

LAND ACQUISITION ACT

APPEALS BOARD

AB 2019.006

In the Matter of the Compulsory Acquisition of
Land Lot No. 10184M PART MK 24
Strata Lot No. U32062T MK 24
Block 83 Macpherson Lane
#01-253, Singapore 360083

Between

Tan Hwee Kheng

... Appellant

And

Collector of Land Revenue

... Respondent

Patrick Ee and Amanda Tai (Legal Solutions LLC) for the Appellant
Twang Kern Zern (Central Chambers Law Corporation) for the Respondent

DECISION

**Commissioner of Appeals Tan May Tee
with Assessors Ang Sock Tiang and Poh Kwee Eng**

24 June, 6 October 2021

22 December 2021

DECISION

The decision of the Board is:

- (a) That the award of the Collector of Land Revenue of compensation in the sum of \$1,355,400 in respect of Strata Lot No. U32062T Mukim 24 at Block 83 Macpherson Lane #01-253 Singapore 360083 be confirmed; and
- (b) That the appeal be dismissed with costs to the Respondent to be taxed if not agreed.

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Introduction

1 This is an appeal by the owner of the property at Block 83 Macpherson Lane #01-253 Singapore 360083 also described as Strata Lot No. U32062T Mukim 24 (“the Property”) against the compensation award made by the Collector of Land Revenue for the compulsory acquisition of the Property pursuant to the Land Acquisition Act (Cap 152) (“the Act”).

2 The Property was among those listed in the Declaration under section 5 of the Act published in the Government Gazette on 31 May 2018 (“Acquisition Date”) for acquisition under the Selective En Bloc Redevelopment Scheme (“SERS”) for Macpherson Lane¹ administered by the Housing and Development Board (“HDB”).

3 The Collector’s Award² of compensation for the Property issued pursuant to section 10 of the Act and addressed to the Appellant on 20 January 2019 was for the sum of \$1,355,400 and comprised the following components:

(a)	Market value as at 31 May 2018	:	\$1,305,000
(b)	Reasonable expenses consisting of –	:	\$ 50,400
	(I)		removal allowance at \$15,000, and
	(II)		stamp and legal fees for buying a comparable replacement property, computed based on the market value of the SERS property as at 31 May 2018

Total of (a) and (b) : **\$1,355,400**

¹ Agreed Bundle of Documents at pages 3 to 8 (“ABD3 – 8”), in particular ABD7

² ABD19 – 20

4 The Appellant was aggrieved by the Collector's Award which he says is inadequate and his appeal to this Board (after three rounds of amendments to his petition of appeal) is for the compensation sum to be increased to \$1,451,549.50³ with the following breakdown:

(a)	Market value as at 31 May 2018	:	\$1,363,000.00
(b)	Reasonable expenses consisting of	:	\$ 88,549.50
(I)	removal allowance:		\$15,000
(II)	valuation fees:		\$ 2,000
(III)	stamp fees:		\$66,097.50
(IV)	legal fees:		\$ 5,450.00
Total of (a) and (b)			: \$1,451,549.50

Applicable law

5 The onus of proving that the award is inadequate is on the Appellant as provided in section 25(3) of the Act. As for the standard of proof, it is well accepted that for appeals under the Act, the Appellant is to be regarded as being akin to a plaintiff in civil cases who has to discharge his burden of proof on a balance of probabilities⁴.

6 In assessing whether the compensation awarded by the Respondent is fair, the Board must have regard to section 33 of the Act the relevant portion of which states as follows:

³ ABD48 – 53, as amended orally on 24 June 2021, see Notes of Evidence at page 9 line 9 to page 10 line 28 (“NE, 24 June 2021, 9/9 – 10/28”)

⁴ *Oei Choon Guan Ernie v Collector of Land Revenue* (AB 2018.003) at [4.2]; *Tan Kok Wah Dennis Christopher & Mdm Ong Bee Poh Michelle v Collector of Land Revenue* (AB 2011.026) at [13] citing the case of *Chuah Say Hai & Ors v Collector of Land Revenue, Kuala Lumpur* [1967] 2 MLJ 99

33. Matters to be considered in determining compensation

(1) In determining the amount of compensation to be awarded for land acquired under this Act, the Board shall take into consideration the following matters and no others:

(a) ... the market value of the acquired land -

...

(ii) as at the date of the publication of the declaration made under section 5 ...;

...

(e) if, in consequence of the acquisition, the person interested is compelled to change his residence or place of business, the reasonable expenses, if any, incidental to that change;

...

(5) For the purposes of subsection (1)(a) ...

...

(e) the market value of the acquired land shall be deemed not to exceed the price which a bona fide purchaser might reasonably be willing to pay, after taking into account the zoning and density requirements and any other restrictions imposed by or under the Planning Act (Cap. 232) as at the date of acquisition and any restrictive covenants in the title of the acquired land ...

Background

7 The Collector’s Award of the market value of the Property at \$1,305,000 was based on a valuation of the Property carried out by its appointed valuer, Ms Tan Lay Tin, of Tan & Chang Property Consultants, a licensed private valuer⁵, and set out in her report dated 14 September 2018. Ms Tan attended at the hearing of the appeal as the expert witness of the Respondent (“RW1”).

⁵ Collector’s Grounds of Award paragraph 4 at ABD40

8 In arriving at her opinion of the market value of the Property, RW1 had used the direct comparison method, *ie* comparisons were made with sales of comparable properties transacted around the material date of the valuation, the Acquisition Date, within the vicinity of the Property and elsewhere (“Direct Comparison Method”). Necessary adjustments were made for differences in location, tenure, size, shape, design and layout, type, age and condition of buildings, date of transactions and the prevailing market conditions as amongst the factors affecting its value⁶. In addition to adopting the Direct Comparison Method in her determination of the market value of the Property, she had also used the income method of valuation as a check to confirm her valuation.

9 To support his case that the Collector’s Award was inadequate, the Appellant appointed one Mr Tan Keng Chiam, Head of Valuation and Advisory Services at Colliers International Singapore (“AW1”) to furnish an alternative opinion of the market value of the Property. AW1’s valuation was also derived using the Direct Comparison Method. In his report⁷ dated 16 September 2020 and exhibited in his affidavit of evidence-in-chief (“AW-AEIC”) affirmed on 5 October 2020, AW1 had opined that the market value of the Property as at the Acquisition Date was \$1,370,000.

