

LAND ACQUISITION ACT

APPEALS BOARD

AB 2000.006

In the Matter of the Acquisition of Land at
Strata Lot 3553-2-B of Mukim 24
271A Upper Paya Lebar Road

Between

Goh Sai Wah as executrix of the estate of Wong Kok
Kum deceased

... Appellant

And

Collector of Land Revenue

... Respondent

Mr Michael Hwang SC and Mr Ernest Wee for Appellant
Mr Eric Chin for Respondent

DECISION

The decision of this Board is:

(1) That the award of the Collector of Land Revenue of compensation in an amount of \$265 000 in respect of the land at Strata Lot 3553-2-B of Mukim 24 be increased to \$285 000;

And

(2) That the Collector of Land Revenue pay to the appellant the balance of the award together with interest at 6% per year from the date of taking possession to the date of payment;

And

(3) That the deposit paid by the appellant be paid out to the appellant;

And

(4) That there be no order as to costs.

BRIEF STATEMENT OF REASONS

The reasons for the Decision/Order are:

Appeal

(1) On 10 December 1998 ("acquisition date") a notification was published in the *Gazette* of a declaration made under s 5 of the Land Acquisition Act ("s 5 declaration") that the land at Strata Lot 3553-2-B of Mukim 24 ("acquired land") was required for a public purpose. The appellant was then the proprietor of the acquired land for an estate in fee simple and is a person interested.

(2) For the purpose of the inquiry held under s 10 the appellant submitted a claim of \$530 000 for compensation. The respondent ("Collector") found that the market value as at the acquisition date was \$265 000 and that this was not higher than as at 1 January 1995 and on 1 April 1999 he made an award of compensation in that amount.

(3) The appellant appeals against the award on the ground that the Collector has erred in his determination of the market value of the acquired land. In this appeal she claims compensation of \$495 000.

Acquired Land

(4) The acquired land comprised a residential unit at 271A Upper Paya Lebar Road which was an intermediate flat on the 3rd Storey of the unnamed building on Lot 3553 of Mukim 24 together with a 1/12 share of the common property on Lot 3553. A description of the unnamed building and Lot 3553 is given in the Brief Statement of Reasons in the Decision in AB 1999.056 dated 17 September 2004 to which reference should be made. The whole of Lot 3553 has also been acquired together with the acquired land.

(5) The parties agreed that the evidence adduced at the hearing of the appeal in AB 1999.069 might be used as evidence in this appeal and reference should also be made to the Decision in AB 1999.069 for such evidence, findings of fact and the reasons as are relevant to this appeal.

Compensation

(6) Section 33 of the Act provides:

(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 -

(i) ...

(C) as at 1st January 1995 in respect of land acquired on or after 27th September 1995;

(ii) as at the date of publication of the notification under section 3(1) if the notification is, within 6 months from the date of its publication, followed by a declaration under section 5 in respect of the same land or part thereof; or

(iii) as at the date of publication of the declaration made under section 5,

whichever is the lowest

No notification under s 3(1) was published. The s 5 declaration was published on 10 December 1998 and it is common ground that the market value as at 10 December 1998 was the lowest and it is the market value of the acquired land as at 10 December 1998 that among other matters has to be taken into consideration in determining the amount of compensation to be awarded.

Market Value

(a) *273, 273A, 207B Upper Paya Lebar Road ("273", "273A", "207B")*

(7) This Board has reviewed the evidence in respect of the 273, 273A and 207B transactions and finds as it did in AB 1999.069 that the respective prices at which the properties were sold reflected their then market values. See the Decision in AB 1999.069 at paras (12) and (17) to (23).

(b) *Adjustment for time*

(8) In the Decision in AB 1999.069 this Board considered the evidence and said at para (16):

On the evidence this Board is not satisfied that an adjustment for time of -10% should be allowed on the basis of PPI.

The Board did not rely on PPI in the circumstances of the case. 273 and 273A were sold in September 1995 and January 1996 for \$300 000 in each case. 207B was sold in November 1996 for \$250 000 and this Board has found that these prices reflected the market values then. 273 and 273A were 2 of the flats in the unnamed building. This Board has reviewed the evidence and finds as it did in AB 1999.069 that the base value of 209D a 2nd storey unit in the rear block of Elling Court is \$285 000.

(c) *319A Upper Paya Lebar Road ("319A")*

(9) This Board has reviewed the evidence and is satisfied that the 319A transaction of April 1999 was not a comparable transaction. See paras (9) to (13) of the Brief Statement of Reasons in the Decision in AB 1999.070 dated 17 September 2004.

(d) *Acquired land*

(10) The Collector concedes that the base value of the acquired land as at the acquisition date should be revised to \$274 000 following the Decision in AB 1999.069. This does not appear to this Board to take into sufficient consideration the differences in configuration between the unnamed building and Elling Court and in storey level between the flats and on the evidence and the facts agreed this Board finds that the base value is \$280 000. To that will be added \$5 000 for improvements for a total of \$285 000 and this Board finds that the market value of the acquired land as at the acquisition date was \$285 000.

Award

(11) This Board has taken into consideration the market value of the acquired land as at 10 December 1998 under s 33(1)(a) and determines that the amount of compensation to be awarded for the acquired land is \$285 000. This exceeds the amount of the Collector's award and this Board orders that the Collector pay the appellants the excess together with interest at the rate of 6% per year from the date of taking possession to the date of payment.

Costs

(12) For the purpose of the inquiry held under s 10 the appellant made a claim of \$530 000. This was a claim made pursuant to the Collector's notice under s 8 and as it exceeds the amount awarded by this Board by more than 20% the appellant is not entitled to her costs.

Dated 2004 September 17

Commissioner of Appeals T Q Lim SC
Assessor Lim Lan Yuan
Assessor Wong Chak Wai