity of opinion on the matter and speakers will include Valuers, Accountants, Stockbroker, Company Representatives and a Newspaper Commentator.
5. Day 2 will commence with a breakfast address by Trevor de Cleene, M.P. for Palmerston North on a "light hearted" topic of his choice.
6. The second day will continue with the theme of "Small Holdings", a topic "well thrashed out" a decade ago but since neglected. Many attitudes held by Farmers, Town Planners, Local Authorities and Developers have altered significantly since, and our objective is to highlight small holding and fringe City Land trends as we approach the 1990's.

SEE PROGRAMME ENCLOSED FOR FULL DETAILS

Registration can be made on the form enclosed in this issue or by contacting

The Seminar Secretary (Mr Chris Leahy)
P.O. Box 952
PALMERSTON NORTH

WE LOOK FORWARD TO SEEING YOU THERE

DAVE MARRIOTT
(Branch Chairman)

PHILIP HARCOURT
(Seminar Convener)

Internal Rate of Return (IRR)

by John N. B. Wall, F.N.Z.I.V., Dip. Urb. Val., F.C.I., Arb.

John Wall is a partner with Gellatley Robertson and Company, Public Valuers of Wellington, Statistical Bureau Chairman and a member of Executive of the Institute.

John Wall sees a need for continuing education within the profession and has written a number of articles for "The Valuer" with this paper being a portion of a chapter written for Urban Valuation in New Zealand, Volume H.

An internal rate of return can be described as the actual or true rate of return achieved from a given investment over a specified time period.

It is derived from the summation of the present values of the annual cash flows, including the redemption or final sale value of the asset, expressed as a percentage return.

Table Mortgages are illustrations of this principle. In lending money a Mortgagee is, in effect, making an investment. As the Mortgagor repays the loan with interest, the Mortgagee is receiving a return both on the investment and from the investment.

This interest rate is the internal rate of return.

Example

IRR PROOF

Time	Cash Flow	Time	Cash Flow	PW of $1 @ 10%	Present Value
Purchase date	$100,000				
Year 1	$10,000	1	$10,000	.909091	$9,090.91
Year 2	$10,000	2	$10,000	.826446	$8,264.46
Year 3	$10,000	3	$10,000	.751315	$7,513.15
Year 4	$10,000	4	$10,000	.683013	56,830.13
Year 5	$110,000	5	$110,000	.620921	$68,301.35
					$100,000.00

IRR = 10%.

Within the example above, the investment is made at time zero with the first cash flow assumed to occur at the end of the first year with this initial investment shown as negative, because when all of the positive cash flows are discounted at the correct internal rate of return, the sum of the present value will produce a zero answer, thus proving the present value of cash flows and the investment are perfectly balanced.

Thus the internal rate of return is the rate of return on invested capital that is generated or is capable of being generated by an investment during the period of ownership. It is the rate of profit or measure of performance and is literally an interest rate.

In order to determine the present worth of future benefits in an investment, such benefits must be discounted at a rate equal to the interest rate or rate of return on capital required by an Investor, hence the discount rate is the interest rate, with the internal rate of return also a form of discount rate. It is the discount rate that equates the present value of the benefits to the present value of the capital outlay or discounts or returns to equal the original investment.

In summary, the internal rate of return is the measure of the total financial performance of a property from its purchase date until the assumed or actual sale, covering all the cash inflow and outflow of the investment during the actual or presumed term of ownership.

Because the internal rate of return combines the overall performance, the cash flow schedule must be complete commencing with the original cost of the property, the interim cash flows and terminating with the final sale price.

As such the internal rate of return may be a measure of past or future performance or both, within a defined time period.

A property investor purchases a property for a capital sum, receives the annual net cash income over the projected investment period, which is usually up to 10 years and finally obtains the benefits of the resale or market value estimate. From these facts the internal rate of return can be calculated.

Example:

An investor purchases a property for $100,000 and over a five year period receives a net income for the first two years of $10,000 per annum and for the next three years of $12,000 per annum selling at the end of the fifth year at $125,000.

Purchase Price	$100,000
1st Year's Income	$10,000
2nd Year's Income	$10,000
3rd Year's Income	$12,000
4th Year's Income	$12,000
5th Year's Income	$12,000
Sale Price at end of 5th Year	$125,000
Internal Rate of Return =	14.76%

Example:

Considering the Internal Rate of Return as applied to an Example as a check, the following assumptions have been made in forecasting income and expenditure patterns based upon historical trends, over the next eight year period.

(i) Office rentals of this nature will escalate at 9% per annum compounded.

(ii) Car parking rentals will escalate similarly.

(iii) Building expenses will increase at a rate of 8% per annum over the next two years and then at 9% per annum.

(iv) There will be no replacement of plant or fittings in the period, but provision for such expenses has been made within the building outgoings.

(v) Redemption yield at the end of the period will be 9 Z%, resulting in a market value at that time that reflects reasonable obsolescence and the probable application of pure investment criteria.
i.e. overall capitalisation rate of 92%.

Year I - Market Value			$3,645,000
Based upon:			
Gross Annual Income	$374,950		
Annual Outgoings		$56,004	
Annual Net Income			$318,946
Year 2	$408,695	$60,484	$348,211
Year 3	$445,478	$65,323	$380,155
Year 4	$485,571	$71,202	$414,369
Year 5	$529,272	$77,610	$451,662
Year 6	$576,907	$84,595	$492,312
Year 7	$628,829	$92,209	$536,620
Year 8	$685,423	$100,508	$584,915

End of Year 8 Market Value
$584,915 capitalised at 92% =$6,157,000
Internal Rate of Return = 14.829o.

While the internal rate of return analysis is a factor that should be taken into consideration within improved Central Business District property valuations because it is a means of measuring alternative and dissimiliar investment opportunities that have different cash requirements, various income streams and reversions, it does not replace traditional methods.

With properties valued by the investment approach, emphasis is focused on the annualised rate of profit which can eliminate the differences of varying cash flows in providing the annual rate of profit, or internal rate of return.

Nevertheless, judgement and experience must be exercised by the Valuer, particularly regarding the validity of income and outgoing projections, the possibility of Government controls, quality of construction, stability and type of tenants and the host of other factors that influence the investment decision.

Given that the experienced Valuer has considered the differences between the properties and assuming that like is being compared with like, an investment that yields an *18%* internal rate of return is more desirable than one that yields a 15% internal rate of return.

At the present time internal rates of return analysis adopt a secondary role to the overall capitalisation of net rental method of valuation although with the more sophisticated use of calculators and given correct forecasting techniques the establishment of an internal rate of return for particularly the higher valued properties is becoming more commonplace.

In its use however, many assumptions are required to be made in forecasting future levels of annual rental inflow, annual outgoings which can be quite unpredictable and the likely price that the property will sell for at a given future date. Minor differences within one or all of these year by year forecasts can result in a suspect result.

How long should the projection period be? At present a suitable period for valuation purposes is currently considered to be not more than 10 years although in many long term leases, projections must be made over a greater time span.

It is obvious that if the rentals are overestimated and the outgoings or level of operating expenses are under-estimated, the internal rate of return will be excessive and with the converse the internal rate of return will be less than it should be.

Thus the object of using the internal rate of return methodology is to implement credible projections. In this context the Valuer is required to make reasonably predictable assumptions as to the future, some of them subjective, possibly supported by historical trends, which in the final analysis must stand the test of market acceptance.

The Need For Common Standards In The Valuation Of Property (Fixed Assets) For Financial Statements

by Graeme J. Horsley, F.N.Z.I.V.

The following address was given to the Property Management Institute A.G.M. and Conference at Wellington earlier this year.

Graeme Horsley is Senior Vice-President of The Institute and a senior partner in the firm Darroch Simpson and Co., Registered Valuers. He is a director of several private companies including those with hotel and retailing interests.

Individuals and small funds wanting an undiluted stake in commercial property but lacking the size to invest direct have over the last two years found considerable appeal in property company shares.

There is however one fundamental difference between the property company and other types of property investment vehicles. The property company is a corporate body whose shares can be quoted on the stock exchange.

The value of its shares will bear some relation to the value of the properties it owns and the income it derives from property operations. But the link is not necessarily a direct one. A property company's shares can fluctuate in the market without any movement necessarily taking place in the value of the properties it owns.

Their shares in the long run reflect broadly the movements in property values but are affected by many other factors as well, not least the general volatility of the stock market and the occasional thrills and spills of a takeover bid.

They are valued in the market on a mixture of income and market considerations and are probably a faster way both of making and of losing money than in property itself.

A fundamental characteristic of property companies is that their shares will normally stand at a discount which fluctuates from time to time to the value of the assets that back them.

There is general consensus that property companies need to revalue their assets but it is essential that investors and analysts know the basis of valuation of the property company's assets.

Recent press statements by property companies on the basis of valuation reveal the following differences in opinion as to revaluations.

City Realties believes property should be revalued periodically but conservatively. In the year to June 1983 City Realities benefited by a value increase from a revaluation of just three properties out of the company's portfolio of 22.

Aurora Directors said the properties revalued were all in the Wellington City and had been revalued using the generally accepted method based on economic return. The company had now set a policy of obtaining independent valuations on each property every three years, the directors will have regard to these valuations.

Ollie Newland said all properties are valued at fair market value. This is the figure that valuers assess that a willing buyer would pay a willing seller on the open market without any special deals being arranged.

Grosvenor's policy is, on revaluation all properties are revalued. The valuations are carried out by independent registered valuers. Before performing his valuation each valuer is given written instructions by Grosvenor which note the market valuation required is the figure at which the property may sell as between a reasonable, willing and able vendor and purchaser as at the end of the financial year taking all factors into account including the effect of the existing lease and the terms and conditions thereof.

Bob Jones has said in the light of the many new listed property companies and the likelihood

of increasing suspicion from financial commentators arising from differing revaluation practices the company would take an approach that could not possibly be criticised and value the entire portfolio annually by diverse and independent valuers.

In an earlier press statement Bob Jones had said "it is obviously desirable now that there is a sizeable public company list of property companies that uniformity in valuation practices should be adopted". With this statement I am in full agreement. Indeed it is essential that certain standards be adopted in the valuation of property for financial statements to protect the investing public.

To this end I attended the fourth meeting of the International Assets Valuation Standards Committee held in London in May of this year. Professional societies in 25 countries are members of the committee and 18 countries were represented in London. Here in New Zealand I have been representing the New Zealand Institute of Valuers in discussions with the New Zealand Society of Accountants and the New Zealand Stock Exchange where we are examining the possibility of adopting common standards in the valuation of fixed assets for financial statements which may well be enforced through an amendment to the stock exchange listing agreement in very much the same manner as has taken place in the United Kingdom.

The advent of the property company in New Zealand and the increasing practice of other listed companies including revaluations in their profit statements does indicate a need for New Zealand authorities to introduce certain standards in order to provide more relevant information to shareholders.

It is now essential that an avenue of communication be developed between valuers, accountants, auditors, directors and users of accounts on the subject of revaluation of property. Because of a combination of the relatively long life of property, general inflation and the movement in the specific prices of a company's property the relevance and usefulness to the various users of published accounts of the historical cost of the property declines over time. There is an obvious need therefore to provide up to date values.

In the case of a pure property company, investment properties should be included in the balance sheet at their open market value.

Investment property should be valued annually, valuations should be carried out by persons holding recognised professional qualifications and having experience in the location and category of the properties concerned. The valuations should be made by an "independent valuer" at least every three years.

Conceptually valuers should approach the valuation of investment property on the basis of the value of the property in the market place. It is desirable that the value of property should be subdivided into the following categories:

(i) Held as investment.

(ii) Being developed.

(iii) Held for development in the future.

(iv) Held for disposal.

(v) Owner occupied.

Directors and valuers should be required to use a more standardised description of the basis of valuation than is current practice.

There is an increasing measure of competition between property companies and the performance of each will be largely influenced by growth in the valuation of fixed assets. I cannot emphasise enough the pressing need for standards to be adopted to protect the investing public and to allow them to accurately assess the relative merits of the individual companies.

Naming Rights and Naming Rents - The Continuing Story

by W. K. S. Christiansen, F.R.I.C.S., Dip.T.P., M.P.M.L, M.N.Z.P.I., A.R.E.I.N.Z.

Ken Christiansen has contributed on this subject twice before, in the December 1982 and March 1983 issues of "Tbe Valuer". Mr Christiansen is a chartered surveyor and currently the Senior Lecturer in Land Economy at Auckland University.

Readers may recall the "First Survey" published in the December 1982 issue of this Journal. It defined naming rights, tabulated some 29 naming rents discovered around the country and then analysed these to produce suggested formulae for future naming rent negotiations. These were summarised as follows -

In Wellington, for the higher office buildings around 121% of the gross rent for a "typical", "middle" or "average" floor in the building; and in Auckland, for all office buildings with more than two office floors, around 8%.

Without searching them out, three subsequent examples of new naming rents have come to light. Two are in Wellington and one is in Auckland. The Wellington examples are 10 and 12

lfoors respectively and are thus both in the "higher" office buildings category (8 or more office floors). By adding these three buildings to the previous data and analysing the new totals we can see to what extent these conform with or depart from the suggested formulae.

Wellington

Previously analysed 5 buildings at 1982 rent levels.

	Total Naming Rents	Total of typical floor areas at typical floor rental rates	weighted Percentage
	$26,550	$210,465	12.61%
Add one new rent (1982)	11,337	96,290 (11.77%)	
	$37,887	$306,755	12.35%
Update to 1983 levels by adding arbitrary 10%	3,789	30,676	
	41,676	337,431	12.35%
Add second new rent (1983)	4,714	39,512 (11.93%)	
	46,390	376,943	12.31%

Auckland

Previously analysed 5 buildings at 1982 rent levels.

	$13,180	$158,738	8.30%
Update to 1984 levels by adding arbitrary 20%	2,636	31,748	
	$15,816	$190,486	8.30%
Add new rent (1984)	2,000	32,960 (6.07%)	
	$17,816	$223,446	7.97%

It would appear from this continuing evidence that the formulae originally suggested remain valid in the market place. The three new naming rents are slightly lower individually than the weighted percentages. The weighted percentages have edged only marginally downward in each case. They still conform with the suggested formulae: 12.31% is "around 12z% and 7.97% is "around 8%. From comments made by leasing agents, and others involved in the supply of office accommodation in Wellington and Auckland, the formulae appear to have gained a degree of general acceptance.

If it is thought that explanations are required for what might be seen as a possible downward trend, these are readily available and would suggest that no such trend can be assumed. The new Wellington 1983 naming rent of $4,714 is in fact a renegotiation of a naming rent in respect of a building completed in 1975. At the time of the first survey the naming rent was only 4.57% of the typical floor rent. At the time of the first survey a respondent offered the opinion that the naming rent was too low and, for reasons stated in the first survey, it was excluded from the final sample. The naming rent for this building has now been negotiated at 11.93% of the typical floor rent.

The new Auckland 1984 naming rent of $2,000 also applied to a building which is not new: it too dates from the mid-1970's. Naming rights were granted but no specific naming rent required. This is also a renegotiation situation: from nothing to 6.07%. This is less than the historic weighted average of 8.30%, but a lot closer to it than nil %.

The majority, and probably all, of the naming rents disclosed in the first survey were negotiated at the time those buildings to which they applied were being completed. In other words they were first negotiated for first leases in new buildings. What are now surfacing are naming rent negotiations in respect of buildings where, in one case the previous naming rent was "nominal", and in the other case it was non-existent. One could reasonably expect such a catching-up process to result in less than maximum and even less than average naming rents. The negotiating strength is more likely to vest in the lessee than in the lessor.

In conclusion therefore these newly analysed naming rents would appear to support the value attracting to naming rights rather than being indicative of any softening in the level of naming rents. When incorporated into the existing data they decrease the weighted averages marginally. They encourage the notion that naming rents are a feature of current leasing and rental valuation techniques. They do nothing to reduce the validity of the formulae resulting from the ifrst survey published in 1982.

It will be interesting to see the results of a comprehensive second survey a few years hence, if such is undertaken. In the meantime, the writer would be pleased to be notified of any naming rents negotiated since 1982, anywhere in New Zealand. As a matter of interest the first survey findings have subsequently been published in professional valuation journals in Australia, Singapore, the United States and probably will also be in Britain later this year.

Computer Wise

DOES THE COMPUTER HAVE A PLACE IN YOUR OFFICE?

by R. V. Hargreaves.

PART III: COMPUTER HARDWARE.

Bob Hargreaves is a Senior Lecturer in Valuation at Massey University, Palmerston North. He is also the Councillor for Central Districts and is a member of the New Technology Committee.

This is the third and final article in the current series.

Once the valuer has decided that suitable computer programmes (software) are available the next step is to investigate the type of computer equipment (hardware) needed to run that software. Making computer selection decisions is more complicated than deciding what type of new car to purchase because while the uses for automobiles are already well understood it is often said that the potential uses for computers are only limited by the imagination of the users.

In order to evaluate the merits of various computer systems the valuer needs to have an elementary understanding of the basic computer equipment likely to be found in the future valuation office. This equipment is illustrated in Figure 1.

Input Device: This is a device that enables the user to communicate with the computer. At present this is typically a typewriter-like keyboard. As the information is typed into the computer it is displayed on a visual display unit (VDU) which monitors communications to and from the computer. As discussed in the previous article in this series recent developments in input devices are touch sensitive screens, the joystick or `mouse' device, and voice recognition.

Central Processing Unit: The heart of all computer systems is called the central processing unit (CPU). The CPU is based on one or more silicon chips that control the functions of the computer. The main components of the CPU are an arithmetic unit, an input/output unit, and a memory unit. Pre-programmed instructions are permanently held in the read only memory (ROM) and programmable instructions in the random access memory (RAM). The computational speed and thus power of the computer is a function of the type of chip used in the CPU. Most existing microcomputers use the slower and less powerful eight-bit CPU chips. Newer machines usually offer sixteen-bit CPU chips and a few of the latest models use thirty-two bit chips. Sixty-four bit chips are being manufactured for large computers and no doubt will soon be used in microcomputers.

Storage Devices: The internal storage device for a computer is called the random access memory. The capacity of the RAM is governed by the type of chip used in the CPU. Business computers with eight-bit CPU chips typically have a starting capacity of approximately sixty-four kilobytes (65,536 bytes or memory cells). As a number of popular electronic spread sheet programmes require more than 64 (K) RAM valuers should make sure that the machine that they purchase has an expandable RAM.