10 The Board was informed that the Appellant had initially relied on a valuation report by another valuer for his petition of appeal lodged on 21 May 2019 which attributed a market value of the Property at \$2,020,000 at the Acquisition Date⁸. It was after AW1 had furnished his report in September 2020 that the Appellant then applied for and obtained leave to amend his petition to

⁶ RW1’s valuation report at ABD64

⁷ AW1’s valuation report at ABD124 – 146

⁸ RW’s affidavit of evidence-in-chief (“RW-AEIC”) at paragraph 8

substantially reduce his claim to reflect a market value of \$1,370,000. This figure was further revised slightly downwards to \$1,363,000 upon discovery of an error in the data for one of the properties used in his comparable sales analysis⁹.

11 Accordingly, at the hearing before us, as regards the market value of the Property, the difference between the valuations presented to the Board had been significantly reduced to \$58,000 as compared to the Appellant's initial claim.

12 Other than the market value of the Property, the Appellant had also claimed reasonable expenses incidental to being "*compelled to change his residence or place of business*" pursuant to section 33(1)(e) of the Act. This component of his claim amounting to \$88,549.50 comprises a removal allowance, valuation fee, stamp duty and legal fees pegged to the market value of the Property which are presumably expenses that would reasonably be incurred to procure a replacement property similar to the Property.

Description of Property

13 The Property is an intermediate HDB shop on the first storey with living quarters above with a total floor area of 113 square metres. Its location in Macpherson Lane is within Geylang Town.

14 Within its immediate locality is a mixture of residential, commercial and light industrial buildings. Prominent developments in the vicinity include Macpherson Mall, Citimac Industrial Complex, Breadtalk IHQ and Oxley Bizhub. The Tai Seng MRT station is within close proximity, located about 500

⁹ ABD146 – the trading area for Comparable 1 was erroneously stated at 55 m² instead of 56 m² and subsequently amended

metres away from the Property. The Property is also easily accessible from the Pan Island Expressway and Kallang Paya Lebar Expressway.

15 The Property has a leasehold tenure of 73 years with effect from 1 January 1994. As at the Acquisition Date, the unexpired term of the lease was 49 years. The Property is sited on land zoned “Residential with Commercial on 1st storey” in the 2014 Master Plan issued by the Urban Redevelopment Authority¹⁰.

16 RW1 had carried out a physical inspection of the Property on 27 June 2018. This was within a month of the Acquisition Date. A detailed description of the internal accommodation and finishes of the Property covering the first storey trading area and the second storey living quarters is tabulated in paragraph 5 of her report¹¹. From the description and the photographs annexed to the report¹², the Property was described as being of fairly above average condition.

17 The Property was found to be tenanted at a monthly gross rent of \$3,400 up to 30 June 2018 which was to be renewed for a further year at an increased rental of \$3,800 per month¹³.

¹⁰ ABD62

¹¹ ABD63

¹² Coloured photographs are in RW-AEIC at pages 14 to 19

¹³ ABD56 and ABD64; RW-AEIC at pages 3 and 11

RW1's valuation of \$1,305,000

18 In arriving at her valuation of \$1,305,000, RW1 had applied the Direct Comparison Method¹⁴ to derive separately the market value for the first storey shop or trading area at \$1,080,000¹⁵ and for the second storey living quarters at \$225,000¹⁶.

19 RW1 was the HDB's appointed valuer for the SERS acquisition of the properties at Blocks 81, 82 and 83 Macpherson Lane. As the subject commercial properties were approximately 50 years of age and located within precinct blocks, RW1's approach in her valuation was to select the comparables that were of similar age and located within precinct blocks in the immediate vicinity and nearby.

20 The derived market values for the separate components of the shop and the living quarters were then cross-checked using the income method. From the available data on rentals of similar properties in the vicinity, RW1 then worked out the approximate yield rate of the shop and the living quarters. The derived yield rate for the shop was 2.26% and 5.7% for the living quarters¹⁷.

Valuation of the shop unit

21 For the valuation of the trading area or shop unit on the first storey, RW1's first consideration was the sale transactions of shops in Geylang Town

¹⁴ ABD64 – 65

¹⁵ ABD90

¹⁶ ABD93

¹⁷ ABD83 – 84

within precinct blocks in the immediate vicinity of the Property. There were five such transactions as set out in Table 1 below¹⁸:

Table 1 – Sales evidence of shops in Geylang Town

S/N	Address	Property Type	Floor Area	Lease tenure	Transacted Price	Date of Transaction
1	Block 81 Macpherson Lane #01-33	Shop	82 m ²	73 years wef 1 Jan 1994	\$700,000 (\$793 psf)	4 April 2018
2	Block 82 Macpherson Lane #01-25	Shop (S) with living quarters (LQ)	113 m ² (S: 55 m ² + LQ: 58 m ²) @\$205,000)	73 years wef 1 Jan 1994	\$1,000,000 (Shop @ \$1,343 psf)	25 November 2017
3	Block 64 Circuit Road #01-349	Shop	62 m ²	73 years wef 1 April 1993	\$850,000 (\$1,274 psf)	22 September 2016
4	Block 82 Macpherson Lane #01-11	Shop	97 m ²	73 years wef 1 Jan 1994	\$1,400,000 (\$1,431 psf)	14 July 2016
5	Block 88 Circuit Road #01-971 (<i>Neighbourhood Centre</i>)	Shop (S) with living quarters (LQ)	110 m ² (S: 55 m ² + LQ: 55 m ²) @\$205,000)	76 years wef 1 April 1993	\$1,000,000 (\$1,343psf)	15 April 2016

22 The only suitable comparable was that at Block 82 Macpherson Lane #01-25. The others were discarded as the transacted prices were either too low, not so recent as they were transacted in 2016 and taking into consideration the prevailing market conditions. The transaction at Block 88 Circuit Road was also not adopted on the basis of its location within a neighbourhood centre¹⁹.