Since computers only retain information in the RAM while the power supply is turned on it is necessary to have an external storage device connected to the computer. There are a wide variety of external storage devices currently in use and these are typically based on magnetic discs. (Standard audiotapes interfacing with the computer by means of a tape recorder can be used as a cheap storage mechanism but are too slow and unreliable for business use). Magnetic discs come in `hard' or `floppy' format. Floppy discs are made of soft plastic that has been coated with magnetic material for recording informa-

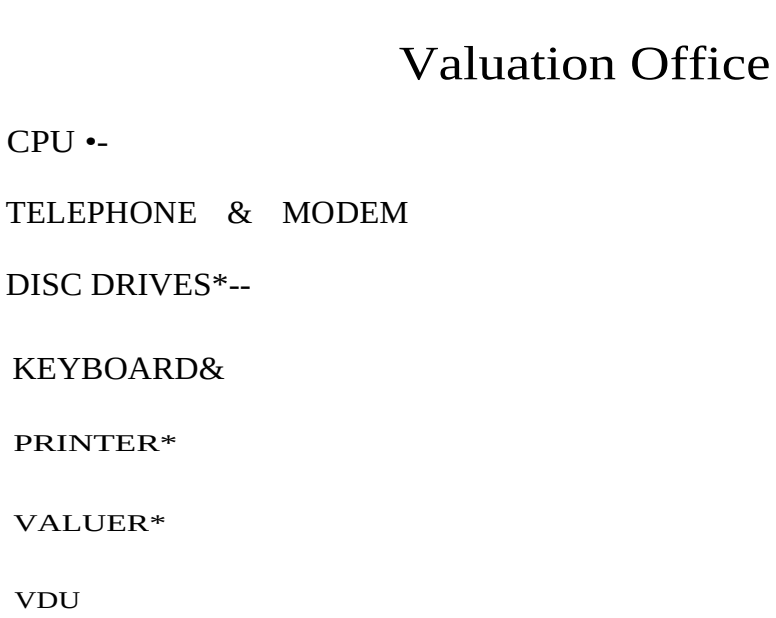


Figure 1: Future Valuation Office.

Lion. The floppy discs are read by a device called a disc drive which operates in a similar fashion to a tape recorder. Floppy discs are usually either 5*in. or 8in. in diameter. There is a movement by some manufacturers towards smaller floppy discs for portable computers but as yet an industry standard has not emerged. It is possible to store approximately 2000 sales or 100 microfiche frames on one 5Iin. floppy disc.

There is also not an industry standard between manufacturers in the way that information is written onto a floppy disc. This means that a 5jin. floppy disc in say Altos format will probably not be able to be read by an IBM computer. Problems can also arise when computer manufacturers upgrade their disc operating system so that the old model machine may not be able to read a disc in the new format. Fortunately, most of these problems can be overcome (at a price) by disc to disc conversions.

When it is necessary to store large amounts of information in computer format it may be necessary to contemplate using a hard disc instead of floppy discs. Hard discs are considerably more expensive than floppy discs but can store much more data and allow the user approximately 10 times faster access. Valuers operating in large cities are likely to find that hard discs are the only practical method of storing large volumes of easily retrievable sales data in their office. The recent development of removable hard discs for micro-computers enables the information to be duplicated on another hard disc and will overcome the need to use floppy discs as a `back up' mechanism.

There are likely to be technological developments in the future, such as bubble memories, which will result in improvements in the storage of computer information. The current tape and disc drive systems have a relatively large number of mechanical parts and these tend to break down more frequently than other non-mechanical computer components.

Output Devices: The VDU acts both as an input and output device. Some of the less expensive computer systems utilise a standard house-hold television set as the VDU but this approach is not generally suitable for business use. Household television sets do not have the high resolution and anti-glare screens necessary for comfortable working conditions.

When the user requires a `hard copy' of the output it is necessary to connect the computer to a printer. There are a wide variety of printers that can be used and this technology is also undergoing rapid changes. At the present time most users find that the lower cost dot matrix type printers are only suitable for draft quality work and that the more expensive and slower daisy wheel type printers are necessary to produce high quality results. It is possible to interface some brands of standard electric typewriters with computers but so far the results appear to be disappointing due to very slow print speed, cost of the interface equipment, and the level of equipment failures.

Communication Devices: Computers can communicate with other computers by using the telephone system. To connect a computer to the telephone system requires an additional piece of hardware called a modem (modulator/demodulator). The least expensive modem is the acoustic coupler type as shown in Figure I. A standard telephone headset fits into a pair of rubber cups that are connected to the computer. This type of modem has a relatively slow data transmission rate. Modems that are directly wired from the telephone system into the computer can transmit data much more rapidly and the more expensive models have features such as automatic dial-up and answer phone. In the author's opinion there is little doubt telecommunications will become increasingly important as a mechanism of distributing information to valuers. The Dunedin ifrm of J. O. Macpherson and Associates have several years experience in this area. The author understands that several large North Island valuation practices are planning to use the Macpherson system of electronically distributing sales data from a central computer.

Viewdata:

Another exciting communications development is the `Viewdata' system currently being tested by the N.Z. Post Office and a number of computer companies. Viewdata is a generic term used to describe systems that use a standard protocol and make use of a telephone, keyboard, modem and television set to link the user with computers all over the world. Standard microcomputers can be readily adapted to link into the system.

It is likely that many valuers will be attracted to a Viewdata type system as initial studies by the NZIV Technology Committee have shown that equipment costs can be minimised and the system appears easier to learn to use than most existing computer systems. Viewdata makes use of the package switching system currently being introduced by the Post Office. Computer technology is utilised to enable a number of users to share telephone circuits dedicated to very high speed data transmission. The current charge for data calls within New Zealand is 8c per minute. Viewdata will be discussed in more depth in a article in this section of the journal.

Ownership Costs:

The pre-tax annual costs of owning a microcomputer are approximately one third of the, capital costs of the hardware and software. Thus if a valuer purchases an $18,000 system the annual costs will be around $6000. Several calculations showing the ownership costs of an average sized microcomputer are shown in Appendix I. It can be seen that about half the cost of owning a computer is the depreciation factor. Costs can sometimes be minimised by purchasing good second hand equipment. For example, it is quite common for certain brands, of one year old used equipment to sell for about half the new cost.

Summary:

Valuers contemplating a computer purchase should work through the following list in the order given.

1. Consider the objectives of the valuation practice and the individual members of the practice. Microcomputers have been described by some critics as a product looking for a problem to solve. Computers are definitely NOT for everyone! If the existing manual systems work efficiently then what justification is there to complicate things by introducing a computer?
2. Examine the potential computer applications for your business. Talk to other valuers and perhaps consider using a consultant to help you in this area. The biggest payoff from introducing a computer may be a use that you had not even thought about.
3. Evaluate the existing software for the applications that you are considering. Always opt for proven software in preference to untried programmes. Pioneering has a high cost since almost all new custom programmes don't work properly when first introduced.
4. Finally, after completing the first three steps settle on a suitable type of computer equipment. Try the computer out in your office before purchasing the equipment. (Sales people can be less than helpful once you have paid for the equipment).

Brannstrom and Klemme11' suggest that if the potential user follows the above four steps then it may be possible to avoid the 10 pitfalls outlined by the U.S. based Association of Computer Users.

Ten Pitfalls to Avoid When Buying a Small Computer:

*Buying Backward - don't buy first and ask questions later!

*Inadequate Contract or No Contract At All! - get it in writing!

*Failing to Test Drive the Equipment - see it run!

*Buying Blind - look at all the alternatives.

*Passing the Buck don't delegate the decision to someone who doesn't really know what you want!

*Unrealistic Expectations - don't expect too much too soon!

*Ignoring Hidden Costs include all cables, forms changes, etc.

*Buying from the Wrong Supplier - look for a knowledgeable dependable local supplier if possible.

*B Buuyyiinngg a "Dead-End" Machine - try for a machine with a future!

Buying for the Wrong Reasons - clearly state your goals before buying.

Conclusions

There may be a temptation for some valuers to avoid making decisions about computer systems on the grounds that the industry has not yet stabilised and costs are likely to continue to fall. While sympathetic to this view the author is of the firm opinion that valuers will be left behind by other professionals unless they come to grips with the new technology. The longer one leaves it the harder it will be to catch up.

It is unfortunate that there is still a mystique surrounding computers that has the effect of making many of us feel fearful and somewhat threatened by computers. No doubt part of the problem is the complex `jargon' that some computer people still insist on using when talking to lesser mortals, and another difficulty is that some computers are not programmed to be user friendly. Fortunately our children quickly see through the jargon and are not inhibited by computers, using them as a tool to assist in learning, playing games etc.

Experience from a 1983 course for practising valuers held at Massey showed that 95 per cent of the 60 participants began to use simple programmes within half an hour. Only a small minority of the participants had previous computer experience. Thus computers can be made to be friendly if they are programmed appropriately.

Reference:

Brannstrom, A. J. and Klemme, R. (1983) "Problems and Opportunities in Buying a Small Computer for the Farm". Journal of the American Society of Farm Managers and Rural Appraisers, pp. 3-9.

Appendix I

Ownership Costs:

The cost information shown in Tables 1 and 2 was calculated as at August 1984 and should be only used as a general guide.

Table 1: Estimated Initial Hardware Costs:

	Low	High
Computer (includes keyboard, dual disk drives, CPU, VDU and 64K RAM)	6000	10,000
Extra 64 K RAM	-	500
Matrix Printer and Interface	1,500	2,000
Correspondence Printer	-	6,000
Winchester Hard Disc (5 megabyte)	-	6,000
	$7,500	$24,500

Table 2: Estimated Initial Software Costs:

	Low	High
Word Processing	125	800
File Management	250	900
Electronic Spread Sheet	150	700
Accounting	500	1,200
Operating System	-	500
	$1,025	$4,100

Table 3: Fixed Cost Factors:

Depreciation (100%-10%)/5 years	=	.18
Interest on average investment (.16/2)	_	.08
Repairs (0-10% of new price) (or Service Contract)	_	.05
Insurance (1% of new price)	_	.01
		.32

	Low	High
Total Hardware and Software Costs	$8,525	$29,600
Fixed Cost Factor	.32	.32
Estimated annual cost of ownership	$2,728	$9,472

The yearly ownership costs range from $2728 (low end) to $9472 (high end). Variable costs (discs, paper, electricity, ribbons) would range from $200-$400 per annum.

Valuers should be aware that these cost comparisons are made on the basis of an average sized microcomputer and that it is possible to spend far more on both hardware and software, particularly if multi user equipment is being contemplated.

Apportioning Rural Land Values

by R. V. Hargreaves.

Bob Hargreaves is a Senior Lecturer in Valuation at Massey University, Palmerston North. He is the Councillor for Central Districts and is a member of the New Technology Committee. Bob has contributed regularly to "The Valuer" on the practical application of computers to valuation practices.

In rural valuation work `land value' is normally the single largest component of the total value of a property. Land value is the value of the property exclusive of structural improvements (such as fences and buildings) and inclusive of non-structural improvements (such as grassing and underground drainage).

Land value as defined under the Valuation of Land Act 1951 is used as a rating base by the majority of rural local authorities. A number of rural lenders require the land value component to be shown in the valuation report. The majority of rural valuers use the land concept in their day to day work.

The standard approach to determining land value is to use comparable sales information. While it is quite rare for rural land to change hands without any structural improvements, sales with a minimal amount of structural improvements are reasonably common. Land value can be determined by deducting the value of the structural improvements from the capital value. For example, suppose the valuer is analysing a farm sale in a North Island hill country district and details of the sale are as follows:

Sales Analysis	$
Sale price	520,000
Deduct value of improvements at sale (fencing, water supply, tracks)	25,000
	$495,000

Area of farm - 330 ha
Price paid per ha for land $1,500

A detailed inspection of the sale reveals that there are three distinct classes of land. These consist of:

Flats	30%
Easy undulating	*40%*
Steep hills	30%

To complete the sales analysis it is now neces. sary to apportion the land value between the three classes of land. Let us suppose the valuer decides, based on his knowledge of the market, that the value relationship between each class of land expressed on a scale of 1-10 is as follows:

Flats	9/10
East undulating	6/10
Steep hills	3/10

The above information can now be expressed in terms of a simple equation in which there is one known quantity (the average land value) and three unknowns (the amount paid for each individual type of land). Thus,

.3(Flats) + .4(Easy undulating) + .3(Steep hills) $1500 (Average land value).

To solve for one of the unknowns the equation needs to be rewritten in terms of one land class. Solving for flat land we have:

.3(Flats) + .4(6/9)(Flats) + .3(3/9)(Flats) $1500

and

.3(Flats) + .2666(Flats) + .0999(Flats) _ $1500

and

.6666(Flats) = $1500

Flats = $2250

Having solved for one of the unknowns the valuer can solve for the other two unknowns by using the values on the rating scale.

(6/9)(Flats) = Easy undulating
(6/9)($2250) = Easy undulating
Easy undulating = $1500

and

3/9 (Flats) = Steep hills
3/9 ($2250) = Steep hills
Steep hills = $750

To check the calculation see if the apportioned values equal the average land values. We have:

.3($2250) + .4($1500) + .3($750) = Average land value
675 + 600 + 225 = Average land value
Average land value = $1500

In addition to being useful as a method of analysing rural sales data this method can also be used to value a subject property when the valuer knows the land value of at least one class of land and the value relationship between the various classes of land. For example, let us assume that a subject farm is situated in the same district as the previous sale and comprises:

20% Flats
30% Easy undulating
40% Steep hills

The valuer has ascertained from sales analysis that the flats are worth $2250/ha. Using the same value relationship between the classes of land as in the first example we have:

.2(Flats)($2250) + .3(Easy undulating) -1-
.4 (Steep hills) = Average land value
.2 ($2250) + .3 (6/9)($2250) 4-
.4 (3/9)($2250) = Average land value
.2 ($2250) + .2 ($2250) +
.1333($2250) = Average land value
$450 + $450 ±
$300 = Average land value
. Average land value = $1200

The above approach to apportioning land value between different land classes relies on the assumptions made by the valuer about the value relationship that exists between various classes

of land. There are two ways to establish this value relationship. The first approach is to analyse a number of sales using the same assumptions regarding the value. The results of the analysis can then be scrutinised to see if the range of prices apportioned to each class of land is reasonably consistent between properties. If this is not the case the valuer will need to change the assumptions and re-analyse the sales until the prices for each class of land fall within acceptable limits. This method can be quite time consuming as a considerable amount of calculations are often necessary.

To reduce the time involved in using this method a computer programme has been developed to apportion land values. The valuer supplies the name and value relationship between the land classes with either the average selling price or the price of one class of land. The computer is programmed to do the arithmetic and print a paper copy of the results. The programme was written in the Pascal computer language by Mr S. A. Thomas and is mounted for student use on the Prime 750 computer at Massey University. The demonstration part of the programme as it appears on the computer screen is shown in Appendix I.

The second approach that the valuer can take to analyse land value for different land classes is to use statistical methods. Work in this area has been pioneered by Dunedin valuer Alex Laing' in the analysis of high country land sales in Otago and Southland.

To illustrate the use of statistical methods in the analysis of land value we will consider an example group of dairy farm sales shown in Table 1.

Table 1: Sand Country Dairy Farm Sales

	Sale No.									
	1	2	3	4	5	6	7	8	9	10
Time and size adjusted land value price/ha	2800	3100	2500	2750	2700	2750	3250	3000	2800	2270
Light sand lfats (%a)	20	10	40	25	30	50	5	30	25	55
Medium sand lfats (%)	50	40	40	45	45	10	35	20	40	40
Heavy sand flats (%)	30	50	20	30	25	40	60	50	35	5

1 Laing, A. (1983) "Sales Analysis Applications". Address to Computer Awareness Course for Valuers, Massey University.

Using the statistical method of multiple regression analysis to determine the values for the three classes of land we find that the equation is as follows:

Equation coefficients:

Constant	777.222
Variable (1) (Light sand flats)	1169.0429
Variable (2) (Medium sand flats)	1728.281
Variable (3) (Heavy sand flats)	3028.7914

Coefficient of Determination R2 = .9942
Residual Standard Deviation = 26.2641

Thus if our subject farm had 15 per cent light sand flats, 25 per cent medium sand flats, and 60 per cent heavy sand flats the predicted selling price of the land (Vp) would be as follows:

Vp = 777.222 + 1169.042(.15) + 1728.282 (.25) + 3028.791(.6)
Vp = $2424/ha

The value relationship between the various classes of land can be ascertained by firstly assuming a subject farm with just one class of land and solving in turn for each class.

Light sand flats = 777.222+ 1169.042
1946.264
Say $1950

Medium sand flats = 777.222 + 1728.282
= 2505.504
Say $2500

Heavy sand flats = 777.222+ 3028.791
3806.013
Say $3800

The relationship between any two classes of land can be quickly established by dividing the per hectare value of one class into the per hectare value of another class. Thus the relationship between light sand flats and heavy sand flats will be .513 (1950/3800).

Using multiple regression analysis as a method of apportioning rural land values is subject to the usual criticism that small numbers of sales mean there can be problems with statistical reliability. The main advantage of the method is that it does not rely on assumptions imposed by the valuer.

In summary the correct identification and apportionment of land value is very important in a wide range of rural valuation circumstances. Perhaps the most dramatic example is in some horticultural areas where land that can be planted in kiwifruit could be worth between five and ten times as much as land that is unsuitable for kiwifruit. Although the methods of apportioning land values described in this paper have been available for some time, as yet they are not widely used by rural valuers. It is hoped that with the increasing availability of microcomputers to reduce the computational work rural valuers will be encouraged to test these methods.

Appendix I

APPORTION COMPUTER PROGRAMME DEMONSTRATION

Let's suppose a 200 ha sheep farm comprises 20% flats and 80% hills. Your sales analysis reveals that the average land value is $1000/ha. You estimate that the flats are worth 507, more than the hills. From this we can assign a value rating of 9 (on a scale of 1-10) to the flats and a value rating of 6 (on a scale of 1-10) to the hills.

Class	Area (°Jo)	Ratnig (1-10)
Flats	20	9
Hills	80	6

TOTAL AREA (ha)	200
MEAN VALUE ($/ha)	1000

You enter these values into the appropriate ifelds in the table and then press "p". `Apportion' will come back with the following information.

Class	Area (ha)	Value ($/ha)	Value ($)
Flats	40	1364	54560
Hills	160	909	145440

TOTAL VALUE ($) 200000

You can then write this information to a file for later printing, change the input information slightly and process again, and/or start again.

Ellwood plus Computer equals Property Investment Analysis

by Wilson A. Penman, A.N.Z.I.V., M.P.M.I.

Wilson Penman is a lecturer in Urban Valuation and Property Management at Lincoln College. Prior to taking up his appointment in 1981 he was employed by the Valuation Department for five years in Christchurch and Hamilton. Wilson has a special interest in investment analysis of urban property and computers.

Valuers have been involved in the field of property investment advice for many years but as the property market has become more informed and sophisticated, so too have the questions being put to investment advisors. This has resulted in the profession adopting "new" techniques such as Discounted Cash Flow Analysis and Internal Rate of Return Analysis. Some investors, mainly the large insurance firms, now expect investment analysis by advanced techniques to be completed on all their investment properties and some valuing firms are coming to grips with these techniques.

In many cases, complex financial models are not appropriate for the non-institutional investor due to the time involved in preparing full cash flows, completing sensitivity analysis, and the limited understanding of these techniques by many investors.

The availability of the micro-computer provides the property investment advisor with a tool that readily examines alternative property investment options and presents the information in an easily understood format. The analysis method programmed into the computer is the Ellwood Mortgage Equity Capitalisation Technique. This method, which calculates the price an investor can pay for a property to satisfy certain investment criteria, is well known to many valuers.

It requires the following information:

(i) The % return the investor requires on his capital input.
(ii) The % of purchase price to be borrowed.
(iii) The interest rate of the loan monies.
(iv) The loan term.
(v) The holding period of the investment.
(vi) The anticipated capital growth or decline over the holding period.
(vii) The average annual net operating income.

Given the above information the Ellwood formulae will calculate a capitalisation rate that when applied to the net income stream indicates the price that the investor can pay for the property to achieve his required yield. The indicated price rarely relates to market value due to the divergence of yields that individual investors require, and for this reason the technique is seldom used as a valuation tool in this country.

By programming this technique for computer use it is possible to quickly reverse the calculation and estimate the yield that an investor will obtain if the purchase price of the property is known. For those valuers who have used the Ellwood technique manually you will appreciate that it is possible to calculate an approximation of yield if purchase price is known but that the exercise is time consuming and subject to computational error.

To illustrate the potential of the Ellwood technique aided by the micro computer, consider the following hypothetical situation:

A Valuer is approached by a client requiring investment advice. The client wishes to purchase a typical industrial building and provides the valuer with the following information:

Proposed Purchase Price		$500,000
Project Gross Income	Year 1	$57,000
	Year 2	$57,500
	Year 3	$57,500

Equity Cash Available $100,000-$200,000

Balance required can be borrowed at 11% on a flat mortgage.

The client anticipates a rent review in Year 4 with an increase in rentals of 40%.

Operating Expenses are estimated at 100/0 of Gross Income.

Gross capitalisation rates are expected to remain at 11.5%. This gives an assumed sale price of $700,000 at the end of Year 4.

THE CLIENT WISHES TO KNOW THE FOLLOWING:

1. What will be the return from the investment if the full $200,000 is invested.
2. Will the return be lower or higher if only $100,000 is invested.
3. What return would be obtained if the rents were increased by only 10% on review.
4. Will the return be lower or higher if a 25 year table mortgage is obtained.

Using the Ellwood technique and a computer to do the calculations, a quick approximation of the true rates of return can be obtained allowing considered advice to be given to the client.

The client's first two questions deal with the amount of equity invested. In testing one variable such as the loan to value ratio, all other variables must remain constant. The following results were obtained rapidly with the computer in response to questions 1 and 2.

Equity	Loan	Loan to Value Ratio	Rate of Return
$200,000	$300,000	60%	28%
$100,000	$400,000	80%	41%

The results clearly show the impact of leverage as the return on equity substantially increases as the loan to value ratio increases.

In response to question 3 the computer produces the following answer:

Equity	Loan	Loan to Value Ratio	Rate of Return with Rental Growth at 40%	10%
$200,000	$300,000	60%	28%	15%
$100,000	$400,000	80%	41%	19%

As expected a reduction in the rate of rental increase reduces the yields obtained from the property. If the client was to purchase the property with an equity input of $100,000 and the minimum yield he would accept was 19% then a rental increase at the review date of less than 10% is unacceptable to him. The valuer can present this information to his client making him better informed for his investment decision.

In this example the final area the client wishes to test is the impact of a flat versus table mortgage on the yield. Using the most likely options fixed for the client and recommended by the consultant the impact can be tested.

i.e. rental increase of 40% and equity input of $100,000.

The result of this analysis shows that in the above situation a table mortgage reduces the internal rate of return by 0.5% as a table mortgage results in principal repayments which increase the equity input thus reducing the impact of leverage. The client would have to weigh the impact of this with the availability of table mortgage funds as against the probability of successfully refinancing a flat mortgage after a three year term. Judged solely on impact to return neither option is better than the other.

As investors purchase investment property in the anticipation of returns then in order to estimate the yield that a property may provide it becomes necessary to estimate the level of future returns. There can be no certainty in predictions of the future only a level of probability that your predictions will be correct. Therefore, it is the valuer's responsibility to use his experience and expertise to estimate the most probable values of variables and anticipate reasonable levels of variation so that when variations do occur their impact on yield will hopefully already be estimated.

By coupling the Ellwood formula to a microcomputer the valuer is presented with a valuable tool that will allow the rapid testing of investment options in a manner that most property investors will understand. This tool is only the ifrst step in a total investment analysis and property management service but it can quickly clarify investment options which can then be studied in greater detail by a full Discounted Cash Flow analysis.

PROGRAMME

The following programme calculates the adjusted Ellwood capitalisation rate. It is not the full programme that was used in this article but it will give the valuer with a computer an introduction to the potential of the machine at his disposal.

The programme is designed for a computer with a CP/M operating system, running MBASIC. To enter the programme on your computer type in MBASIC then press the return key. The screen will then display the prompt OK.

Type the following programme listing EXACTLY as written:

```
100  PRINT
110 PRINT
120  INPUT "ENTER THE REQUIRED EQUITY YIELD", Y
130  IF Y<1 THEN Y=Y/100
140  INPUT "ENTER THE LOAN TO VALUE RATIO",M
150  IF M>1 THEN M=M/100
160  INPUT "ENTER THE LOAN'S INTEREST RATE",I
170  IF 1>1 THEN I =1/100
180  INPUT "ENTER THE LOAN TERM",N
190 INPUT "ENTER THE HOLDING PERIOD",HP
200 SFF=Y/((1+Y) AHP-1)
210 P=((1+I) AHP-1)/((1+1) AN-1)
220 F=I/(1-(1/(1+1) AN))
```

```
230   BR=Y-M*((Y+P*SFF)-F)
240   INPUT "ENTER THE TOTAL CAPITAL
      GROWTH",QU
250   AP:- 1
260   IF QU>O THEN AP = -1
270   IF QUKO THEN QU=QU* -1
280 QU=QU/100
290  NA=QU*SFF
300 AR=BR+(AP*NA)
310   PRINT
320   PRINT "THE ADJUSTED CAP. RATE
      IS",AR* 100
330   INPUT "CALCULATE A NEW CAP.
      RATE . . . Y/N", CHOICE $
340   IF CHOICES = "Y" OR CHOICE$ = "y"
      THEN 120
350   SYSTEM
```

Having completed this then type:

```
SAVE "ELLWOOD"
```

This will save the programme on disk.

To run the programme type:

```
RUN
```

The programme will then run. Since the programme has been saved to disk it can be run at any time by typing MBASIC ELLWOOD.

Use the following information to check that the programme has been typed in correctly:

YIELD	=	25
LOAN TO VALUE RATIO		60
LOAN INTEREST RATE	-	15
LOAN TERM		25
HOLDING PERIOD	=	5
CAPITAL GROWTH	-	50

If the programme is working correctly an adjusted cap. rate of 12.958 will be given, and it will also ask you if you wish to calculate another cap. rate.

Points to note for the correct input of data to the programme:

(i) The figure for capital growth represents the total percentage growth over the holding period and not an annual percentage. The 50 in the above set of tests data represents a 50%o increase in the value of the property of the holding period. i.e. He purchases the property for $200,000 and sells it for $300,000. If the value is expected to decrease over the holding period this is represented by a negative percentage i.e. -50%.

(ii) The loan to value ratio is the percentage of purchase price borrowed. i.e. If the purchase price was $500,000 and the loan amount was $300,000 then loan to value ratio becomes:

$$\frac{\$300,000}{\$500,000} \times \frac{100}{1} = 60$$

(iii) Net Operating Income is the average annual net income before mortgage repayments, over the holding period.

Once the adjusted capitalisation rate is calculated then the indicated value can be found through the formula:

$$\frac{\text{NET OPERATING INCOME}}{\text{ADJUSTED CAP. RATE}} \times \frac{100}{1}$$

$$\frac{\$55,000}{12.958} \times \frac{100}{1} = \$424,448$$

If the indicated value corresponds to the market value then the yield from the investment will be the percentage that was entered under the heading YIELD. However, it is unlikely that the price calculated in this manner will correspond to the purchase price being asked for the investment and thus the true return will differ from the desired yield. To approximate the true yield available to the investor by paying the purchase price asked, simply recalculate on a trial and error basis, inputing different yields into the programme until it produces a capitalisation rate that approximates the asking price.

Details of the more sophisticated Ellwood Programme and further property investment analysis programmes will be available through the New Technology Committee of the Institute.

Marketing Value and Finance: Urban Property

by M. E. Gamby, Dip. U.V., A.N.Z.I.V., M.P.M.I.

The following address was presented to the New Zealand Institute of Surveyors Urban Development Seminar in May, 1984. Evan Gamby is a partner of Mahoney, Young and Gamby, Registered Valuers, Property Managers and Property Consultants, Auckland.

Thank you for your invitation to attend this seminar and to give you some of my thoughts on the subject of marketing, value and finance of urban property.

The summary of topics given to me clearly indicates that it is within the specific areas of cross-lease and unit title "home units" that my comments should be framed. I will therefore avoid making than a brief reference to more other forms of urban or semi-urban property, which you might consider suitable as a topic for some future seminar.

One of these semi-urban type properties which could give rise to an interesting seminar topic is the subdivision of land on the urban/rural fringe. In some locations, notably Takapuna City, subdivision of small blocks is permitted in specified locations of the city. Unquestionably, there is a demand by the alternative life stylist for a parcel of land larger than the normal 600 to 800 sq. metres site, but not necessarily in the 4-hectare category, this being a legacy of earlier Town Planning mismanagement.

A further topical subject would be the subdivision of office buildings into strata titles under the Unit Titles Act 1972. Some of these properties have been sold off on a floor-by-floor basis and others as a series on what might be called side-by-side titles. Some leases are being drawn up with the intention of permitting owners to sell floors on a strata title basis at a later date. Whether lessees will accept the possibility of a split-ownership remains to be seen.

You can imagine the problems that could arise where the surveyor has strata-divided a building as instructed but where, in the design of services, split ownership has not been foreseen.
Not long ago I came across a situation where the air-conditioning system for one strata title unit was located wholly on the roof of another, with a very mixed system of ducting and wiring connecting the two. Perhaps that doesn't sound important, but you can imagine the reaction of an office lessee if he is constantly being bothered by tradesmen taking his ceiling apart to service adjoining space. As it has nothing to do with his leased area, or for that matter the property owned by his landlord, he might be forgiven for not being very co-operative. Might I suggest that this could be an area where surveyors will have to exercise caution in the future, if for no other reason than to protect an unsuspecting public. Long after the developer has sold the package, (you the surveyor) will still be identifiable as the one who surveyed the property for the unit titles and signed the plan.

On researching this topic, I was very heartened to find that there is nothing I can refer to as background material - little in the way of government statistics on the subject, no research papers that I could find, and no comparable addresses given by registered valuers in recent years. Although I could find no articles written by valuers on the subject, you may be interested to note that in my research I came across an address given by Mr R. M. (Bob) McGough, the immediate past preseident of the New Zealand Institute of Valuers, at a forum on residential multi-unit development sponsored by your Auckland branch in September 1971.

His topic was "To lend or not".' I commend that article to you as interesting background reading on the subject of home units. It does give a valuer's views on the subject at a time when the development of home ownership flats was gaining momentum. However, he deals only with the financing side and although the principles he enunciates have not changed since then, an article 13 years old in this day and age must rightly be considered more than a little dated.

This subject has been neglected and yet it is one where sound well-researched information should be available to surveyors.

The subject is broad, and it would be presumptuous of me to comment on all areas in any depth. I will limit my succeeding comments to those areas where I believe I can offer a constructive opinion.

a. Public preference for cross-lease or unit titles:
It has been my experience that the public has no clear conception of the differences between cross-lease and unit titles. In an imperfect world real estate salesmen are the first contact with the buyer and advertise flats either as "home units", "city hideaways", "townhouses", "luxury apartments", "strata titles", "dwelling units" or whatever is the current fashion of the day. It is too late for a lesser expert such as a surveyor, valuer or lawyer then to point out the precise differences in title, unless this will have a strong bearing on whether the sale will go through. Naturally this comes down to whether finance is available.

Accordingly, public preference for a different form of real estate tenure in general terms will only be effected if there is a demonstrable reason why one form of tenure is more easily financed than another. Today, finance appears to be almost as readily available for cross-lease as for unit titles.

The above is a simplistic statement and there are some exceptions, but firstly let us look at the

market we are dealing with and some statistical information.

Over the past 14 years home unit flats have established themselves as a significant sector of the real estate home-ownership market. Table 1, which is based on the Valuation Department's six-monthly report,2 traces that growth. Between June 1970 and June 1975, flat ownership sales in the 38 urban areas increased from 6.94% to 23.4% as a proportion of total home-ownership sales, disregarding section sales.

Between June 1975 and June 1983, the percentage has fluctuated slightly but has never been below 20.26% and is currently at 21.95%. The highest figure recorded was in June 1976 at 25.10%.

To summarise, in the main urban areas between one-fifth and one-quarter of all homes sold in any one year are units.

Are these purchasers happy? The continuing high volume of sales confirms that there is a strong demand for units but other factors should also be considered. Many purchasers of home units are using this type of tenure as a stepping stone, and this comment particularly applies to the lower priced units. Other units are purchased by elderly people and resales must be expected more quickly on this account alone. For the three years that turnover records have been published, flats are shown to have a turnover rate approximately twice that of the traditional detached dwellings, as set out below:

TABLE 1.

NUMBER OF SALES AND AVERAGE SALE PRICES ($) FOR HOUSES AND OWNER OCCUPIED FLATS SOLD ON THE FREEHOLD OPEN MARKET FOR THE PRINCIPAL URBAN AREAS.

		A. HOUSES		B OWNER-OCCUPIED FLATS	
Half Year Ended	No. of sales of B. as a percentage of A. & B.	No. of Sales	Ave. Sale Price ($)	No. of Sales	Ave. Sale Price ($)
June 1970	6.94	13159	10641	982	11434
Dec. 1970	8.24	14168	10917	1272	10637
June 1971	7.56	14011	11048	1146	12314
Dec. 1971	10.31	14640	11476	1683	12806
June 1972	10.68	15717	12715	1880	13617
Dec. 1972	11.34	17427	13696	2228	14212
June 1973	11.83	18743	15532	2514	15508
Dec. 1973	12.66	21310	18528	3088	17319
June 1974	15.23	17401	22667	3127	21918
Dec. 1974	18.21	12916	24151	2876	23731
June 1975	23.41	11149	25205	3408	23258
Dec. 1975	22.25	13070	25698	3741	24021
June 1976	25.10	13321	26865	4464	24138
Dec. 1976	23.86	14711	28086	4609	25961
June 1977	24.70	13667	29118	4483	26467
Dec. 1977	23.61	11490	29384	3551	27662
June 1978	24.59	12730	29688	4151	27540
Dec. 1978	22.04	15570	30590	4401	28523
June 1979	21.76	16918	31804	4705	28837
Dec. 1979	21.08	16341	31837	4366	30377
June 1980	21.46	19541	33783	5340	30958
Dec. 1980	20.88	23927	34856	6314	32405
June 1981	20.26	27173	38417	6902	34495
Dec. 1981	21.20	26273	42994	7070	39574
June 1982	21.80	21318	49796	5944	46776
Dec. 1982	23.06	16764*	52370	5023	50734
June 1983	21.95	16559	55086	4657	53360

Note: The composition of the principal urban areas was changed as from 1/1/80.

* Amended figure.

Source Reference: Based on information contained in Urban Real Estate Market in New Zealand Research Paper 83/3 Y/E June 1983 Government Valuation Department.

	Turnover Dwellings:	Turnover Flats:
Year ended June 1983	6.34%	12.13%
Year ended June 1982	9%	17.67%
Year ended June 1981	9.33%	18.02%

Interestingly, the averagesale price relationship between home units and dwellings has not changed dramatically over the years, although the sale prices of flats do appear to be increasing in comparison with dwelling houses.

Fourteen years ago, the relationship of the home ownership flats sale price to dwellings sale price was 86.89%. By June of 1975 the relationship was 92.27%. It stayed almost static for some years and by June 1980 had dropped marginally to 91.64%, but by June 1983 it had risen to 96.87%.

From all the above, one can perhaps state the following that:

(a) The average quality of home ownership units

(b) is increasing relative to housing,The average purchaser of units does not necessarily see the unit as a long term residence, and

(c) By whatever means, the purchaser of a unit has overcome any financing difficulties.

Let's put what I have been saying above alongside historical developments and changes in legislation.

(i)The Unit Titles Act4 came into force on 1st April, 1973 and has seen only one major amendment (permitting stage developments) in 11 years'.

(ii) In 1977 the Trustee Savings Bank Act6 was amended to permit trustee banks to lend on the security of cross-lease titles.

(iii) The Trustee Act 1956 has never been amended to permit other trust funds to be loaned against the security of cross-lease titles'.

(iv) David Halsey of your Institute kindly searched for me the last 55 home unit flat titles issued prior to December 1983. You may be interested to know that of these titles only 8 related to unit titles. The remaining 47 titles, or 85% were for cross-lease titles, a title which should be more difficult to raise money on, and which theoretically provides less protection to the purchaser.