¹⁸ ABD76

¹⁹ ABD76 – see Remarks in RW1’s Table 1

23 RW1 then proceeded to look at recent sale transactions in precinct blocks in nearby older HDB towns²⁰. Three transactions in Toa Payoh Town were identified, namely Block 8 Lorong 7 Toa Payoh #01-291, Block 51 Lorong 6 Toa Payoh #01-72 and Block 85 Lorong 4 Toa Payoh #01-340. The transaction at Block 8 Lorong 7 Toa Payoh #01-291 for \$1,188,000 which worked out to be \$862 per square foot (psf) was similarly discarded as being too low.

24 In RW1's final analysis, the three comparables adopted were Block 82 Macpherson Lane #01-25, Block 51 Lorong 6 Toa Payoh #01-72 and Block 85 Lorong 4 Toa Payoh #01-340 all of which were transacted in 2017. The details of the properties are in Table 2²¹:

Table 2 – Sales transactions of shops adopted as comparables

S/N	Address	Property Type	Floor Area	Lease tenure	Transacted Price	Date of Transaction	Remarks
1	Block 82 Macpherson Lane #01-25	Shop (S) with living quarters (LQ)	113 m ² (S: 55 m ² + LQ: 58 m ²)	73 years wef 1 Jan 1994	\$1,000,000	25 Nov 17	<ul style="list-style-type: none"> • Precinct • Above average specific location • Intermediate unit • ~ 50 years old
2	Block 51 Lorong 6 Toa Payoh #01-72	Shop	56 m ²	88 years wef 1 July 1994	\$1,050,000	4 May 17	<ul style="list-style-type: none"> • Precinct • Fair specific location • Intermediate unit • ~ 52 years old
3	Block 85 Lorong 4 Toa Payoh #01-340	Shop (S) with living quarters (LQ)	183 m ² (S:122 m ² + LQ: 61 m ²)	77 years wef 1 Jan 1994	\$2,800,000	22 Apr 17	<ul style="list-style-type: none"> • Precinct • Above average specific location • Intermediate unit • ~ 47 years old

²⁰ ABD77

²¹ ABD77

25 As RW1's task was to value the various commercial properties affected by the SERS acquisition at Blocks 81, 82 and 83 Macpherson Lane, one of the properties was first identified to derive the "Base Value". Block 82 Macpherson Lane #01-19 was chosen as the reference unit or "Base Value Unit"— this is an intermediate unit with a shop on the first storey and living quarters on the second storey – as it was found to be in very original condition with slight renovations and in an average state of repair and maintenance. She derived the market value for the shop at \$1,065,000. Based on its size of 55 square metres, the market value worked out to be \$1,799 psf²².

26 The valuations of the other commercial properties affected by the Macpherson Lane SERS acquisition were then pegged to the Base Value of \$1,065,000 or \$1,799 psf with adjustments made to take into account the individual attributes of the particular unit in question²³. As the subject Property was found to be in fairly above average condition as compared to the average condition of the Base Value Unit, an uplift of \$15,000 was accorded thus deriving the value of \$1,080,000.

Valuation of the living quarters

27 As for the living quarters, using the Direct Comparison Method, RW1 had relied on past resale transactions of HDB standard two-room flats of a typical size of 50 square metres to derive the valuation of the Base Value Unit, *ie* for Block 82 Macpherson Lane #01-19²⁴. All the relevant sales transactions

²² ABD77

²³ ABD89 – 90: Appendix 5 of RW1's valuation report from RW-AEIC at pages 36 to 37

²⁴ ABD78

happened to be located within Block 81 Macpherson Lane. The four comparables selected are shown in Table 2A below²⁵:

Table 2A – Sales transactions of HDB 2-room standard flats:

S/N	Block / Street Name	Unit No	Lease commencement date	Floor area (m ²)	Transacted Price	Date of Transaction
1	81	#02-51	1 Jun 1968	50	\$210,000	3 July 17
2	Macpherson Lane	#11-51	1 Jun 1968	50	\$225,000	11 August 17
3		#02-41	1 Jun 1968	50	\$193,000	21 Nov 17
4		#09-33	1 Jun 1968	50	\$233,000	8 Dec 17

28 Taking an average of the four comparables, the price of a two-room HDB standard flat of a typical size of 50 square metres on the sixth storey (assuming an average state of repair and maintenance) was derived at \$215,000. On a per square foot basis, this was computed at about \$400 psf. RW1 then made necessary adjustments for differences in factors such as time, size, orientation, lift accessibility, floor level and the restriction of the subject living quarters not having a separate title deed (*ie* it cannot be sold separately from the shop below). According to RW1, the general industry practice is to give a 10% to 20% discount for this restriction.

29 For the valuation of the Base Value Unit, the following characteristics were noted:

- (a) a corridor unit with floor area of 58 square metres accessible via external/internal reinforced concrete staircases and lifts,

²⁵ ABD91: Appendix 6 of RW1's valuation report

- (b) in “very original condition” with slight renovation, and in an average state of repair/maintenance.

30 After factoring in all the relevant adjustments (see Table 2B below) for time, size, restriction for no separate title deed, floor level, the market value of the living quarters of the Base Value Unit was worked out to be \$212,763 and rounded up to \$215,000 as at the Acquisition Date²⁶.

Table 2B – working adjustments for living quarters of Base Value Unit

Average of the four comparables in Table 2A:	
(\$210,000 + \$225,000 + \$193,000 + \$233,000) ÷ 4 ≈ \$215,000	
\$215,000 for 50m ² ≈ \$400psf	
1. Time*:	+ 3%)
2. Size:	- 2%) Net Adjustment: -14%
3. Restriction (no separate title deed):	-15%)
4. Floor level (\$600 per floor):	- \$2,000
5. Condition:	+ \$0
* A positive 3% for time adjustment from 3 rd /4 th Quarter 2017 to 2 nd Quarter 2018 was adopted in view of HDB’s Resale Price index and actual transactions on the subject site.	
Applying the net adjustment of -14% to \$400psf → \$400psf x 0.86 = \$344psf	
Base Value Unit: 58 m ² = 624.3ft ²	
(\$344psf x 624.3) - \$2000 = \$212,763	
Market value of the 2 nd storey living quarters of the Base Value Unit as at 31 May 2018 works out to \$212,763, rounded up to \$215,000.	

31 As the condition of the living quarters of the Property was found to be of a better condition compared to the Base Value Unit (*ie* average as compared to “very original condition with slight renovation”), RW1 had applied an uplift

²⁶ ABD91 – 92: Appendix 6 of RW1’s report at RW-AEIC at page 38 to 39

of \$10,000 to the Base Value to derive the market value of the second storey living quarters of the Property at \$225,000²⁷.

Income Method and other data

32 In the conclusion of RW1’s report, it was highlighted that her valuation of the shop premises of the Base Value Unit (*ie* Block 82 #01-19) at \$1,799 psf was much higher compared to the actual transacted prices of commercial properties at the SERS site itself which ranged from \$793 psf to \$1,341 psf in the years 2016, 2017 and 2018 for shop sizes ranging from 55 square metres to 97 square metres. See Table 3 below:

Table 3 – sales evidence of shops at the subject SERS site

S/N	Address	Property Type	Floor Area	Lease tenure	Transacted Price	Date of Transaction	Remarks
1	Block 81 Macpherson Lane #01-33	Shop	82 m ²	73 years wef 1 Jan 1994	\$700,000 (\$793 psf)	4 April 18	Fair specific location, intermediate unit with 3 shop fronts
2	Block 82 Macpherson Lane #01-25	Shop with living quarters (LQ)	113 m ² (S: 55 m ² + LQ: 58 m ²)	73 years wef 1 Jan 1994	\$1,000,000 (Shop at \$1,343 psf) \$205,000 for LQ	25 Nov 17	Above average specific location, intermediate unit with 2 shop fronts
3	Block 82 Macpherson Lane #01-11	Shop	97 m ²	73 years wef 1 Jan 1994	\$1,400,000 (\$1,341psf)	14 July 16	Above average specific location, corner unit with 3 shop fronts

33 To ensure that the compensation award would be fair and robust, RW1 had also used the Income Method of valuation as a check. The appropriate yield rates were derived separately for the shop on the first storey and the living quarters on the second storey.

²⁷ ABD93: Appendix 7 of RW1’s report at RW-AEIC at page 40

34 From the transacted prices and the rental incomes of Block 81 Macpherson Lane #01-33 and Block 82 Macpherson Lane #01-11, RW1 derived the yield rate of 2.26%²⁸ for the shops at the SERS site and 5.7% for the living quarters on the second storey. Based on the derived yield rate of 2.26%, RW1 had worked out the capital value of the shop at \$995,000 and the living quarters at \$250,000. Adding up the two components, RW1 had derived the market value of the Property at \$1,245,000 using the Income Method. She thus concluded that her valuation of \$1,305,000 was fair and reasonable²⁹.

AW1's valuation of \$1,363,000.00

35 AW1's report on the Property carried a largely similar description to that of RW1 in terms of its location, the internal accommodation and finishes, and its condition of repair as generally average³⁰.

36 In arriving at the market value of the Property using the Direct Comparison Method, AW1's analysis was based on the following comparables³¹ as set out in Table 4:

²⁸ ABD95 – 97: Appendix 9 of RW1's report at RW-AEIC at pages 42 to 44

²⁹ ABD113 – 114: Appendix 19 of RW1's report at RW-AEIC at pages 60 to 61

³⁰ ABD128, ABD132 – 136

³¹ ABD140

Table 4 – comparables used by AW1

S/N	Address of Property	Strata Floor Area	Consideration	Date of Contract
1	Block 51 Lorong 6 Toa Payoh #01-72	56 m ²	\$1,050,000	May 2017
2	Block 153 Serangoon North Ave 1 #01-464	136 m ²	\$2,200,000	July 2017
3	Block 53 Sims Place #01-172	137 m ²	\$1,600,000	September 2018

37 AW1 had assessed the market value of the Property at \$1,363,000 which comprised \$1,132,005 for the shop or trading area on the first storey and \$230,995 for the living quarters on the second storey³².

38 In arriving at his valuation figure, AW1's report stated that adjustments had been made for differences between the Property and the comparables in terms of location, tenure, size, shape, design and layout, age and condition of buildings, dates of transactions and other factors affecting its value³³.

Valuation of the shop unit

39 Details of the comparable sales analysis between the Property and the three comparables are set out in Table 4A below (extracted from page 95 of AW1's valuation report with amendments made as per the Revised Table dated 1 December 2021 provided to the Board³⁴):

³² Appellant's Closing Submissions at paragraph 10 ("ACS [10]")

³³ ABD140

³⁴ Attached to the email dated 2 December 2021 from Appellant's solicitors

Table 4A – AW1’s comparable sales analysis

S/N	Address	Property Type	Floor Area	Lease tenure	Transacted Price	Date of Transaction	Adjustment factors (% or absolute \$)
1	Block 51 Lorong 6 Toa Payoh #01-72	Shop	56 m ²	88 years wef 1 July 1994	\$1,050,000 (\$1,741.92 psf)	May 2017	<ul style="list-style-type: none"> ➤ larger precinct 14 shops: +8% ➤ shorter tenure: -10%: ➤ better location: +5% ➤ improved market condition: +1% ➤ size: 0% <p>Total adjustments: +4% or \$40,499 → \$1,071,749 say \$1,072,000</p>
2	Block 153 Serangoon North Ave 1 #01-464	Shop (S) with living quarters (LQ)	136 m ² (S:60 m ² + LQ:76 m ²)	89 years wef 1 July 1996	\$2,200,000 (S:\$1,851,505 or \$2,866.82psf)	July 2017	<ul style="list-style-type: none"> ➤ neighbourhood centre: -25% ➤ shorter tenure: -12%: ➤ better location: +6% ➤ improved market condition: +1% ➤ smaller size: +5% <p>Total adjustments: -25% or \$424,233 →\$1,272,990 say \$1,273,000</p>
3	Block 53 Sims Place #01-172	Shop (S) with living quarters (LQ)	137 m ² (S:68 m ² + LQ: 69 m ²)	86 years wef 1 Jan 1994	\$1,600,000 (S:\$1,283,603 or \$1,753.67psf)	Sep 2018	<ul style="list-style-type: none"> ➤ location similar: 0% ➤ shorter tenure: -9%: ➤ better location: +5% ➤ market condition: 0% ➤ smaller size: 5% <p>Total adjustments: +1% or \$13,042 →\$1,051,250 say \$1,050,000</p>

40 After taking into account the adjustments mentioned in Table 4A, AW1’s adjusted rates (psf) for the comparables are as follows:

S/N	Address of Property	Adjusted psf rate for trading area
1	Block 51 Lorong 6 Toa Payoh #01-72	\$ 1,811
2	Block 153 Serangoon North Ave 1 #01-464	\$ 2,150
3	Block 53 Sims Place #01-172	\$ 1,775

41 Taking the average of the adjusted rates of the three comparables at \$1,913 psf, AW1's valuation for the shop or trading area of the Property was then derived at \$1,132,005³⁵.