(v) There have been a number of notable changes in the sources of funds for home lending. The amount of funds lent by Permanent Building Societies and Trustee Savings Banks has increased, and funds available through the Housing Corporation, solicitors' nominee companies and insurance institutions have diminished. The two main lenders referred to can both lend on either form of home unit tenure.

The question now might be re-phrased: under what conditions might there be a public preference for unit titles? I can suggest three occasions:

(i) High quality units such as inner-city "townhouse" style developments, beach front or lake units.

(ii) Retirement units where the appeal is to other than a first home buyer. The buyer in this category is probably more discerning and has quite likely owned at least one freehold title at some time in the past. He is interested in obtaining another piece of land to call his own.

(iii) Where the development is multi-level and may well combine the features of either (i) or (ii) above.

b. Relative Values:

To my knowledge there has been no study made on this aspect, and indeed it would be difficult to arrive at definitive results. In valuing home units of either tenure I would make no distinction in value where the unit is at the low end of the market provided that in the case of cross lease titles:

(i) The cross-lease plan is well drawn.

(ii) Each flat user has the exclusive use of a specific area of land surrounding his unit.

(iii) The lease is well drawn, granting exclusive use rights and specifically requiring the lfat owners to insure for replacement against fire loss, and

(iv) The development is not a multi-level block of flats.

The above requires some elaboration.

Some early cross-lease title plans were poorly drawn. At times garages were not mentioned either on the plan, in the lease or in both. The sausage block-type unit is still with us where the garages are either underneath the development at the front or in a separate structure at the rear. Quite frequently the garages are not referred to in any way either on the plan or on the title.

It is now common for exclusive use covenants, or negative covenants, to appear on new cross-lease plans. It is surprising yet true that these are sometimes not protected on the title by way of a restrictive covenant and are not written up in the lease. It is not enough for the valuer only to look at the survey plan. He must also look at the lease document a potential trap for valuers, I can assure you.

As surveyors, you would probably think your job is finished when the plan is deposited and approved, but the lease is the document which details each flat owner's rights and obligations. Poor leases mean a poorer security. One very large lending institution will not lend on flats unless the lease specifies that the buildings be insured under a replacement type insurance policy. By comparison, for unit titles this is a duty of the Body Corporate under the Unit Titles Act". There is no statutory protection for the cross-lease title purchaser or lender.

If there are deficiencies in the title or lease, then the unit should be ascribed a lower value, as the prudent purchaser would pay less for it.

The second identifiable section of the market is the top end, and here we are dealing with the high quality unit, the inner-city "townhouse" or the "multi-level development". At this end of the market the purchaser understandably ex-

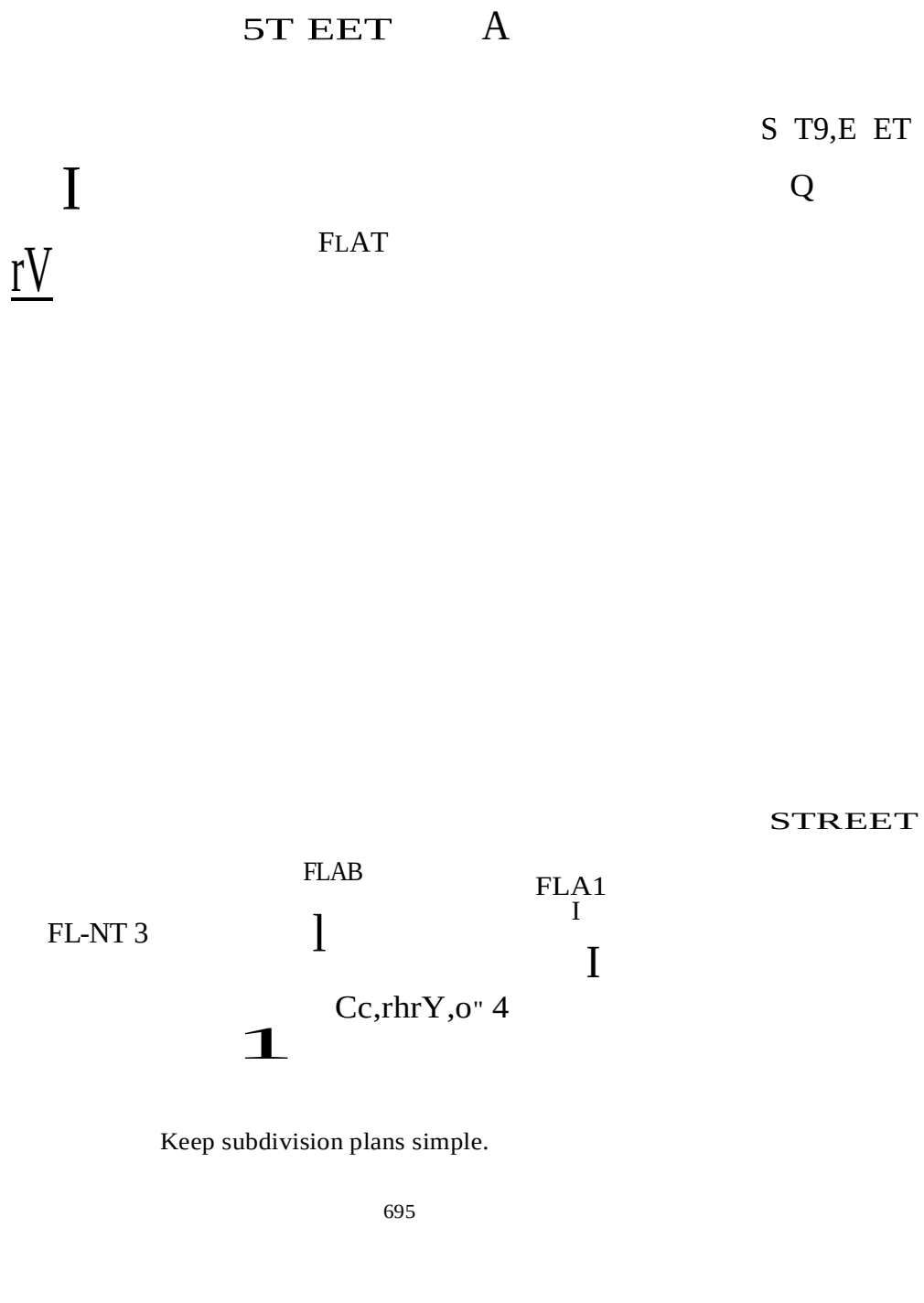
pects the best title available, and that is the one which grants him a freehold interest in the land without resorting to covenants, restrictions and uncertainties of leases. I treat the unit title of a high quality unit more generously both when valuing and when making a recommendation for mortgage purposes.

c. Planning factors which may enhance market values:

There may be relatively little that a surveyor can do in this regard, as the development is likely to be a fait accompli by the time you are engaged. However I will make some observations from a valuer's point of view.

(a) Keep the subdivision simple, be it for a cross-lease or unit title. I much prefer plans which just show a simple division of the land with the unit outlined or dotted within the land allocated to each flat. I am sure it is a concept the market can understand. Hence my suggestion below (Table 2).

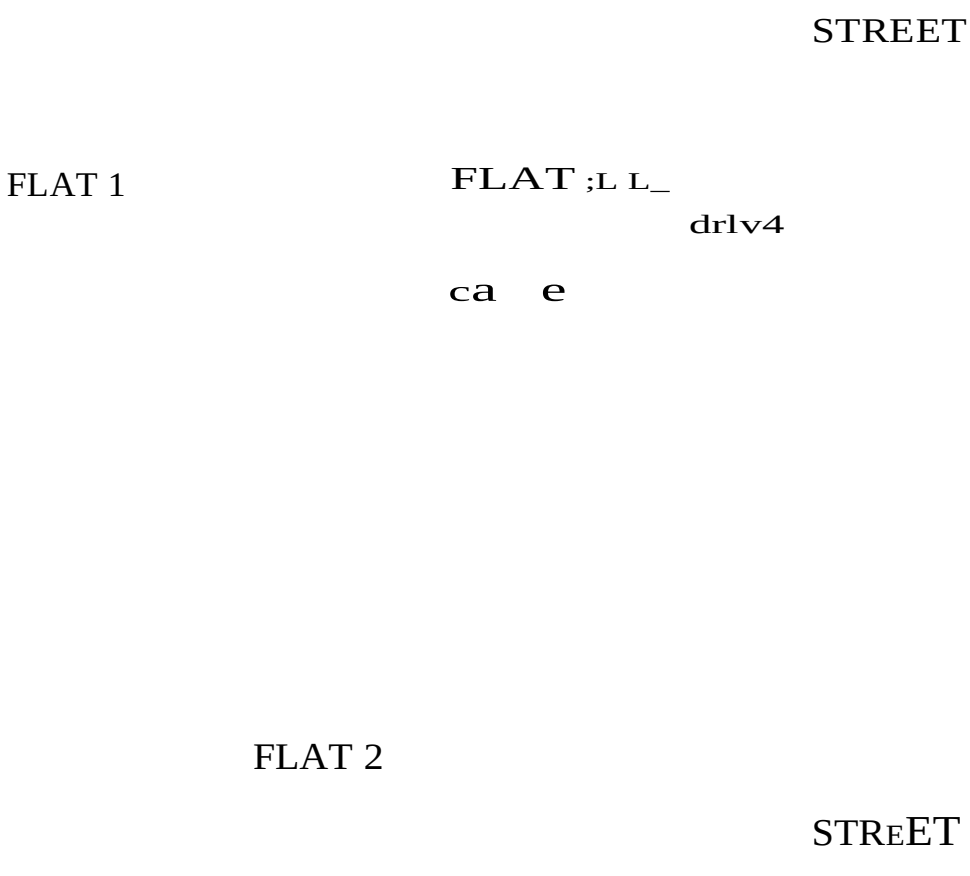
TABLE 2



Keep subdivision plans simple.

(b) Where there has to be common property, keep it to a minimum. Good design of small blocks of new units should be possible with little or no common property. Naturally there will be exceptions, say, rear sites where the common access drive is inevitable. Design the subdivision so that drives and common property accessways are on the least attractive side of the development. Have regard to aspect, contour and views. (Table 3).

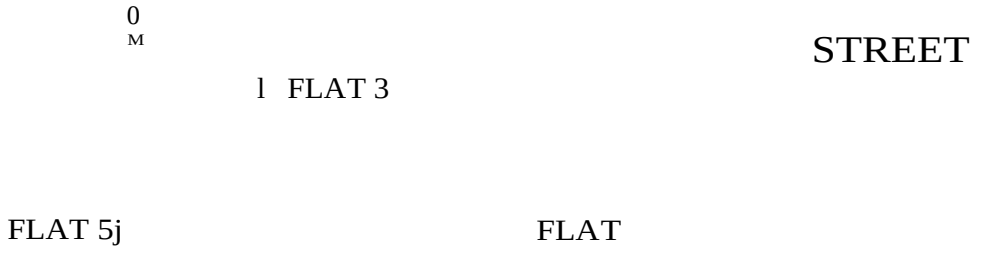
TABLE 3

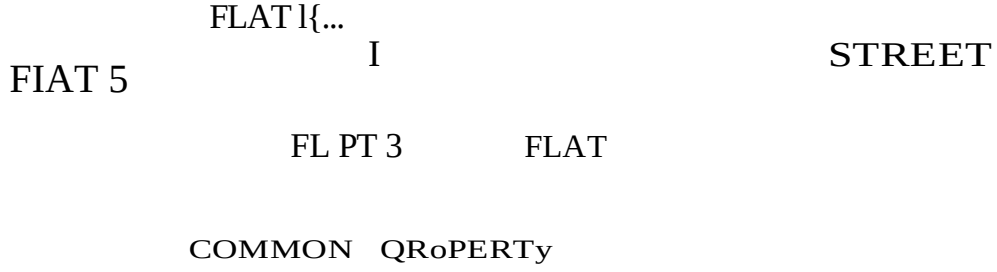


Eliminate or minimise common property.
Design subdivisions having regard to aspect, contour and view.

(c) Separate units are preferable to developments where units are joined, particularly in a suburban setting. Wherever possible encourage developers to develop in this manner. High densities are still possible with detached units, subject of course to this being permitted by the Local Authority. Many councils now have residential controls which permit the alternative of developments in a single structure or a cluster of separate buildings. (Table 4).

TABLE 4





Encourage developers to build detached units.

(d) Look for ways of enhancing values. A prime example would be a beach front site. It may not be possible to design for two or three units on the beach, but endeavour to give them all beach access. In this case use Unit Titles and minimise the use of common property. (Table 5).

TABLE 5

STREET

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STREET

Look for ways of enhancing values.

d. Does the Valuer's Certificate mean anything?

The simple answer is, yes. There are a number of instances where the unit entitlement will be used, including the following:

1. As an apportionment of Body Corporate expenses, such as insurances, legal and accounting expenses9.
2. The distribution of any money or personal property in the possession of the Body Corporate10
3. Maintaining or improving common property and apportioning expenses with leave to apply for relief if necessary to the court"
4. The apportionment of the fee simple on cancellation of the unit title plan12.
5. In the event of a poll or special resolution before a General Meeting of the Body Corporate each vote shall correspond in value to the unit entitlement of the principal unit and accessory units13.

Although there are no doubt other ways of apportioning expenses and these can be written up in a lease for a cross-lease title, the unit entitlement does provide an independently assessed percentage split-up of the property, calculated by an expert in the field and based on the original relationship between the market values of the respective units.

The unit entitlement, if nothing else, says how much of the property is owned by each party to the development. The unit by the road might be twice as big as the one at the back and on a larger piece of land. It should therefore be worth more and should contribute more to the overall expenses of the development. In the unlikely event of the Unit Title plan being cancelled, the owner of the largest unit should be entitled to a greater proportion of the land value.

By way of contrast, in the case of many cross-lease titles an owner has a half, a third, or whatever, undivided interest in the land. In the case of a beach front site, how would you feel if you were the beach front owner and the unit not fronting the beach was entitled to half the land value after a fire which destroyed both units?

e. Likely source of finance:

In the years immediately after the passing of the Unit Titles Act 1972, there was a spate of unit title subdivision, mostly for new units. The reason was simple. Strata titles constituted a trustee investment and were therefore eligible for the advancement of funds by all sectors of the ifnance market". Valuers tended to recommend a two-thirds advance compared with percentages ranging between 50% and two-thirds for cross-lease titles.

This advantage has been progressively watered down over the past 10 years. An amendment to the Trustee Savings Bank Act permitted savings banks to lend on cross-lease title properties15

Many solicitors, through their nominee companies, now lend (albeit conservatively) on cross-lease title properties.

Cross-lease titles are accepted as a sufficient security by savings banks and also by permanent building societies' which are the major source of home building finance.

Although many banks and building societies have specific rules which the applicant must meet, I am unaware of any which refuse to lend on cross-lease titles.

It would therefore appear that only a small proportion of total home finance is now out of the reach of the cross-lease title purchaser.

CONCLUSION:

The market has come a long way since 1971 when Mr McGough spoke to you on "To lend or not" on cross-lease titles. Perhaps the question should be posed - would there be an even greater demand for home units if a greater number were available on unit title? I think the answer is quite clear if you look back over the statistical information I have extracted from the Valuation Department Urban Real Estate reports. The public have not been sufficiently astute to notice any difference between the two forms of title. Although I prefer to see all units on strata title it is mainly with high quality developments that I see a real need for unit titles. Owners of home units in the good times sell their units on average every five years and then many presumably move up to what most home purchasers still see as the ultimate, which is the detached dwelling house on a separate and generally larger site. These same owners may of course re-appear as buyers of another home unit, and we all must accept that 20%-25% of home buyers for many years to come will live

lfat least part of their lives in home ownership ats. It is up to the professional groups. who serve the public to assist in making that home pleasant and serviceable.

REFERENCES

1. "To lend or not" R. M. McGough "N.Z. Valuer", December 1971 p.p. 392-398.
2. Urban Real Estate in New Zealand 1983 report, research paper 83/3, Table 27.
3. Urban Real Estate in New Zealand reports 1981, 1982, 1983.
4. Unit Titles Act 1972.
5. Unit Titles Amendment Act 1979.
6. Trustee Savings Bank Amendment Act (No. 2), No. 180, 1977, now embodied in the Trustee Banks Act 1983, Section 37 (c).
7. Trustee Act 1956 Section 4 Authorised Trustee Securities.
8. Section 15(1)(b) of the Unit Titles Act 1972 as amended by section 16 (b) of the Unit Titles Amendment Act 1979.
9. Section 15 (2)(c) Unit Titles Act 1972.
10. Section 15 (3) Unit Titles Act 1972.
11. Section 33(b) Unit Titles Act 1972.
12. Section 45(5)(a), Section 45(5)(b). Unit Titles Act 1972.
13. Section 27 Second Schedule Unit Titles Act 1972.

14. Section 4 Trustee Act 1956.
15. Trustee Savings Bank Amendment Act (No. 2), No. 180, 1977.

Since the above address was prepared information obtained by courtesy of the Lands and Survey Department also serves to illustrate the relatively high number of cross-lease titles being issued compared to strata-titles. This information is set out below in the form of a table comparing over four years, and projecting for the current year flat plan approvals and unit plan approvals. Not all plan approvals result in a new flat title or unit titles.

However, the following conclusions may reasonably be drawn for the Auckland region:

1. Unit plan approvals (Strata titles) are currently declining in percentage terms at the expense of flat plan approvals.
2. Increasingly, unit plans are only favoured for developments involving a larger number of units.
3. Flat plan approvals in the Auckland region are steadily increasing. For the seven months to October 1984, 1057 flat plans have already been approved. 92 unit plans have been approved.

TABLE

Financial *year* ended	Unit plan Approvals	Ave. units per plan	Anticipated total units (Strata Titles)	Flat plan Approvals	Ave. flats per plan	Anticipated total flats (Cross-lease titles)
1980/81	188	3.2	602	812	2.3	1868
1981/82	230	4.3	989	1289	2.3	2965
1982/83	226	4.5	1017	1170	2.2	2574
1983/84	175	4.6	805	1349	2.0	2698
EST. 1984/85 based on 7 mths. to date	158	4.6	727	1812	2.0	3624

VALUERS REGISTRATION BOARD

The folowing is an edited version of a recent decision of the Valuers Registration Board concerning an inquiry into a complaint against a Public Valuer.