Valuation of the living quarters

42 As for the living quarters, AW1's valuation was derived from an average of the following sales transactions within the vicinity as detailed in the table below³⁶:

S/N	Address	Tenure	Floor area (m ²)	Transacted Price	Unit rate		Date of Transaction
					m ²	psf	
1	81 Macpherson Lane #02-41	99 years wef 1 Jun 1968	50	\$193,000	\$3,860	\$358.61	21 Nov 2017
2	83 Macpherson Lane #03-249	99 years wef 1 Jun 1968	64	\$250,000	\$3,906.25	\$362.90	29 Dec 2017
3	81 Macpherson Lane #02-31	99 years wef 1 Jun 1968	50	\$210,000	\$4,200	\$390.19	25 Jan 2018
Average					\$3,988.75	\$370.56	

³⁵ ACS [10] and [14]

³⁶ ABD95

43 Based on the floor area of the second storey of the Property of 58 square metres, AW1 had valued the living quarters on the second storey in the sum of \$230,995³⁷.

Issues

44 From the various contentions of the parties, the broad issues to be determined by the Board are:

- (a) Whether the Collector's Award of compensation based on the valuation report by RW1 is a fair and reasonable valuation of the market value of the Property as at the Acquisition Date; and
- (b) Whether the Appellant is entitled to claim reasonable expenses under section 33(1)(e) of the Act.

45 In relation to the first issue on determination of the market value of the Property, the dispute centred on the selection of comparables by the respective valuers for the purposes of deriving the market value and the appropriate adjustment factors to be considered. In this regard, the following sub-issues arise for our consideration:

- (a) Was the transaction dated 25 November 2017 for Block 82 Macpherson Lane #01-25 selected by RW1 an appropriate comparable?
- (b) Should the selected comparables be confined to properties located in precincts only and not neighbourhood centres?
- (c) Should the selected comparables be confined to transactions occurring before the Acquisition Date?

³⁷ ABD95 – see General Comments item 7

- (d) Is the market value of \$1,305,000 attributed to the Property as at the Acquisition Date fair and reasonable?

46 In relation to the second issue on the Appellant's claim for reasonable expenses, the following sub-issue arises for our consideration – is the Appellant entitled to claim additional buyer's stamp duty ("ABSD") and valuation fees as reasonable expenses?

Whether the Collector's Award of compensation based on the valuation report by RW1 is a fair and reasonable valuation of the market value of the Property

47 It is common ground that in using the Direct Comparison Method of valuation, the selection of the appropriate comparables is crucial. The objective of the exercise is to compare "like for like" to ensure accuracy of the derived market value. In this regard, the primary factors at play are location (which would have influenced the pedestrian traffic), size, shop frontage, lease tenure, age and condition of the properties, and dates of the transactions bearing in mind the overarching consideration that the derived market value shall be deemed not to exceed the price which a *bona fide* purchaser might reasonably be willing to pay for the property in question as at the Acquisition Date.

48 Of the three comparables selected by RW1, the Appellant had no issues with two of them, namely items s/n 2 and s/n 3 in Table 2. Both RW1 and AW1 had in fact selected s/n 2 *ie* the transaction dated 4 May 2017 for the shop unit at Block 51 Lorong 6 Toa Payoh #01-72 which had been sold for \$1,050,000 as an appropriate comparable. The Appellant, however, challenged RW1's selection of Block 82 Macpherson Lane #01-25 as a suitable comparable.

49 As for the comparables selected by AW1, the Respondent took issue with the transaction in July 2017 for Block 153 Serangoon North Ave 1 #01-464 as this is not a property located within a precinct. The third comparable selected by AW1 at Block 53 Sims Place #01-172 was rejected outright by the Respondent as the transaction registered in September 2018 post-dated the Acquisition Date.

50 The Board will examine the merits of each of the objections raised by the parties in turn.

Was the transaction dated 25 November 2017 for Block 82 Macpherson Lane #01-25 (“Block 82 #01-25”) an appropriate comparable?

Appellant’s submissions

51 Counsel for the Appellant, Mr Patrick Ee (“Mr Ee”) made the following arguments against the adoption of Block 82 #01-25 as a comparable³⁸:

- (a) It did not qualify as a comparable as it failed to satisfy all the three “conjunctive parameters” of (i) being “like for like”, (ii) being transacted within one year of the Acquisition Date, and (iii) its adjusted psf rate sitting within a variance band of between 10% to 15% of the average of the adjusted rates of the three comparables which was termed the “resultant base rate” (“Variance Test”).
- (b) Adherence to these “conjunctive parameters” was for the purposes of “quality control” such that a comparable that did not strictly meet these collective attributes are “automatically not fit for use and must be discarded”.

³⁸ ACS [14]

- (c) While Block 82 #01-25 fulfilled the first two parameters, it did not satisfy the third parameter of the Variance Test. The transacted value on a per square foot (psf) basis fell outside a variance band of 10% to 15% of the average of the adjusted rates of the three comparables as demonstrated in the following table:

Comparable	1	2	3
Property address	Block 82 Macpherson Lane #01-25	Block 51 Lorong 6 Toa Payoh #01-72	Block 85 Lorong 4 Toa Payoh #01-340
AR* (Value psf)	\$1,383	\$1,942	\$2,055
RBR** (Value psf)	\$1,799		
Variance between AR and RBR	-23.12%	7.95%	14.23%

*Adjusted rate

**Resultant base rate

- (d) Falling outside the 10% to 15% variance band indicates that the comparable presents a skewed value and must be discarded.
- (e) In the selection of comparables, what is material is the variance as it is an “unmistakable indication” of whether such a comparable is suitable or not.