Heard before:
Mr M. R. Hanna (Inquiry Chairman), Messrs D. J. Armstrong and L. M. Sole.

Date of Hearing:
1 May 1984

The complaint was laid by the N.Z. Institute of Valuers on 26 August 1983 and concerned a valuation and mortgage recommendation as at 21 October, 1974. The main basis for the complaint lay in a Judgement handed down after a hearing in the High Court, and alleged that the valuation and consequent mortgage recommendation were grossly overstated and that the valuation report failed to state clearly contingent conditions as to the zoning of the land in breach of Article 17A(6) of the Code of Ethics of the N.Z. Institute of Valuers.

The complaint was referred to the Valuer-General for investigation and his report was put before the Board at a meeting held 6-7 December, 1983. It was determined that since it had not been shown that there were no reasonable grounds for the complaint an inquiry should be held.

The charges, framed in terms of Section 31(1) (c) of the Valuers' Act, cited gross overstatements of valuation and mortgage recommendation and breach of Article 17A(6) of the Code of Ethics of the N.Z. Institute of Valuers.

In evidence the prosecution drew to the attention of the Board that as a matter of law, the judgement in the High Court was decisive as between the parties to it but that on this occasion the parties were different and therefore that the findings of the Court were not necessarily binding upon the Board though they were nonetheless very persuasive. The Valuer-General was called to formally present the High Court decision.

The defendant did not wish to cross-examine, or to call any witnesses. In evidence he offered a background commentary to the events leading to the High Court action. He stated that the land had been valued as potential industrial land on the basis that it would be rezoned and claimed that at that time it was thought the land would in the future be in either Industrial or Residential use. He stated that what could not be foreseen was a change in political and economic circumstances and all planning proposals would be dropped and that this land, together with nearby areas, which had actually been rezoned for residential use, revert to a rural usage.

In considering the evidence in this case and hearing the submissions placed before it, the Board could not help but feel some sympathy for the defendant who has a long and unblemished career in the profession and who has obviously been held in high regard by his colleagues and his clients. Nonetheless the Board felt that the defendant had on this occasion failed to satisfy the standards of care and competence which were reasonably required and that as a result of that failure substantial monetary losses were made.

The Board therefore found the valuer guilty as charged on all counts. In determining the penalty on these chargs the Board took cognisance of the substantial damages that had been awarded against the valuer by the High Court. Nonetheless it was the Board's view that his failure demonstrates an incompetence in this matter which the Board could not possibly tolerate from any valuer and that his standing and reputation as a senior member of the profession allowed no excuse for what *by* any standard was a basic error. Accordingly in terms of the powers vested in it under Section 33 (1) of the Valuers Act 1948, the Board determined that:

1. The Valuer shall be severely reprimanded, and that
2. a fine of $500.00 (Five Hundred Dollars) shall be paid by him at the direction of the registrar.

Legal Decisions

CASES RECEIVED.

Notice of cases received are given for members' information. They will be printed in the "Valuer" as space permits and normally in date sequence.

CASES NOTED.

Cases `noted' will not normally be published in the "Valuer".

Copies of cases `received' and `noted' may be obtained from the Registrar of the Court under whose jurisdiction the cases were heard. (A charge is normally made for photocopying.)

Cromwell Farm Machinery Limited, and, The Ministry of Works and Development LVP 316/81 Judgment 17th August, 1984.

Rex Douglas James Flockhart McKelvie, and The Estate of Rex Douglas James Flockhart McKelvie, and The Valuer-General. Land Valuation Tribunal. Judgment June, 1984.

IN THE HIGH COURT OF NEW ZEALAND
(ADMINISTRATIVE DIVISION)
CHRISTCHURCH REGISTRY

M. 214/82

IN THE MATTER of the Land Act 1948

AND

IN THE MATTER of an application to have the "Purchase Price" of a Crown Lease determined

BETWEEN THE ASSISTANT COMMISSIONER OF CROWN LANDS
Appellant

AND ASSOCIATED TAVERNS LIMITED
Respondent.

Hearing: 22nd and 23rd June, 1983.

Counsel: C. D. Mouat for Appellant.
R. E. Wylie for Respondent.

Judgment: 30th August, 1983.

EDITORIAL NOTE

A rural comment on fixing of the LEI of this Urban Tavern property as required under section 122 of the Land Act 1948:-

1. METHOD OF VALUATION:

(1) Establish Capital Value (Sales).

(b) Sales of LEI are scarce and the court commented:

"We recognise that the problems of obtaining comparable sales of land in the undeveloped state will usually create greater problems with farm land than urban land and that where an analysis of sales containing improvements is embarked upon a considerable onus is placed upon the valuer to acknowledge adequately a fair proportion between the value he places upon the undeveloped land and the value of improvements. In our opinion this onus weighs more heavily upon him in compensatory legislation than it may necessarily do in taxing legislation".

"In our opinion therefore the first proviso requires the valuer to be sure that his division of values when they are made where there is little or no direct sales evidence shall be very carefully weighed to provide a fair balancing of values between the lessor and lessee".

"FAIR BALANCING"

"The determination of the VLEI by envisaging the land as being without the physical presence of the improvements as defined, but its future use being governed by the knowledge that this use may be influenced in the future by the improvements which exist. The determination of value will then be based upon the future land use assessed on the best available market evidence for this use:

(c) The value of improvements is then found by deduction.

2. ECONOMIC VALUE:

"We consider that a lease under the Land Act is essentially an agreement between two parties to carry on a business, of which the Crown, in this case, provides the land (for which it receives a rent) and the company provides the Capital (for which it receives the income less the rent).

The Crown receives a fixed term rental of 4.5% on its resources and the company receives the remaining income on its resources.

Inequality would result where the value of either party's resources produced an unduly large or small share of the total income available, now and in the foreseeable future.

To this extent the land resource should be utilised freely by the investment of appropriate improvements to achieve this. The lessee should not be expected to pay a rental based on unexploitable short term potential use of the land, and conversely the lessor should not be expected to forgo his fair share of the income from the land and provide a return on inappropriate development to the lessee. The lessor further should not be expected to forgo income because of the inferior management skills of a lessee."

For Rural leases are we now looking at the carrying capacity of the land exclusive of improvements, the present developed carrying capacity - apportioning the calculated returns accordingly - then capitalising the Crown and lessee's share at their appropriate rates?

This proposal appears to suggest a specialised form of productive valuation and would be extremely sensitive to:-

Farm cost structure,
Price variation and
The fixing of capitalisation rates.

This is an interesting and informative case highlighting the problems associated with the LEI assessments. The emphasis appears to move to a fair balancing between the lessee and lessor, and the provision for an equitable rental.

JUDGMENT OF ROPER J. and
RALPH FRIZZELL, Esq.

On the 30th June, 1969 the Respondent company obtained a lease from the Crown of a parcel of land in Harewood Road in Christchurch, and within the Bishopdale shopping complex. The area is 1,3691

hectares (3 acres I rood 21.3 perches), and the lease was for a term expiring on the 31st December, 1974. Clauses 3(b), (c) and (d) of the lease provided:-

"(b) THAT these presents are intended to take effect as a lease under section 67 of the Land Act 1948 and the provisions of the said Act and of the regulations made thereunder applicable to such lease shall be binding in all respects upon the parties hereto in the same manner as if such provisions had been fully set out herein except in so far as the same are hereby varied or negatived.

(c) THAT the Land Settlement Board shall cause the value of the said land exclusive of improvements to be ascertained in accordance with the provisions of section 122 of the said Act as if the Lessee hereunder had delivered notice of his intention to acquire the fee simple of the said land as at the date of expiry of the said term, and shall not later than three calendar months prior to such date inform the Lessee in writing of the value so ascertained.

(d) THAT if the Lessee shall during the said term pay the rent hereby reserved and observe and perform the covenants and conditions on the part of the Lessee herein contained and implied up to the expiration of the said term then the Lessee shall have the right or option to purchase the fee simple of the said land at the amount of the aforesaid valuation either for cash or by way of deferred payment licence under section 65 of the said Act, or elect to take a renewable lease of the said land at a yearly rent, based on such valuation, in accordance with the provisions of section 63 of the said Act Provided However that the Lessee may require the said value to be determined by the Land Valuation Court, in which case the provisions of section 123 of the said Act with any necessary modifications shall apply."

On the 18th December, 1974 the Commissioner of Crown Lands informed the Respondent company, pursuant to s. 122 of the Land Act 1948 that the value of the leased land, exclusive of improvements, had been fixed at $433,000. The company then gave notice electing to purchase the land and requiring the purchase price to be determined by the Land Valuation Tribunal.

This is an appeal by the Commissioner, and a cross appeal by the company, against the decision of the North Canterbury Land Valuation Tribunal fixing the value of the land, exclusive of improvements, (VLEI) at $156,000. The land in question is now the site of the Bishopdale Tavern, construction of which was completed by the company in 1969. As at the 31st December, 1974, which is the relevant valuation date, the Tavern had been in business for about 41 years. Before the Tribunal Mr B. H. Hadcroft for the Crown presented a valuation of $270,000, and Mr R. A. Aubrey for the company, $123,500, for the VLEI.

The first matter to decide is the manner in which such a valuation must be carried out for the approaches of Mr Hadcroft and Mr Aubrey were quite different. Mr Hadcroft proceeded on the basis that all that had to be valued was the VLEI, and Mr Mouat submitted that that was the correct approach in view of the terms of the lease, and in particular Clause 3 (c). Mr Aubrey on the other hand purported to follow the procedure set forth in s. 122 (5) of the Land Act 1948 and in our view that was the correct approach, although in the result he erred in principle. The relationship between the parties was essentially a contractual one but by that contract the parties had imported certain statutory provisions including ss. 122 and 123 of the Land Act.

We accept Mr Wyllie's submission that s. 122(5) provides for a rather different method of valuation to that prescribed by the Valuation of Land Act 1951, because the provisos to the subsection require additional criteria to be satisfied which cannot be met if the only valuation determined is the VLET.

Section 122 (as amended in 1970) so far as is relevant provides:-

"(2) Every lessee who has complied with all the conditions of his lease may at any time during the currency of his lease acquire the fee simple of the land comprised therein upon the terms and subject to the conditions defined and at a price ascertained and determined in the manner provided by this section.

(3) The right of purchase hereby conferred may be exercised by giving notice to the Commissioner and at the same time paying the prescribed valuation fee.

(4) The delivery of the notice to the Commissioner shall constitute a contract between the lessee and the Crown for the purchase and sale of the land.

(5) As soon as possible after receipt of the notice, the Board shall cause the following values to be ascertained:

(a) The value of the improvements which are then in existence and unexhausted on the land included in the lease:

(b) The value at the commencement of the lease of all improvements included in the rental value at the commencement of the lease:

(c) The value of the land included in the lease exclusive of the improvements referred to in paragraph (a) of this subsection:

Provided that, subject to the provisions of this Act,-

(i) In ascertaining the values under paragraphs (a) and (c) of this subsection equal emphasis shall be placed on the value to be ascertained under each paragraph:

(ii) The values shall be ascertained on an equitable basis, having regard to the relationship between lessor and lessee:

(iii) The sum of the values under paragraphs (a) and (c) of this subsection shall be equal to the capital value of the land:

(iv) The determination of the Board of the value under paragraph (b) of this subsection shall be final and binding on all persons interested therein.

(6) For the purposes of the last preceding subsection, the expression `capital value' means the sum which the land and improvements thereon might be expected to realise at the time of valuation if offered for sale, unencumbered by any mortgage or other charge thereon, on such reasonable terms and conditions as a bona fide seller might be expected to require.

(7) Subject to the rights of the lessee under subsection (10) of this section, the purchase price of the land shall be the sum of the values under paragraphs (b) and (c) of subsection (5) of this section, less the value of any goodwill the lessee may have in his lease calculated in accordance with subsection (7A) of this section."

It is common ground that nothing falls to be valued under subs. (5) (b) and no question of goodwill arises under subs. (7).

"Value of improvements" is defined in s. 2 of the Act as meaning:-

"the added value which at the time of valuation those improvements give to the land."

It was submitted by Mr Wylie that in a valuation under s. 122 the capital value is the first value to be established and in our view that must necessarily be so. If the values of the LVEI and improvements (V ofI) were established first they must of necessity be equal to the capital value so that proviso (iii) becomes meaningless; and it is to be noted that the proviso requires that the sum of the values "shall be equal to" not "shall be" the capital value, indicated that they are to be equal to some value already established.

While accepting that s. 122 applies, and calls for a rather different method of valuation, and that the capital value is the first to be established, we cannot accept that the well established principles for ascertaining the three values are to be ignored in a valuation under s. 122. Mr Wylie submitted that once capital value, and either unimproved value or value of improvements had been established, the unknown value could be determined by subtraction, but that is not in accord with established practice, not at least where the other determined value is of the improvements. In re Wright's Objection [1959]

N.Z.L.R. 920 Archer J. said at page 922:-

> "It is well recognized that a valuer must disregard improvements when assessing the unimproved value of land, and in assessing the capital value of land by reference to what it would realize in the open market, it seems neither necessary nor desirable to attempt to value the improvements, either individually or as a whole. Having made an assessment of the capital and unimproved values, the valuer is entitled to assume that the difference between these values is the added value given to the land by improvements or, in other words, that it is the value of the improvements."

And further at page 924:-

> "Under cross-examination, indeed, most of the valuers were disposed to admit that they had no reliable basis for their assessments of the values of invisible improvements, and we venture to question whether any good purpose was served by their attempt to place separate values thereon. The danger of the practice is that valuers who have made such a valuation of the improvements may be tempted to deduct the amount of that valuation from the capital value, in order to find the unimproved value. Such a method is contrary to the directions of the highest Courts, but we suspect that it may still be practised, and that its followers may seek to justify their procedure by reference to the opinion of Hosking J. in Thomas v. Valuer-General [1918] N.Z.L.R. 164; [19181 G.L.R. 64, when he said that the method was immaterial so long as correct results were obtained."

The observations of Judge Archer have been approved by our Court of Appeal in a number of decided cases the latest being Atihau-Wanganui v. Malpas 11979] 2 N.Z.L-R. 545. There Cooke J., delivering his joint judgment with McMullin J. said at page 550:-

> "The next point to note is that it is well settled in New Zealand that under the kind of statutory provisions now relevant the value of improvements is a residual figure, being the difference between the capital and unimproved values. The capital value will usually be the easiest figure to arrive at. Subject to the special exclusion in the 1954 Act, a sale of the whole property as it actually stands is to be envisaged, and evidence of more-or-less comparable sales is more likely to be available. Whether there are improvements and, if so, how the capital value is to be divided between the unimproved value and the value of improvements are inevitably more hypothetical or artificial questions. The value of the improvements is to be arrived at by deducting the unimproved value from the capital value. The starting point is not to value the improvements, either individually or en bloc. At best an attempt to value them separately, in one or other of those ways, might perhaps in some cases be some help as a check on the proportion of the capital value allocated to the unimproved value. To start by attempting to value them separately would be to ignore that improvements normally have little or no real value apart from the whole property of which they form part. For substantially these reasons, the residual method of valuing improvements was laid down in Wright's case; and the procedure indicated by Judge Archer in that case was approved and applied in this Court in the judgment delivered by McCarthy P. in Re 110 Martin Street, Upper Hutt [1973] 2 N.Z.L.R. 15, 18.
>
> At the earlier stage of the latter case in this Court, McKee v. Valuer-General [1971] N.Z.L.R. 436, 440, Turner and Richmond JJ. had been of the same opinion."

In Wright's case Judge Archer was dealing with a valuation under the Maori Vested Lands Administration Act 1954, as was the Court of Appeal in Malpas, but in Re 110 Martin St., Upper Hutt, referred to by Cooke J., it was The Valuation of Land Act 1951 which was being considered. Although we accept that a valuation under the Land Act provides for a rather different approach because of the provisos the differences are not such in our opinion as to justify departure from well-established basic principles.

Mr Wylie sought to support his submission that VLEI should be ascertained by deducting the V of I from capital value by reference to the unreported decision of Wilson J. and A. D. Carson, Esq. in Paterson v. Commissioner of Crown Lands (GR 6/71 Timaru Registry; Judgment 29 April 1972). At page 6 of the judgment the Court said:-

> "It must constantly be borne in mind that the object of the inquiry was to ascertain the market value of the unimproved value of the property. That value and the value of improvements make up the capital value and, as the value of improvements was agreed in this case, it is a simple exercise in arithmetic to find the unimproved value from the capital value, once that is known. The Court's task was, therefore, to endeavour to find what price a willing buyer would have paid, on the relevant date, for this property if offered by Mr Paterson on reasonable terms - in other words, its capital value as defined."

The facts in that case were unusual in that the value of improvements had been agreed, and consequently we do not find it helpful.

As for provisos (i) and (ii) we were not referred to any decided case where their rather obscure terms have been considered. Both Counsel agreed that they at least import the element of fairness. In our opinion proviso (i) is concerned with the "method" of valuation and proviso (ii) with "what" is to be valued. We are aware that the method of valuation approved in Malpas cannot in all circumstances be entirely complied with, and that some subjective evaluation of the worth of improvements in the analysis of sales where there is a minimum amount of development may be necessary in the valuation process.

The practical use of this necessary alternative approach was recognised and commented upon by Judge Archer in the decision of Valuer-General v. Sullivan, the only reference available being N.Z. Valuer Vol. 18 No. 4 p. 154. He said:-

> "There were in this case a number of sales which were available for examination. It is true that these were not sales of unimproved land, but they could still be used to advantage for comparison purposes, It is well recognised that prices actually paid for land may properly be analysed with a view to apportioning the price paid between improvements and the land itself. Such an apportionment amounts, of course, to no more than a useful expression of opinion by the valuer, but in the absence of any better evidence, however, a value based upon a proper analysis of comparable sales is usually acceptable in preference to one based on unsupported opinion."

We recognise that the problems of obtaining comparable sales of land in the undeveloped state will usually create greater problems with farm land than urban land and that where an analysis of sales. containing improvements is embarked upon a considerable onus is placed upon the valuer to acknowledge adequately a fair proportion between the value he places upon the undeveloped land and the value of improvements. In our opinion this onus weighs more heavily upon him in compensatory legislation than it may necessarily do in taxing legislation.

In our opinion therefore the first proviso requires the valuer to be sure that his division of values when they are made where there is little or no direct sales evidence shall be very carefully weighed to provide a fair balancing of values between the lessor and lessee.

Dealing now with proviso (ii), in the absence of prior judicial interpretation we must do the best we can with this elusive provision. We consider that a lease under the Land Act is essentially an agreement between two parties to carry on a business, of which the Crown, in this case, provides the land (for which it receives a rent) and the company provides the Capital (for which it receives the income less the rent).

The Crown receives a fixed term rental of 4.5% on its resources and the company receives the remaining income on its resources.

Inequality would result where the value of either party's resources produced an unduly large or small share of the total income available, now and in the foreseeable future.

To this extent the land resource should be utilized freely by the investment of appropriate improvements to achieve this. The lessee should not be expected to

pay a rental based on unexploitable short t m potential use of the land, and conversely the 1^ccor should not be expected to forego his fair share of the income from the land and provide a return o ii- o- priate development to the lessee. The less should not be expected to forego income beca se of the inferior management skills of a lessee.

We do not accept Mr Wylie's submission that we should adopt Mr Aubrey's "tailoring" of the t'• ' c-m- ponents of V of I and VLEI based on tlv. sk 11 ul judgment of the experienced valuer to arrive at a fair and just apportionment. We are of the nninion that if that was the legislative intention of s. 122 (51 the `--nr "value" would not have been used consistently in c:,ch subpara, but rather the word "apportionment" ld have been more appropriate.

We see no reason to depart from the well es*ahl'°hed principles of valuation where Capital Value. Val r_ of Improvements and Undeveloped Value (however it is defined) should be arrived at by the detu of the fair market value of the improved]an-1 ifrs'. the fair market value of the undeveloped land second. w'th the deduction of the latter from the former detarmi,` g the added value of the improvements. These m°'lv-ds may well produce values under this Act and render the Valuation of Land Act which are identical, where the land is being utilized to its highest and best use by he presence of the most appropriate improvements to achieve this highest and best use.

The Land Act s. 122 (5) without the provisos, and the Valuation of Land Act, require the effect rf The present improvements to be ignored when determining future use to which the land will be put when rleter-. p- ing its market value without improvements. We are of the opinion however that the provisos within s. 1 1115) require this Court to consider, when establish- the VLSI, the effect the presence of the existing tavern will have on the future use to which the land wll be applied in the future. The *effect* this presence may b-ve on the VLEI is likely to vary depending on the ouality and quantity of the existing improvements. We ,,,, 1d consider the effect of this presence to be exting-i°hed only when a prudent and well informed lessee wn *Id* decide that redevelopment was economically annro- priate and that the necessary land use planning n'.r- missions were obtainable. We do not consider redcvcl,p- ment to an alternative use as an appropriate hvpoth sis in this case.

The land in question zoned "hotel" would, if the presence of the tavern was disregarded, perhaps hate a value of the order of the $433,000 originally deterro "d by the Commissioner, and which inferentially would be based upon a Commercial "C" zoning value, less an allowance for the costs and risk associated with the possibility of a rezoning of the land from its existing zoning.

If in fact this method of valuation was pursued the present improvements with a replacement cost of between approximately $410,000 and $470.000 N--Id have an added value of the difference between capital value of $560,000 and the land value of $433.000. being $127,000, which in our opinion would create a division of values which would be incompatible with the provisos.

We consider that the correct approach to the valuation should have been first, the determination of Capital Value based on the best available market evidence; and second, the determination of the VI-ET by envisaging the land as being without the phvscal presence of the improvements as defined, but its future use being governed by the knowledge that this use may be influenced in the future by the improvements which exist. The determination of value will then be based upon the future land use assessed on the best available market evidence for this use; and third, the deduction of the VLEI from the Capital Value to determine the VofI.

Mr Hadcroft proceeded to his valuation on the. basis that the income approach was of little help in assessing VLEI at the stage of development the Tavern had reached in 1974. He then proceeded to consider the general level of values pertaining at 31st December, 1974 for residential and suburban commercial land, and such hotel land transactions as were available. In the result he assessed the basic value of the land, exclusive of improvements, at $300 per perch and expressed the view that the land had an enhanced value because of its location within a regional shopping and community centre, and because the land already had an "hotel" zoning within the District Scheme.

He then arrived at his VLEI of $270,000 by these calculations:-

"Basic residential value	$300 per perch
Plus one-third difference	
$900 commercial	
200	
$300 residential	
Total	$500 per perch
Total Value 541.3 perches at $500	$270,600
say	$270,000

Alternatively the value could be expressed in the following way:

Basic residential value	$300 per perch
Plus value of special "Hotel" Zoning,) one-third)	
Plus value of location adjoining) shopping centre, one-third)	$200
Total	$500 per perch
541.3 perches at $500 equals	$270,000

This value is 55% of the estimated commercial value."

He then considered value on a "going concern" basis (having accepted the added value of the improvements to be the replacement cost less physical depreciation) and concluded that as the Tavern had not reached its full potential and occupied excess land a value arrived at by that process did not reflect the true value.

Mr Aubrev, after referring to the provisions of s. 122, and what he saw as his obligations as a valuer in terms of that section, concluded that as there was an absence of truly comparable sales of land available the proper annroach was by an income capitalization valua- tion of the Tavern.

On a "going concern" basis he arrived at an overall value figure of $574.000 with this breakdown of that ifgure:-

"3 acres 1 rood 21.3 perches (the subject land)	123,500
32.2 perches (the freehold land) proportional	7,500
Buildings and other improvements	355.000
Plant and chattels	48,000
Goodwill	40,000
	$574,000"

His value of the LVET was therefore $123,500.

The Tribunal determined that the VLEI was $156,000, and both parties now claim that it erred both in fact and in law in so doing. No reasons were given by the Tribunal for its acceptance of that particular figure. At an early stage in its decision the Tribunal held that s. 122 imposed no obligation to establish a capital value, but in the result appeared to accept Mr Aubrey's approach. It held that there was insufficient evidence of a market to provide an adequate basis for determ- ination of a VLSI, and by inference rejected the "com- parable sales" method of valuation. It appeared to accept Mr Aubrey's "going concern" valuation, his capitalisation rate, and his opinion that the Tavern was fully developed. The only criticism of Mr Aubrey's calculation was that his valuation of buildings ($355.000) was too high. In fact Mr Haderoft's value of buildings was $420.000, and Mr Wylie submitted that there was nothing before the Tribunal which could justify a ifgure lower than Mr Aubrey's. Counsel were at odds as to how the Tribunal's figure of $156,000 may have been arrived at. Mr Mouat thought the Tribunal may have accepted a Residential B value to which it is close; and Mr Wylie thought the Tribunal may have added what it saw as excess value for buildings to the unimproved value.

In summary therefore we had Mr Aubrey establishing a capital value with reference to market criteria, and

then manipulating VLEI and V of I to fit within it; and Mr Hadcroft establishing the VLEI with reference to the market, valuing the improvements on the basis of cost less depreciation, and assuming the sum of these to equal the capital value. Clearly the difference between these approaches is a major one in principle.

Capital Value

The determination of the Capital Value of the land was not made easier by the absence of any comparable sales, or indeed any tavern sales at all. This effectively removed one of the major aids in value determination, i.e. comparison on a market salesbasis. This absence of comparable sales made it necessary to establish value on the basis of income capitalization with its consequent shortcomings due to (a) the inability to determine a market capitalization rate by analysis of sales in this instance and (b) the absence of a check against what is a highly sensitive method of valuing

Bearing in mind these shortcomings, evidence was produced as to the sustainable income which could have been expected. Mr Hadcroft for the Crown estimated this at $56,000 per annum. Mr Aubrey and Mr Curnow for the company estimated the sum at $54,500 and $55,000 respectively. Mr Curnow in addition produced evidence comparing the efficiency of management with an anonymous similar tavern. We can place little reliance upon this type of evidence regarding efficiency, but in the absence of conflict we must accept that the management of the company's tavern was to an efficient standard.

Within the narrow range presented we have accepted the sustainable income as extrapolated from historic turnover at the figure of $55,000 fixed by Mr Curnow.

The capitalization rates advanced were not within the same narrow range and varied from 6.7% by Mr Hadcroft, 9.5% by Mr Aubrey and 10% by Mr Curnow. Mr Curnow's assessment was qualified by his statement that it was made "from an aceoi.intant's point of view", which presupposes criteria which may be other than market criteria. and for this reason we turn to the other figures of 6.7% and 9.5%. We are aware that neither of these figures were determined by analysis of sales to establish a market rate and hence are viewed as being at best a judgmental presumption of the market situation. Mr Hadcroft's figure of 6.7%% was based on what he considered a not unreasonable return due to the key position, next to a thriving shopping and community complex, special zoning, possible future development, increase in population within a 1 mile radius and the development period of the operation. In our opinion Mr Hadcroft's figure was too optimistic all things considered.

Mr Aubrey's figure of 9.5%p was revealed under cross-examination to be arrived at from a preferred basic 10% less an allowance of .5% for the. slight possibility of increased trade. We consider the allowance o' 50/'o for the superior aspect of the tavern, and the possibility of increased trade was inadequate and too pessimistic. and that a rate of 9% would be more appropriate. The going concern of the business is therefore determined on the basis of an annuity of $55,000 capitalized at 9% to equal $611,100. Included in the going concern value of $611.100 are the chattels and plant with a book value of $44.490, and a market value assessed by Mr Curnow at $44,000, Mr Aubrey at $48.000 and Mr Hadcroft at $84,000. In our opinion Mr Hadcroft's value is too high and we fix the value slightly in excess of Mr Aubrey's at a total of $51.100. As will be shown later the added value of the buildings show a rate of depreciation which is greater than the physical depreciation and obsolescence which has occurred - this being so there can be no super profits attributable to the value of the assets employed and hence there is no goodwill. The capital value therefore of the assets contributing to the assessed market value of the business is $560,000 which is required to be adjusted to the extent that the site is under-utilized and portion of the assets employed are freehold, and not subject to these proceedings.

Evidence was presented that a specified departure was granted by the Waimairi County Council for the erection of a TAB building on the site. - The fact that this was not proceeded with does not in our opinion preclude the possibility of another specified departure being granted for some complementary use.

Mr Moyle assessed the value of the freehold land at $7.500, and although Mr Hadcroft did not assess a value for it he produced the Government Valuation as at 1.10.1975. Having considered the likely added value to the business of a specified departure, the amount of which was not canvassed by either Mr Hadcroft or Mr Aubrey, and the extraordinarily wide disparity between the two values attributable to the freehold land we come to the conclusion that the benefits likely to accrue from a specified departure are extinguished by the value of the freehold land.

We therefore fix the Capital Value at $560,000.

Land Value (VLEI)

The land in question is zoned "Hotel-Tavern" under the operative District Planning Scheme of the Waimairi County Council, but counsel for the Respondent advised us that the scheme has no code of ordinances for this zoning although the general transportation ordinance regarding parking spaces refers to Licensed Hotels. There appeared to be agreement between Counsel that the existing use would be regularised by a change to the existing scheme, or at the scheme review.

In the absence of "hotel" zoning being established on this land the criteria for Residential `B' zoning which provides for -

> "zones of higher density provided in close proximity to district shopping centres and community focal points which in providing community services generate a large number of vehicle, and pedestrian trips ... "

would in our opinion be the likely zoning for such of this area as was not required for "Commercial C" expansion, (if any) rather than Residential `A' zoning, which provides for single family dwellings, and up to two units on any one site. `Residential B' zoning ":as suggested as the probable alternative by Mr Hadcroft, and while Mr Aubrey did not refer to this alternative in his written evidence and under cross-examination contended that a consideration of alternative use zonng was irrelevant, he agreed that `Residential B' zoning was appropriate zoning for land adjoining commercial areas. We are concerned of course, as said earlier, in establishing the market worth of this land disregarding the presence of the existing improvements, but because of the provisos are required to take into account the effect of the existing improvements on the future use of the land.

In evidence Mr Hadcroft contended that the existing improvements significantly under-utilized the site, and that in particular the tavern had 71 parking sites in excess of requirements. Mr Hadcroft's evidence regarding the parking sites was based on a conversation he had with some member of the County Council and we are not prepared to accept it. We are in substantial agreement with Mr Aubrey that with the exception of the landscaped area of hillocks at the rear of the tavern the land is substantially and appropriately developed in terms of bulk and location.

An analysis of Mr Aubrev's value of $123,500 indicated that this figure was influenced by what he considered the Residential `A' value of $108,000 plus an addition of $15,500 to establish as he explained a "correct and sensible relationship with the total improvements and going concern values". An analysis of Mr Hadcroft's value of $270,000 indicated that this ifgure was influenced by what he considered the Residential `B' value to be (approximately $162.400) plus an allowance for a locational and zoning premium of approximately $107,600. Neither valuer provided much assistance in the way of appropriate sales evidence interpretation to support their values. Mr Aubrey produced evidence of three tavern site sales between 1969 and 1972 together with a fourth sale in 1978 – all remote in time and suffering from the absence of any useful comparative comments. In addition his assessment of the value of the land as Residential `A' zoned land was based on generalized opinion in his written evidence.

Mr Hadcroft, because of the absence of explanatory comments on his list of "relevant" sales, did not assist us in an appreciation of the degree of comparability,

and indeed most of this assistance came from Mr Aubrey's evidence in chief in a rebuttal role.

(This Court views with increasing concern the failure of valuers to provide the assistance the Court might reasonably expect and adequately document the disparate and comparative factors of what are presented as relevant or comparable sales.)

Because of the inability to relate Mr Aubrey's tavern site sales to the present property at the relevant date, and Mr Hadcroft's relevant sales in terms of market comparability, the Court is forced unfortunately to consider a notional purchase of this site under the method followed in most other tavern site purchases referred to, i.e. the purchase of the site at whatever zoning currently exists, and thereafter obtaining a specified departure for hotel use. The specified denarture is made at cost to the purchaser in terms of the time between purchase and the granting of an unconditional specified departure, and further cost in terms of legal and witness expenses. Because this site is already zoned "hotel" those expenses would not have to be met and would be included in the value of the undeveloped site.

We therefore accept as a base value for the undeveloped land Mr Hadcroft's Residential `B' value of approximately $162,000 to which we add the sum of $38,000 for the hotel zoning costs likely to have been incurred had the land not already been so zoned. We therefore assess the VLEI at $200,000.

Value of Improvements (V of I)

An inspection of the tavern by the Court confirmed that the improvements on the land have all the appearance of being well and regularly maintained. We were impressed by the very high quality of the building and indeed it appeared to be rather elaborate in design. The result is that presently the building is unable to generate an adequate income to service the physically depreciated replacement cost of it. By applying the principles which we have discussed earlier in some detail we see no need in this case to depart or modify their application. We are of the opinion that having applied equal emphasis (or fairness) in the establishing of the capital value and land value then it follows that equal emphasis will exist between the VLEI and the V of I. We therefore fix the Value of Improvements at $560,000 less $200,000 - a total of $360,000.

A brief analysis of the $360,000 for the V of I is desirable when considering the assessment of goodwill (or super profits) which we determined earlier had no value.

Mr Aubrey's V of I, totalling $355,000 less the value of the flat and associated improvements of $61,000. placed a residual value on the tavern premises of $294,000 based on a replacement cost of $346,000 less 15% depreciation.

Mr Hadcroft's V of I totalling $420,000 less his valuation of the improvements (valued by Mr Aubrey of $61,000) at $77,000, placed a residual value on the tavern premises of $343,000 based on a replacement cost of $361,400 less 5% depreciation.

If the total V of I of $360,000 included an amount of approximately $56-70,000 for associated improvements an assumption could be made that the market value of the tavern building was in the range of $290-295,000 or a total of approximately Mr Aubrey's value of $294,000, or $48-53,000 less than Mr Hadcroft. If we were to determine a value for the tavern itself based on costs less physical depreciation we are of the opinion that the figure would be in excess of the market value, and hence no super profits could be generated on the market value of the land and buildings unless the sustainable income was increased or the physical depreciation of the building was more advanced, and indeed Mr Osborne's assessment of the superior rating of these buildings at approximately $40,000 above average equals the original goodwill assessment of $40,000.

Summary of Values

The appeal is therefore allowed to the extent that the land value fixed by the Tribunal at $156,000 is amended and the values fixed as follows:-

Value of Improvements	$360,000
Land Value Excluding Improvements	200,000
Capital Value	560,000

Costs

We require Memoranda from Counsel on this issue as it appears that the question of costs before the Tribunal has not been resolved.

ROPER, J.
RALPH FRIZZELL

Solicitors:
District Solicitor, Department of Lands and Survey, Christchurch, for Appellant.
Ronaldson, Wylie & Averill, Christchurch, for Respondent.

IN THE HIGH COURT OF NEW ZEALAND
ADMINISTRATIVE DIVISION
DUNEDIN REGSTRY
LVP 111,112,113,114,115/82

IN THE MATTER of the Valuation of Land Act 1951
AND
IN THE MATTER of objections to valuations under section 8 of the said Act.
BETWEEN ANTHONY HAEREROA PARATA AND OTHERS
Objectors
AND THE VALUER-GENERAL
Respondent.

Hearing: 2nd March, 1984.
Counsel: J. K. Guthrie for Objectors.
Judgment: May, 1984.

EDITORIAL NOTE:

Mr Parata objected to the department's assessment on his sections in the Township of Puketeraki - part of the Silverpeaks County revaluation .....

Under the district scheme there is little if any prospect of the owners of vacant sections obtaining consent to build.

The Department valued the improved site at $4,000 or $5,000 whilst assessing the vacant sites at $900-$1,000.

In the judgment "Land value" was defined as in S2 of The Act and detailed reference made to the General Plastics N.Z. (Limited) case 1959.

Mr Robinson, for the Department, submitted that $90 of the 1977 Town and Country Planning Act would supersede the above decision.

The Court did not agree: The objection was allowed.

The principle of this case enforced, is that under the Valuation of Land Act the land must be valued as "if no improvements (as herein before defined) had been made on the said land" . irrespective of the current use to which the land is being put and that the added value of the implied "permit" was part of the improvements.

Section 25E of the Valuation of Lands Act allows an equitable value to be assessed for rating purposes on these sites.