52 In addition to the Variance Test, comparing the rate of Block 82 #01-25 of \$1,343 psf on 25 November 2017 to RW1’s resultant rate of \$1,799 psf as at the Acquisition Date shows an appreciation of 34% in the property value within six months. This stark difference in values over a short span of six months is quite far-fetched and indicative that the property had been transacted at an undervalue on 25 November 2017.

53 There was further support to Block 82 #01-25 being an anomaly when one considered the transaction at Block 82 Macpherson Lane #01-11 Singapore 360082 (“#01-11”), a large unit with a trading area of 97 square metres, transacted at \$1,400,000 or \$1,341 psf on 14 July 2016. This property which was almost double the size was transacted at only \$2 psf below that of Block 82 #01-25. Since it is generally accepted that the larger property will translate into a smaller psf rate, the fact that #01-11 commanded a rate of only \$2 psf below that of #01-25 makes it doubtful that Block 82 #01-25 was a transaction at fair market value.

54 While AW1 had initially regarded Block 82 #01-25 as a suitable comparable, this was due to his misapprehension that the transacted price of \$1,000,000 was only for the first storey trading area and that a further \$205,000 was to be accorded to the living quarters on the second storey. When he realised that the actual transaction price of \$1,000,000 was for the entire property which was “grossly under-priced”, he had to discard Block 82 #01-25 as a comparable and look for others that were more suitable³⁹.

The Board accepts that Block 82 #01-25 is an appropriate comparable

55 We are unable to accept the Appellant’s submissions that Block 82 #01-25 should be discarded as an unsuitable comparable for the following reasons:

- (a) In terms of value-sensitive attributes and factors such as location, lease tenure, size, age and condition of the building, and date of transaction it is clearly a “like for like” comparison which requires only one minimal adjustment to be made, *ie* to the date of transaction.

³⁹ ACS [14 (l)]

- (b) Just like the Property, it is an intermediate unit with an identical floor area for both the first storey shop and second storey living quarters located within the same precinct and of a similar age as well as similar state of repair and maintenance.
- (c) While AW1 had sought to impugn the transaction for Block 82 #01-25 in November 2017 as being grossly under-priced, and even suggested that this was a “distress sale”, there was no evidence adduced before the Board to support this assertion or suggestion. As conceded by AW1 at the hearing of the appeal, he was merely relying on hearsay received from his instructing counsel⁴⁰. We were unable to accord any weight to such evidence. In any case, there was simply no material placed before us sufficient to displace the transaction for Block 82 #01-25 on 25 November 2017 as anything other than an arm’s length deal between a willing buyer and a willing seller.
- (d) As for the transaction having to be discarded for failing to satisfy the three conjunctive parameters, and in particular what Mr Ee had characterised as the “Variance Test”, we were unable to find any evidentiary basis for such criteria to apply in the methodology for the selection of comparables for purposes of a valuation exercise. A submission from counsel that this was accepted industry practice was nothing more than a bare assertion unsupported by any industry guidelines, textbook or precedent.

⁴⁰ NE, 24 June 2021, 20/10 – 29

- (e) The ‘Variance Test’ proposed by the Appellant measures the deviation of the adjusted rate of each comparable from the ‘resultant base rate’. By accepting a variance band of 10% to 15% of the ‘resultant base rate’, it was assumed that the ‘resultant base rate’ represents the correct value. Yet the ‘resultant base rate’ was derived by using the simple average of the adjusted rates of the three comparables in this case. This implies that equal weight had been given to all the three comparables. In other words, all the three comparables were regarded as equally good comparables. If any of the comparables were deemed unsuitable, it should not have been used to derive the ‘resultant base rate’ in the first place. With respect, this “Variance Test”, in our view, is thus highly questionable if not flawed.
- (f) Based on similarity in attributes, Block 82 #01-25 is in fact most comparable to the Property. Only the date of the transaction requires a minimal adjustment of 3%. On the other hand, all the other comparables adopted by both RW1 and AW1 vary from the Property rather significantly, requiring adjustments made to account for at least four variables each, and with the magnitude of adjustment as high as 25%. In the Direct Comparison Method, both the high number of adjustments required, and the magnitude of adjustments made to each variable, contribute to valuation adjustment errors.
- (g) The Appellant also compared the actual consideration of \$1,343 psf for Block 82 #01-25 with RW1’s resultant base rate of \$1,799 psf to conclude that the property was transacted at an undervalue, rendering it an unsuitable comparable. However, RW1 had

mentioned in her valuation report and testified at the hearing that she was deliberately generous in her valuation (of \$1,799 psf) as she wanted to “give a fair and robust compensation” to SERS properties⁴¹.

- (h) The Appellant further argued that Block 82 #01-25 was an anomaly when one considered the transaction price of \$1,341 psf for Block 82 Macpherson Lane #01-11 despite it being a large unit with a trading area of 97 square metres. We note that this property (#01-11) was not adopted by both RW1 and AW1 as a comparable. It was highlighted by RW1 to be an unsuitable comparable because it is a corner shop unit with better shop frontage and was being used as a minimart. In our view, having factored in these attributes other than size to justify the price of \$1,341 psf, the price for Block 82 #01-25 did not seem to be an anomaly.

56 In conclusion, we find no basis to exclude evidence of the transaction for Block 82 #01-25 for the purposes of an objective evaluation of the market value of the Property.

Should the selected comparables be confined to properties located in precincts only and not neighbourhood centres?

57 This issue arose from the Appellant’s contention that while the Property is physically located within a precinct at Macpherson Lane, the locality of this precinct had acquired the characteristics of a neighbourhood centre.

⁴¹ ABD83; NE, 24 June 2021, pages 45 to 46

58 The terms “precinct” and “neighbourhood centre” are HDB town planning terms representing a hierarchy of facilities to residents⁴². Facilities within a precinct and neighbourhood centre cater to most of the residents’ day-to-day needs. A neighbourhood centre comprises a number of precincts of about 400 to 800 residential units with shops and other facilities designed to serve a wider catchment of residents.