JUDGMENT OF ROPER, J. AND
MR R. J. MACLACHLAN

These five objections to land valuations as at 1st July, 1981 were referred to this Court for decision by the Land Valuation Tribunal pursuant to s.22(2) of the Valuation of Land Act 1951 (as amended by s.4 of the Land Valuation Proceedings Amendment Act 1977). The objections were heard together by consent as the grounds for objection are substantially the same in each case.

Objections 111, 112 and 113 concern residential sections in Puketeraki Township, which is on the east coast, south of Waikouaiti, and in the Silver Peaks

County. Objection 114 refers to a boat shed site on the seaward side of the land in Objection 115 and is something of a mystery. The boat shed is built on the foreshore but there appears to be no survey of the area, or lease to the Objectors, but the shed was apparently erected with the consent of the Minister of Transport pursuant to authority contained in the Harbours Act 1950. We gathered that these sites are much sought after as it is unlikely that further consents to erect will be forthcoming.

There are some 20 odd residential sections in the Puketeraki township virtually all in one block and the Objectors' complaint is that the District Valuer has placed a much higher land value on those sections which have dwellings already built on them, than on those that are vacant lots. The vacant sections, apart from one oddly shaped one which has a value of $900, have been valued at $1,000, while adjoining sections on which there are dwellings have values of $4,000 or $5,000. The sole reason for the differences in value lies in the provisions of the Silverpeaks County District Scheme. The settlement is zoned Rural B where the erection of a dwelling is a predominant use only in respect of a property having a minimum area of 20 hectares. The Puketeraki sections are to the order of 2000m2. Under the District Scheme existing dwellings may be repaired or replaced but there is little prospect, if any, of the owners of vacant sections obtaining consent to build, and indeed consents have already been refused.

Basically the same reason is behind the valuation of the land in Objection 115 (Doctors Point) at $17,000 with an adjoining unoccupied section of equivalent size being valued at $9,800. There is a dwelling on the Objector's section but none on the adjoining section. Although the Doctors Point section is in a Residential Zone the County's consent to the erection of a dwelling would have been required at the time of the valuation because its area was less than one acre. Effluent disposal was also a factor which the County would take into account before granting consent.

As for the boat shed site, which was valued at S800, it seems that it was only given that value because of the valuable existing right to maintain a boat shed on it.

The starting point in this enquiry is the definition of "Land Value" in s.2 of the Act, and it reads:

> " `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."

Archer, J. considered the definition in Valuer-General v. General Plastics (N.Z.) Limited [1959] N.Z.L.R. 857, and said at page 858:-

> "In Duthie v. Valuer-General (1901) 20 N.Z.L.R. 585, Sir Robert Stout, C.J., said of the definition, to a similar effect, in an earlier Act:
>
> `This definition is clear and specific and it should be followed whatever the results may be. The duty of the Government Valuation Department, therefore, is, following the definition, to take the lease, and looking at all its provisions, to ascertain what the unexpired term might be expected to realize by sale, if there were no improvements whatever upon the land, and if such unexpired term were offered for sale on such reasonable conditions as a bona fide seller might be expected to require, In dealing with the matter upon this basis, the improvements must be put completely out of the question. The land is, for this purpose, to be treated as though it were bare and unimproved at the time when the valuation is made' (ibid., 589).

In Colonial Sugar Refining Co. v. Valuer-General [1927] N.Z.L.R. 617; [1927) G.L.R. 433, Reed, J. said:

> `The correct method of ascertaining the lessee's interest in the unimproved value is in the manner directed in Duthie v. Valuer-General as previously quoted. The Assessment Court is not debarred from considering the appellant company as a possible purchaser but it must be as an unfettered purchaser, that is to say, the company's special requirements owing to its established business in the vicinity must not be allowed to be a factor in determining the value of this eight years' lease of unimproved mud-lfat. The use to which the land is being put or the nature of the existing occupation is quite immaterial' (ibid., 626; 437).

The sentence last quoted appears to be pertinent to the present case.

The general principle that in the assessment of unimproved value the improvements must be totally disregarded was confirmed by the Privy Council in Toohey's Ltd. v. Valuer-General [1925] A.C. 439, an Australian case in which a similar definition of unimproved value had to be considered, when Lord Dunedin said:

> `What [the valuer] . . has to consider is what the land would fetch as at the date of the valuation if the improvements had not been made. Words could scarcely be clearer to show that the improvements were to be left entirely out of view. They are to be taken not only as non existent but as if they never had existed . . . what the Act requires is really quite simple: Here is a plot of land: assume that there is nothing on it in the way of improvements; what would it fetch in the market?' (ibid., 443).

In Toohey's case it was held to be fallacious to include in the unimproved value the value of a liquor licence, which was described as one `which could only be granted in connection with buildings . in a calculation in which you are told to assume that no building is there'."

The facts in the General Plastics case were that the land in question was in an area zoned Residential under a fully operative district scheme but had been used by the owners for many years for industrial purposes, such use being an "existing use" within the meaning of s.36 of the Town and Country Planning Act 1953. The effect was that although zoned residential the owners were entitled, notwithstanding the venal provisions of s.36, to continue to use the land for industrial purposes by reason of s.34(4) which reads"-

> "Nothing in this section shall apply in relation to an existing use within the meaning of this section of any building or land . .

The term "existing use" for the purposes of the section was defined as:-

> " . a use of that land or building for any purpose that does not reouire substantial reconstruction or alteration or addition thereto and that is of the same character as that for which it was last used before the date on which the district scheme became operative or of a similar character . . . "

It was apparently common ground that if the land was to be valued as residential the proper unit of value would be 15 pounds per foot, as industrial 25 pounds per foot, and if weight were to be given to the right of "existing use" for industrial purposes, 20 pounds per foot. The Valuer-General adopted the last mentioned basis. On objection it was reduced by the Wellington Land Valuation Committee to residential land value, and Archer, J. upheld that decision. At page 860 Archer, J. said:-

> "We agree with counsel for the owner that the rights the company enjoys by virtue of its `existing use' of the land for industrial purposes flow from the use of the buildings and improvements thereon rather than from the use of the land itself. It was not claimed that the land per se had any particular suitability for the purposes for which it has been used, and we understand that its suitability for those purposes is dependent entirely on the existence of suitable buildings thereon. The statutory definition of `existing use' expressly refers to both land and buildings, but the references to `a purpose which does not require substantial reconstruction or alteration or addition thereto' seems to be applicable particularly to the use of buildings or improvements. The legal position appears to be that so long as the present buildings are available and in use for purposes of a similar character to those for which they

have been used in the past, and so long as they do not require substantial reconstruction or alteration or addition, the property may still be used for the purposes in question, although they do not conform to its residential zoning. If, however, the buildings were moved or destroyed, the right to use the land for industrial purposes would at once come to an end, and the restrictions imposed by the town-planning scheme in respect of residential land would become fully effective.

It follows, in our opinion, that if, in accordance with the authorities cited, we are required to disregard the improvements in order to assess the unimproved value of the subject land, we must also disregard the right to continue to use this property for industrial purposes which is a right flowing entirely from the existence of the buildings and from the uses to which they have been put."

In McKee v. Valuer-General [1971] N.Z.L.R. 436 (C.A.) Turner, J., in delivering his joint judgment with Richmond, J., expressed the view that that passage from the judgment of Archer, J. "correctly expressed the law".

Mr Robinson submitted that the Court of Appeal's approval of Archer, J.'s decision was based on the latter's appreciation of the effect of s.36 of the 1953 Act, which was in very different terms from the present s.90 of the 1977 Act. Although there are material differences we see no change which makes Archer, J's decision no longer good law. S.90(l) appears to have the same effect as s.36 and reads:-

"(1) Any land or building may be used in a manner that is not in conformity with the district scheme or any part or provision of it as in force for the time being if

(a) The use of that land or building -

(i) Was lawfully established before the district scheme or the relevant part or provision of it became operative:
and

(i) Is of the same character, intensity, scale as, or of a similar character, intensity, and scale to, that for which it was last lawfully used before the date on which the district scheme or the relevant part or provision of it became operative:"

If, as Mr Robinson, argued, the value of the existing use must form part of land value, because it could not by definition be included in "improvements" then it would seem that s.25E of the Valuation of Land Act 1951 is otiose. That section, so far as is relevant, reads:

"25E. Special rateable values of `existing use' properties -

(1) The Valuer-General may from time to time, of his own motion or upon application in writing made by the owner or occupier thereof, determine the special rateable value of land that -

(a) Is situated in a district where the system of rating on the capital value or the land value is in force; and

(b) Is used for any purpose for which the owner or occupier is entitled to use the land pursuant to section 90 of the Town and Country Planning Act 1977; and

(c) Is, in the opinion of the Valuer-General, likely to continue to be used for that purpose during the currency of the district valuation roll, meaning the period before the date of the next revision thereof.

(2) The special rateable value shall be determined by the Valuer-General under this section upon the assumption that -

(a) The actual use to which the land is being put is a permitted use in an operative district scheme within the meaning of the Town and Country Planning Act 1977 in force for the district in which the land is situated (whether or not such a scheme is for the time being actually in force); and

(b) The use will be continued for the purpose for which the land is actually being used at the time of valuation; and

(c) The improvements on the laud will be continued and maintained or replaced in order to enable, the land to be so used."

In our opinion the valuation in Objections 111, 112, 113 and 115 cannot stand.

We therefore allow the objections and fix the following val ues:-

	Capital Value	Land Value	Improvements
Objection 111	10,500	1,250	9,250
Objection 112	28,500	1,250	27,250
Objection 113	28,000	1,000	27,000
Objection 115	52,000	10,000	42,000

We have valuedthe landvalues in 111 and 112 at the higher rate because of the greater area held; and see no basis for altering the capital values.

As for the boat shed site, we received no real help from Counsel on this objection. It was common ground that such sites are keenly sought after and we see no basis for interfering with the valuation.

Objection 114 is therefore disallowed.

R. J. MACLACHLAN.

Solicitors:
Anderson Lloyd Jeavons & Co., Dunedin. for Objectors
Crown Law Office, Wellington, for Respondent.

M NO 128/83

IN THE HIGH COURT OF NEW ZEALAND
(ADMINISTRATIVE DIVISION)
WELLINGTON REGISTRY

IN THE MATTER of the Maori Reserved Land Act 1955

A N D

IN THE MATTER of an objection to a special valuation of the land known as Athletic Park.

BETWEEN THE WELLINGTON RUGBY UNION INCORPORATED a duly incorporated society having its registered office at Wellington

Objector

AND THE VALUER-GENERAL appointed under the provisions of the Valuation of Land Act 195].

First Respondent

AND THE MAORI TRUSTEE a corporation sole established under the provisions of the Maori Trustee Act 1953

Second Respondent.

Hearing: 7th May, 1984 - 10th May, 1984.

Counsel: D. J. White and M. R. Burrowes for Objector.
K. G. Stone for First Respondent.
H. S. Hancock and Mrs K. Dempsey for Second Respondent.

Judgment: 25th May, 1984.

EDITORIAL NOTE:

The Court set out the authorities together with an interpretation of the implications of, designations, and underlying zonings, and clearly outlines its judgement.

JUDGMENT OF THE COURT
JEFFRIES, J. AND R. J. MACLACHLAN

This litigation concerns the proper valuation of land, for the purposes of fixing the rental for a 21 year term of a perpetually renewable lease granted pursuant to the Maori Reserved Land Act 1955, which term commenced on 1st August, 1970. Why 14 years later it is not resolved is an obvious question which is only partly answered by the "reply" it was before this court in October 1979, which decision of June 1980 was appealed, and decided in the Court of Appeal by judgments delivered in December 1982. Few disputes which must be decided by litigation are assisted by

delay of these proportions, and we speak particularly of the first half dozen years of the 1970's, but this case could be said to have been hurt more than most because the unavoidable artificiality of some aspects have been further exacerbated by the passage of time. Delay is put to one side, but for the record it could not be allowed to pass without comment.

The land in question is 3.7306 ha (9a Or 34.98p) in Berhampore, Wellington, and known as Athletic Park, the main Wellington region rugby football stadium with national and international significance. The objector is the Wellington Rugby Football Union Incorporated, which is the lessee of the land, and has been since 1908. The Maori Trustee, as lessor is second respondent. The first respondent is the Valuer-General, who by statute was obliged to fix by special valuation the unimproved value of the land comprising Athletic Park, as at 1st August, 1970, for the purpose of calculating the rent for the following 21 years. Final agreement could not be reached between the parties and the unimproved value must now be fixed by this court in the following circumstances.

In 1974 the Valuer-General carried out for the Maori Trustee, pursuant to s 30 of the Maori Reserved Land Act 1955, a special valuation and he fixed the unimproved value of the land at $240,000. The Rugby Union failed to object at the proper time. The limitation point, and the special valuation itself, were the subject of decisions of this court on review under the provisions of the Judicature Amendment Act 1972: The Wellington Rugby Football Union Inc. v. The Valuer-General and The Maori Trustee (Unreported, Wellington Registry, A.281/78 - 5th June. 1980, Davisoc, C. J.). The Valuer-General and Maori Trustee appealed, and the Rugby Union cross appealed to the Court of Appeal. See Valuer-General v. The Wellington Rugby Football Union Inc. [1982] I NZLR 678 C.A. The appeal of the Valuer-General against the High Court order ouashing the special valuation, and the consequential order to make a new one was allowed but the cross appeal of the Rugby Union was dismissed. The result was the Rugby Union could object to the special valuation.

Pursuant to s 22 (2) of the Land Valuation Proceedings Act 1948 (as inserted by s 4 of the Land Valuation Proceedings Amendment Act 1977) the Wellington Land Valuation Tribunal transferred by consent the objection to the Administrative Division of the High Court. By virtue of s 22 (3) of the Land Valuation Proceedings Act the objection in this case is to be considered by this court under s 44 of the Maori Reserved Land Act as if every reference in s 44 to the Land Valuation Tribunal was a reference to the court.

As stated the lease was due for renewal on 1st August, 1970, the last renewal date being in 1949. The law relating to leases of Maori land was changed by the provisions of the 1955 Act. By s 28 of that Act the Maori Trustee was able to offer the Rugby Union a choice between renewing the term of the subsisting lease with rent calculated on 5% of the unimproved value as appearing in the District Valuation Roll or taking a new lease in the form prescribed in the Act with the rent calculated at 4% on a special valuation. In July 1970 the Rugby Union elected to take the new prescribed form of lease which was set out as Form A in the Second Schedule to the Maori Reserved Land Act. This form provided for a term of 21 years and the method of calculating the rent was set out in s 34(1) of the Act which provided:-

> "The annual rent payable under a lease of urban land granted in Form A in the Second Schedule to this Act in substitution for a former lease shall be 4 per cent of the unimproved value of the land as shown by the certificate of valuation prepared in accordance with the provisions of s 31 of this Act or as amended by the [Land Valuation Tribunal] as a result of objections made to the valuation."

The procedure for carrying out the valuation of the unimproved value of the land and the method to be adopted is prescribed by ss 30-33 of the Act. The application was made by the Maori Trustee to the Valuer-General in February 1974. The special valuation was carried out by the Valuer-General on 29th April, 1974 and the valuation certificate was sent by the Valuer-General to the Maori Trustee on 29th May, 1974. A month later the Maori Trustee sent a copy of the special valuation to the Rugby Union and gave notice that any objection had to be lodged before 1st September, 1974. The Rugby Union did not accept the special valuation in 1974, but failed to object within time. However the Rugby Union finally succeeded in recovering its right to object by the Court of Appeal's confirmation of the Chief Justice's decision on this point, as contained in the cases mentioned above. A fresh notice to the Rugby Union was issued under s 33 (4) of the Act requiring objection to the special valuation be lodged by 15th March, 1983, which was done.

Although the figures about to be mentioned are not before the court for decision the dispute about them, which once existed, is an important historical element, details of which are covered by the Court of Appeal judgments. For the ordinary government valuation as at 1st November, 1969 the unimproved value of the land was fixed at $86,200, with improvements at $474,800. It should be noted this valuation of land was for a larger area than currently under consideration. No objections were lodged to the land valuation figure, For the special valuation as at 1st August, 1970 the unimproved value of the land was fixed at $240,000, with improvements at $585,000. On the special valuation the new rent would have been $9,600 p.a. which would have been an increase of $8,200 over the previous rental of $1,400 p.a. fixed in 1949. The valuers met last year and settled by agreement the base valuations of the unimproved land at 1st August, 1970. The land as designated on the proposed town plan as "Private Recreational Area - Stadium" and underlying designation of "Public Reserve" was valued at $100,000. They also agreed the valuation of the land on the basis of its underlying zoning of residential C would have been $245,000 yielding a difference of $145,000.

In carrying out a special valuation under the Maori Reserved Land Act the Valuer-General was required to comply with the provisions of s 32 of the Act. Section 32 (1) specifically instructs the Valuer-General in determining either the capital value or the unimproved value of any land to proceed as if the land were not subject to any lease but otherwise, subject to the provisions of the Act, proceed as if he were determining the values under the Valuation of Land Act 1951. As at 1st August, 1970 the definition of unimproved value contained in s 2 of that Act was as follows:-

> "Unimproved value of 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:"

Of overriding importance is the definition of "improvements" contained in the Valuation of Land Act, and applying at 1st August, 1970. It is a long definition and it serves no useful purpose to reproduce it for it was never disputed the definition included such invisible improvements as levelling, landscaping and gully filling. By statutory direction those improvements are to be ignored which returns us to an unfilled gully whose original state will be described in more detail hereafter.

At this point in the narration there is a change of focus to the town planning decision of the Wellington City Council which is the territorial local authority controlling the land under consideration. On 15 July, 1967 the proposed Wellington district scheme was publicly notified. In the proposed scheme Athletic Park was shown as designated "Private Recreation Area and Open Space" with the specific description of "Stadium". There was no underlying zoning in contravention of the Town and Country Planning Amendment Act 1966 which by s 32 (1) amend the principal Act repealing the existing s 33A and substituting another. By the new s 33A(l) it became compulsory for the local authority to zone all designated land in the district scheme. The scheme therefore was in error and the Council objected to its own scheme so as to

correct the error or omission, which apparently pe-- vaded the entire scheme. The Maori Trustee seemed aware of this new legislative requirement and lodged an objection seeking an underlying zoning for the Park of residential C.