59 AW1’s premise was that the Macpherson Lane precinct did not just serve the residents within that precinct, but also its neighbouring areas, including the nearby industrial estate to its north, the private estate to its west, the larger Macpherson estate across the canal to its south-east and the Tai Seng MRT locale (including BreadTalk IHQ) to its northeast. This extended reach is demonstrated by the precinct having taken on the character as a destination location where facilities like specialty cafés serving gourmet coffee, gelato, health care services, shops and hair stylists can be found. Hence, one of the comparables chosen by AW1 is a property located within a neighbourhood centre, *viz* Block 153 Serangoon North Ave 1 #01-464 (“AW1’s Comparable 2”).

60 RW1 had confined her selection of comparables to shops located within precinct blocks. She explained that AW1’s Comparable 2 was not suitable as this is a neighbourhood centre shop instead of a precinct shop⁴³ with a correspondingly much larger catchment. Another significant difference is the age of the property – as at the Acquisition Date, it was 32 years old as compared to 50 years for the Property.

⁴² www.hdb.gov.sg/about-us/history/town-planning; ACS [15(c)]

⁴³ NE, 24 June 2021, 50/29 – 30

61 Whether a comparable is located within a precinct or a neighbourhood centre, the key issue is on the location of the selected comparable relative to that of the Property in drawing pedestrian traffic; and how much to adjust to account for the difference in their locations. Such adjustments are usually highly subjective and contentious. Where the required adjustment is significant, it is indicative of a significant difference in their locations, and hence renders the selected comparable as unsuitable. We note from AW1's comparable sales analysis, that he had made a sizeable 25% adjustment for the location of his Comparable 2 which is in a neighbourhood centre. This alone suggests that the comparable is not suitable.

Should the selected comparables be confined to transactions occurring before the Acquisition Date?

62 The third comparable used by AW1 was a shophouse at Block 53 Sims Place transacted in September 2018 ("AW1's Comparable 3"). RW1 had rejected this transaction as a suitable comparable as it post-dated the Acquisition Date. According to RW1, a post-dated transaction ought not to be used as a comparable. This was based on industry practice as well as what she had been taught when she started doing valuation. Notably, she did not raise any issue on whether the transaction price of this comparable might have been influenced by the SERS exercise which was announced earlier in May 2018.

63 AW1 denied that the use of post-dated transactions is prohibited by principle or industry practice. He maintained that a post-dated transaction remains relevant for consideration as it would serve to confirm the trend indicated by the comparables on or before the Acquisition Date.

64 As there was no available literature given to the Board to support RW1's assertion of the accepted principle or practice of valuation that she had adhered

to, we do not think that a transaction should be rejected outright merely because it is after the Acquisition Date. On the contrary, it would serve to confirm the state of the market as at the Acquisition Date and provide a holistic consideration of all the factors at play in deriving a more accurate valuation.

65 In any case, from RW1's testimony at the hearing, the inclusion of AW1's Comparable 3 into the analysis did not assist the Appellant's case as it would in fact lead to a lower valuation of the Property.

Is the market value of \$1,305,000 attributed to the Property as at the Acquisition Date fair and reasonable?

66 Having considered the valuation reports of both AW1 and RW1 and heard their concurrent testimonies, the Board is of the unanimous opinion that RW1's valuation is more thorough and well-substantiated.

67 Empirical data based on on-site inspections of the different properties and observations of actual pedestrian traffic was relied on to make the relative adjustments in deriving the final market value for the trading area of the Property. In this regard, we note that RW1 had recorded a total of 19 visits to the subject site at different times of the day and on different days of the week to observe the actual conditions⁴⁴ before making the appropriate adjustments.

68 The separate adjustment factors for time and shop frontages were supported by data of transactions in neighbouring vicinities⁴⁵. Past transactions over the years from 2016 to 2018 at the SERS site were also considered to determine if the market valuations accorded were robust⁴⁶.

⁴⁴ ABD79 – 80, and Appendix 22 at ABD117

⁴⁵ ABD78 – 79

⁴⁶ ABD83 and Table 3

69 In contrast, AW1's views as to the enhanced attributes of the Macpherson Lane precinct, without any empirical supporting evidence, were in our view impressionistic at best. AW1's comparable sales analysis of the comparables selected⁴⁷ was also less rigorous in terms of the adjustment factors taken into account as the age and condition of the properties in question were not considered. While his valuation report reflected that age and condition of buildings were factors taken into consideration in arriving at his valuation⁴⁸, when questioned on this at the hearing, AW1 explained that he had in fact made no adjustments for age and condition of the property as he did not regard these as important factors⁴⁹. His focus was rather on the balance tenure. There were also errors in the data tabulated in his analysis *eg* the trading area of Comparable 1 which was discovered just before the hearing leading to a last-minute amendment of the Petition of Appeal; and the age of Comparable 3 at 42 years and not 37 years as stated which was disclosed by RW1 during their concurrent testimonies⁵⁰.

70 As for the valuation of the living quarters, we note that AW1 had included a three-room flat⁵¹ as one of the three comparables which raises some doubt as to the accuracy of his valuation of \$230,995.

71 RW1's valuation of the living quarters was derived from an average of four comparables and tested against another five transactions within the subject

⁴⁷ ABD146

⁴⁸ ABD140

⁴⁹ NE, 24 June 2021, 28/15 – 29/20; 74/8 – 77/14

⁵⁰ NE, 24 June 2021, 57/1 – 11

⁵¹ NE, 24 June 2021, 113/12 – 20

site. The methodology employed was clearly more comprehensive and resulted in a more accurate market value.

72 RW1 had gone further to cross-check the reasonableness of her derived market values from the Direct Comparison Method by using the Income Method of valuation from the data on rentals of the different units at the SERS site⁵². Her analysis of the yields for the shops and living quarters was sound and was not challenged by the Appellant⁵³. The Income Method is often the preferred method used in the valuation of retail properties. Unlike the Direct Comparison Method, the use of the Income Method obviates the need to make subjective and contentious adjustments to account for differences in location, size, shopfronts, age and condition of the buildings; and thus provides a very reliable check method for this case. We note that AW1 did not use the Income Method for the reason cited that he had no access to the rental data of HDB shops⁵⁴.