A witness for the Rugby Union, who filed two affidavits, and gave fairly extensive evidence in court was Mr Ronald Godfrey Stroud, a town planning consultant. At the material time, namely, before public notification of the proposed district scheme in 1967 to end of 1971, when he left for private practice, Mr Stroud was employed in the Council in a senior planning position with intimate knowledge of the decisions concerning the district scheme at this time. It seems to us the essence of Mr Stroud's evidence on this development, above described, as far as Athletic Park was concerned was that the planners, and ultimately the Council, feared a private recreation designation, coupled with an underlying zoning of residential C use combined to create a fragility about the private designation, perhaps weakening the Park's permanence as a recreation open space area. The fear was held for other such private recreation designations throughout the city which also got underlying zonings. To overcome this problem the Council sought in its objection to establish an underlying designation as well as an underlying zoning for some of the areas affected. The Council changed the planning status for Athletic Park to designated "Private Recreation Area - Stadium" with an underlying designation of "Public Reserve" and underlying zoning residential C. So it was when the scheme became operative on the 13 September, 1972. Mr Stroud said the Council formally adopted the objection to its own scheme by incorporating the above on 9 October, 1968 but there is considerable doubt about this statement. The Maori Trustee called Mr Peter Hugh Healey, a qualified town planner currently employed with the City Council. He was able to produce much of the basic planning documents for the 5 *year* period from publication to operation of the scheme. He was unable to produce the specific Council decision imposing the public designation but it does not certainly follow none was made. Mr Healey's researches did not reveal the actual objection that requested the Council to impose a public reserve designation. However, Mr Healey did say that using the documents available in August, 1970 if asked for advice about the designation situation of Athletic Park: "My advice sir be clear it was designated private recreation in open space with notation of stadium. That sir . without referring to written part of statement no intention of Council or other public ownership . . Probably the decision of an underlying zoning would have been available in August 1970. On the evidence we think it was satisfactorily established that the Maori Trustee was not personally notified of this alteration to planning status of his land by incorporation of an underlying designation on Athletic Park. Throughout the hearing in this court the second respondent submitted the Council had no power to impose an underlying designation, and, alternatively, if the authorisation did exist it was not properly exercised. We will return to this point but it is convenient to complete the second designation saga by recording the Wellington district scheme was reviewed in 1979 when the "Public Reserve" designation was deleted because it was clear the new Act of 1977 did not authorise such designation of private land. We agree with Mr White's submission for the objector this legislative enactment could not have been foreseen in 1970 and therefore should itself carry no weight.

Mr Stroud's contribution to the court's understanding of the complexities of town planning legislation, as applied in practice, we found very helpful. We think he fairly conveyed a difficulty as a town planner in viewing the subject land as an unfilled gully in Berhampore surrounded as it would have been in 1970, although he did carry out that exercise. He said, and we fully appreciated that he was candid with the court:

> "From a town planning point of view I consider that this chance can only be assessed in a realistic way by accepting that the land occupied by Athletic Park was in fact in use as a private recreation ground in 1970. The City Council imposed the proposed designations because the land was able to be used in that way at that time and it would have only given consideration to altering the proposed designations in light of that use."

Town planners live in the visible, ineluctable world but for valuers of perpetually renewable leases major adjustments must be made to that world such as refashioning land and putting contractual relationships and their consequences out of contention. The valuers by calculating a chance accommodate the planners, who are recent arrivals, engaged in a very different sphere of activity. The court's task is that of valuation. It was never disputed by the parties that in calculating the unimproved value of land under the Valuation of Land Act the town planning decisions about the land must be taken into account. See Valuer-General v General Plastics (N.Z.) Limited (1959) NZLR 857 and Hutt River Board v Lower Hutt City Council (1960) NZLR 1107. At the crucial date for the valuation the scheme was proposed, not operative, but still the planning decisions should be taken into account: Edinburgh Pty Ltd v The Minister (1962) 8 L.G.R.A. 45.

Having now outlined the two major statutory forms of direction for the valuation it is appropriate to turn back to the facts of this case, and the reasonably narrow point the court is to decide. The first step in the process of reaching the final figure upon which the 4% is to be applied is to calculate the base figure for the unimproved land value. These were fixed by agreement at $100,000 for land as designated and $245,000 for the residential C zoning. Therefore the issue the court must decide is the chance of having the designations removed from the land, and it is agreed by the parties this is to be expressed as a percentage of the difference between the two figures, namely, $145,000 and then added back to the base figure of $100,000. This method accords with the authorities on the question. See Re An Arbitration Between The Auckland Hospital Board and The Auckland Rugby League (Inc.) (1966) NZLR 413. (Known as the Carlaw Park case); Valuer-General and Anor v Addington Raceway Limited (1969) NZLR 327; McKee v Valuer-General, Comesky v Valuer-General (1971) NZLR 436 C.A.; Royal Sydney Golf Club v Federal Commission of Taxation (1955) 91 C.L.R. 610 H.C.A. and Parramatta City Council v Valuer-General (1964) 10 L.G.R A. 160.

It is appropriate here to introduce the valuers who filed affidavits and were called in evidence. The agreement among the valuers, represented by the above figures of what might be called base valuations, did not extend to the percentage chance of the designations being uplifted leaving the land solely with a residential C zoning.

The objector relied upon the evidence of two valuers, namely, Messrs J. N. B. Wall and A. G. Stewart. The valuers for the second respondent were Messrs M. J. Nathan and M. A. J. Sellars, and Mr J. G. Gibson for the first respondent. The agreement referred to about the two base valuations made much of their earlier evidence otiose. Those who appeared in this court and gave evidence on valuations had all filed affidavits in 1978 and 1979 in preparation for the earlier hearing in 1979. By agreement all those affidavits were transferred to the hearing. On the now central point of calculation of the chance of the lifting of the designations the range could hardly be wider. Mr Wall started in 1978 at 10% with Mr Stewart favouring a bracket of 10-15%. Messrs Nathan and Sellars were a little convoluted in calculating the chance at 100% but seemingly making an attempt to cost that chance to the hypothetical purchaser by reducing it to 80% to cover cost of uplifting the designations. Mr Gibson calculated the chance at 95%. Time and reflection had not brought the experts any closer, or induced them to move from their original positions. In the intervening years not one valuer had altered his assessment given earlier by one percentage point either way.

All valuers agreed on the unfilled gully as the basic land conditions but an area of dispute arose whether the ground was scrub covered, or more attractively bush covered. The objector's valuers supported the unfilled gully covered with bush whilst the Maori Trustee valuers favoured the scrub cover. We do not believe it is essential to our decision to make a defin-

ite finding either way as the evidence is not compelling enough. Whatever the covering was it carries very little weight in the final decision of the court.

There have been explicit and implicit arguments from the two sides of this case that the opposite approach to the one contended for is hypothetical, problematic, or artificial. We say at once that no argument, and no solution can be free of that charge. In this exercise artificially must be lived with.

We think of crucial importance to this case are the statutory directions to the Valuer-General as contained in the Acts in force on 1 August, 1970. We do not think there are different approaches as suggested by counsel for the Rugby Union, such as a "realistic" approach and a "hypothetical" approach leaving little doubt which approach should be adopted. The simple matter is that the statute law must be obeyed. Between the Rugby Union and the Maori Trustee there is a binding contract in the form of a perpetually renewable lease but nevertheless s 32 (1) of the Maori Reserved Land Act directs the Valuer-General to proceed "... (A)s if the land were not subject to any lease ..." That direction, and no one disputes its meaning, peels off a thick layer of reality. See Valuer-General v The Wellington Rugby Football Union Inc. (C.A. 112/80, 15 December, 1982), and in particular the judgment of Sir Clifford Richmond on the relevance of s 43 (long since repealed) of the Valuation of Land Act which, unfortunately, has been omitted from the law reports. Contained in s 32 (1) is a direction to the Valuer-General to proceed as if he were determining values under the Valuation of Land Act 1951. Under s 2 of that Act "unimproved value" is defined as already reproduced in this judgment. That definition means the unimproved value is to be reached as (I)f no improvements (as hereinbefore defined) had been made on the said land." We have already noted the definition of improvements contained in s 2 of the Act includes excavation and land fill, which are to be ignored.

Before attempting to decide the effect of that definition we pause to introduce some history which is not in dispute. In Wellington's Rugby History 1870-1950 by Arthur C. Ewan and Gordon F. W. Jackson produced to the court there is reproduced an essay entitled "Athletic Park" by James Prendeville, BA., LL.B. The following extracts cover the history for our purposes:-

Prendeville, B.A., LL.B. The following extracts cover the history for our purposes:-

> "How many sitting in the Stand or on the West Bank at Athletic Park every Saturday visualise what the Park was like nearly 60 years ago! It was a small dairy farm on the saddle between the two creeks; one running out to Island Bay and the other out near Clyde Quay. Part was used as a rubbish dump. It was described in the first prospectus of the Wellington Athletic Park Company as an area of about 8; acres on the South Road about five minutes from the tram.
>
> In 1893 there was agitation in Rugby circles to get a ground that could be developed as a Sports Ground for Cricket, Football, Athletic Sports and Exhibitions independent of the local authority. Finally a Committee representative of Cricket, Football and Amateur Athletics was set up to go into the problem. An option for a lease for 21 years, with right of renewal for two further terms, was obtained from the Public Trustee as Trustee for the Native Reserves over the area of 81 acres, at a rental for the first term of Pounds 153 per annum. Messrs Richardson and Reardon, Engineers, took levels and gave an estimate of the cost of cutting down the ridge, filling in the gullies and levelling off an area sufficient for two Rugby grounds. The estimate was Pounds 4,300, which at that time appeared a terrific hurdle, particularly as it did not include a pavilion, dressing-shed, fences, etc., estimated at least at Pounds 700. However, the Committee was not daunted. On 30th September, 1893, the Wellington Rugby Union advanced the deposit of Pounds 60 required to accept the option, on the personal guarantee of a refund of at least half the amount by Mr L. H. Tripp and the late Messrs. S. H. Izard, A. T. Bate, T. S. Ronaldson; J. P. Maxwell, G. F. C. Campbell and M. J. Hodgins, on behalf of the proposed Company."

It was therefore common ground in the case that the land on which Athletic Park now stands was in its unaffected, or natural state, a saddle running away on either side, to what might be described, as gullies. Mr Wall, one of the objector's valuers, understood from his reading the gullies ran to a depth at their extremities of about 30 to 40 feet.

We return to "improvements". As a result of the definition the court is given to work from it is inescapable that the improvements of levelling, landscaping and gully filling which created a large playing field, must be ignored in much the same way as the existence of the perpetual lease is to be ignored. For the purpose of assessing the unimproved value, which includes the chance, the court is obliged by statute to view the ground in its original state as comprising a ridge, or saddle, falling away on each side producing a picture of an area of ground most uneven of contour, but to an extent not certeainly known. Counsel for the Rugby Union contended that in the valuation exercise the approach should be "realistic" looking at the ground as Athletic Park, the headquarters of rugby, or at least as a formed sports ground. The realistic approach simply cannot be adopted because that is not what the statute says. There are two areas of land, one a very uneven, hilly paddock with a covering not certainly identified, and the other a formed sports ground surrounded by spectator stands and perhaps accurately described as New Zealand's most notable rugby ground. In fact it is the same ground in different stages of its development and by statute we are directed to its first and original stage. It seems to us the combined effect in law of sidelining the improvements and the lease means the purpose for which the Park is presently used might also be ignored.

The picture then to be conjured up on the internal television screen is that of about 3.7306 ha of hilly land in Berhampore surrounded by the stage of development of the area in 1970 knowing that on the planning maps the land has two designations for reserve, as previously detailed, and an underlying zoning of residential C. It must be conceded one of the more artificial aspects of the exercise is to view the area as described having had imposed upon it two designations for recreation. It is private land, and of compelling significance in the immediate surrounding vicinity (perhaps within a 1.3 kilometre radius of the land) are Macalister Park, Martin Luckie Park, Municipal Golf Links, Wakefield Park, the Wellington Zoological Gardens including Newtown Park, Prince of Wales Park, Melrose Park and large areas of town belt to all of which the public have access. It also must not be overlooked that Athletic Park is, and always has been, a private ground to which the public do not have access of right. In the definition of "unimproved value" there is contained the well known concept to the law of the willing, but not anxious, buyer and seller situation. The question is: assuming a willing buyer of the land, as described, from the Maori Trustee in August, 1970 what percentage value would be fairly added back to the base figure of $100,000 to reflect the chance of the local authority lifting both designations enabling full use of the underlying zoning of residental C?

We think we should here say something of the Addington Raceway case (supra) because it has exercised such an influence in this sphere. It is now 15 years since it was decided, in which time the public have gained a far greater understanding of the implication on land property rights of planning legislation. The existence of the 1966 Amendment was noted in that judgment but the land had not been zoned. At about this time the Wellington City planners understood the fuller implications of the underlying zoning concept, as it came to be known, and the retroactive brittleness it would produce on private designations should there be requests to uplift them. Progressively since Addington the legislature has strengthened the hand of the owner of land which is subjected to a designation or requirement by the Minister or a local authority. See ss 82, 83 and 124 of the Town and Country Planning Act, 1977. The effect of this has been to reduce the then

seeming tenacity of a designation. Needless to say these remarks are not meant to convey these developments could have been foreseen in 1970. In any event in calculating a chance under planning legislation for the purpose of a valuation the facts are of paramount importance, Starting with the original land condition the facts are not usefully comparable with this case.

We return to deal directly with the imposition by the Council of designations, and in particular the underlying designation of public reserve. The stance of the objector on this latter designation was clear in that it sought to justify the Council's action as being in accord with the commonsense and realistic approach for which it strove, namely, an existing sports ground having a long history with the most valid claim as headquarters of New Zealand rugby. The Maori Trustee, on several grounds, challenged strongly the Council's right to impose an underlying designation between the first designation and the zoning. Ancillary to and in support of the direct challenge to the Council's power to act as it did was argument and evidence that the underlying designation itself was at best ambiguous, and the procedure was faulty in that it was imposed without notice to the owner of the land depriving him of a fundamental right to object to such a designation on his land. We have already observed there was much evidence to justify this complaint.

We thought we detected a different stance on the part of the Valuer-General in the conduct of the case on this point. We think to deal intelligibly with the Valuer-General's view we should say something of the practical effects of private and public recreation reserve designations. To begin with, and never to be overlooked, is that the land is privately owned, at present by the Maori Trustee, which carries with ownership the traditional rights of immunity from any act, or imposition, not specifically authorised, and freedom to make all lawful decisions about the land. Of primary significance is that any taking of land for a public purpose carries with it full compensation. Likewise in decisions a local authority makes under planning legislation on the use of private land none but the most coercive public requirement is greater than the lawful wishes of the registered proprietor of the land. It is worth restating that the principle overriding all others is that of freedom to use lawfully property as the owner sees fit. A local authority making planning decisions must give the very first priority to the wishes of the owner, and, conversely scrutinise critically with a patient eye its own proposals, and those of others, about use of land in the ownership of another.

Conceptually designations are an aspect of zoning although the functions in town planning are different. It is probably fair to say a designation for private recreation is more an acknowledgement of an existing state of affairs rather than notice of possible future uses. It would appear change of use by lifting a private designation involved public notification but the wishes of the owner would be paramount for the obvious reason there exists no power in a local authority to direct a private owner to use land in a certain way. The fact a zoning decision exists in the scheme means the land is prepared for the removal. It follows the weight of a private designation is not great, or its lifting by a local authority could reasonably be expected to be achieved.

A designation of land as a public reserve is a different issue. That is notice, which of course should be first to the owner, it is the intention of the local authority to take steps to secure the land for a public purpose. We think it is of importance in this case to observe the planning decision of the Council to impose the underlying designation seemed concerned simply to secure preservation of the status quo. See Mr Stroud's evidence reproduced earlier and other evidence of his. Without deciding whether or not the Council was lawfully authorised to impose the second designation it was a step taken apparently without full consideration of the consequences. A Council, even in 1970, could not simply impose a designation of public reserve on private land without readying itself for the consequences which means it must have been prepared sometime to acquire the land and pay full compensation with an underlying zoning of residential C. If any doubt exists in a Council's mind related either to its legislative powers to acquire land compulsorily, or to meet the full financial obligations of acquisition then the doubts should be resolved in favour of the owner's interests.

The important designation of the two then for our purpose in assessing the chance is the public one. However, once the full consequences of that step are examined, by which is meant acquisition of the private land and paying full compensation on the basis of the underlying zoning, or, alternatively, lifting the designation altogether it is then placed in its true perspective. We think if the planners advising the Council in 1967/68, when the impact of the 1966 Amendment requiring zoning of designated land came to their notice, had thought to the end of their actions they would not simply have imposed public designations on something like 30 properties around Wellington with no substantial evidence of intention, or plan, to follow through to the acquisition and compensation.

Therefore, for the foregoing reasons, we are satisfied that if the Council had been asked in 1970 to lift the underlying designation the request would have been accompanied by a full investigation revealing the foregoing, and in all probability it would have lifted the public designation there and then. It is basically for this reason the Valuer-General, it seems to us, whilst being careful not to cross the Maori Trustee's case, or weaken it in any way, nevertheless decided public designation had little practical effect on reducing his assessment of the chance. We also agree. Insofar as an onus rested on the respondents on this aspect of designations we hold it has been discharged.

It remains then for us to draw together the various more important strands of this judgment so far and state our percentage of the chance of uplifting the designations to fix the unimproved value. The base point is that it is private land having attached to it all traditional rights of an owner. The assessment of the unimproved value is pursuant to statutes which direct at the date for the valuation any lease of the land and any improvements to the land are to be put out of contention. We do that and with it falls the greater part of the objector's case about the ground's use as a rugby stadium. It is to be assessed in its unaffected or natural state, which, very shortly was a large hilly paddock but sitting amidst the 1970 development of Berhampore in the City of Wellington. The land in that state had on it two designations, one private, one public, for recreation reserve which must be taken into account in the valuation exercise by placing a percentage on the chance of the designations being uplifted by the local authority having the effect of changing the planning status of the land back to its underlying zoning of residential C. The mandatory zoning requirement understandably impressed on Council officers the fragility of the private designation. The attempted remedy, having an ad hoc motive, of public designation, lawful or not, achieved little or nothing. The notional situation in which this question would have arisen was if a willing buyer had appeared in 1970 with the intention of purchasing the land for residential development. In our judgment he would have assessed correctly the chance of having the designations lifted to 90%, and that is our decision. We therefore fix the unimproved value of the land on the agreed formula at $230,500.

We rserve the question of costs.

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