73 For all the reasons given above, the Board has no reservation in upholding the Respondent's valuation of \$1,305,000 attributed to the Property as at the Acquisition Date.

Whether the Appellant is entitled to claim reasonable expenses under section 33(1)(e) of the Act

74 In the Collector's Award⁵⁵ of compensation, a sum of \$50,400 had been provided as "Reasonable Expenses" comprising a removal allowance of

⁵² ABD116

⁵³ NE, 24 June 2021, 31/27 – 29, 33/26 – 29

⁵⁴ NE, 24 June 2021, 30/18 – 29

⁵⁵ ABD19 – 20

\$15,000 and stamp and legal fees for buying a comparable replacement property computed based on the market value of the SERS property as at 31 May 2018.

75 By his amended petition of appeal, the Appellant sought to claim a total of \$88,549.50 which included the following items:

- (a) Buyer's stamp duty for the commercial component: \$28,560.15;
- (b) Buyer's stamp duty for the residential component: \$2,819.90;
- (c) Additional Buyer's Stamp Duty (15% x \$230,995): \$34,649.25;
- (d) Legal fees: \$5,452.00; and
- (e) Valuation fee: \$2,000.00.

76 The Respondent disputes the Appellant's entitlement to claim any reasonable expenses under the Act. The Respondent further submits that even if the Appellant were entitled to claim reasonable expenses, such expenses should not include any Additional Buyer's Stamp Duty or valuation fees.

77 A claim for reasonable expenses falls to be considered under section 33(1)(e) of the Act. If, in consequence of the acquisition, the person whose land is being acquired under the Act is compelled to change his residence or place of business, "the reasonable expenses, if any, incidental to that change" is one of the matters that Board shall take into account in determining the amount of compensation to be awarded.

78 No evidence has been placed before the Board that the Appellant was using the Property as either his residence or his place of business. In fact, the valuation reports of both AW1 and RW1 had noted that the Property was being

rented out. As such, the Board has to find that the Appellant was not using the Property as either his residence or his place of business.

79 Since the Appellant was not using the Property as either his residence or his place of business at the Acquisition Date, he therefore has not been compelled to change either his residence or place or business in consequence of the acquisition, and accordingly, there can be no “reasonable expenses” incidental to such change.

80 Counsel for the Respondent, Mr Twang, referred us to a previous decision of the Board in *NHC Pte Ltd v Collector of Land Revenue* (AB 2001.046) (“*NHC Pte Ltd*”) in which the acquired land was also tenanted out to a company called Nachi (S) Pte Ltd at a substantial monthly rent as at the acquisition date. The appellant in *NHC Pte Ltd* had sought an award of damages under section 33(1)(e) of the Act. In dismissing the appellant’s claim, the Board in *NHC Pte Ltd* had observed that:

In any case at the acquisition date the acquired land was let to Nachi and was not the appellant’s place of business. The appellant was not compelled to change its place of business in consequence of the acquisition and it has not adduced any evidence of any expenses incidental to any change of place of business.

81 Similarly, in the case before us, the Property being rented out was not, and cannot be regarded as the Appellant’s place of business and we would adopt the same position as the Board in *NHC Pte Ltd*. While Mr Ee had attempted to suggest that the Appellant’s business was that of a landlord, we are unable to accept such a submission without any supporting evidence.

82 As the expenses claimed by the Appellant are not incidental to any change of his residence or place of business, they cannot be taken into

consideration by the Board in determining the compensation to be awarded for the acquisition of the Property as required under section 33(1)(e) of the Act.

Is the Appellant entitled to claim additional buyer's stamp duty ("ABSD") and valuation fees as reasonable expenses?

83 Even if the Appellant were entitled to reasonable expenses in consequence of the acquisition, the claim for ABSD at 15% of the market value of the residential component is without any foundation.

84 As explained in the Fact Sheet⁵⁶ issued by the Inland Revenue Authority of Singapore (IRAS), there is no ABSD imposed if the Appellant were indeed compelled to change his residence in consequence of the acquisition as he would still be regarded as buying his first residential property. The Appellant would only incur ABSD if he were buying a second or subsequent residential or mixed commercial/residential property, presumably to rent out.

85 From the IRAS Fact Sheet, the 15% ABSD would apply to a Singapore citizen buying a third or subsequent residential property. No explanation has been given to the Board as to the basis for the Appellant's claim of 15% ABSD. It is not an item of reasonable expenses to be considered by the Board in determining the amount of compensation.

86 As for valuation fees, the Appellant had claimed this sum as "*payable in connection with obtaining an independent valuation report of the Property in order to confirm and verify the market value determined by the Collector's valuer*"⁵⁷.

⁵⁶ Respondent's Bundle of Authorities for Closing Submissions at pages 10 to 11

⁵⁷ ABD53 – Amended Petition of Appeal at paragraph 12

87 It was submitted by Mr Ee for the Appellant that as he was sceptical of the market value of the Property in the Collector's Award, the Appellant had to engage a valuer to independently value the Property to verify its fair market value. If the market value in the Collector's Award was in fact at an undervalue, it was important for him to put in an appeal for the accurate amount, as he would need to channel the compensation sum towards securing a comparable replacement property to continue on as landlord.

88 We disagree with the Appellant. The valuation fees were incurred solely in order for the Appellant to procure a valuation report for purposes of his appeal. It should be regarded as a disbursement item that would be dealt with as part of the costs in the appeal. It bears no correlation to the Appellant being compelled to change his place of business even if we were to accept that being a landlord could amount to a business within the meaning of section 33(1)(e) of the Act which we do not. It is not an expense incidental to a change of residence or place of business.

89 As such, the Board is unable to consider the Appellant's claim for valuation fees in determining the amount of compensation payable.

Conclusion

90 The Appellant has failed to persuade us that the Collector's Award of compensation for the Property in the sum of \$1,355,400 is inadequate in any respect. The Appeal is hereby dismissed with costs to be paid by the Appellant to the Respondent to be taxed unless otherwise agreed.

Dated 22 December 2021

Commissioner of Appeals Tan May Tee
Assessor Associate Professor Ang Sock Tiang
Assessor Poh Kwee Eng
