

LAND ACQUISITION ACT

APPEALS BOARD

AB 1999.070

In the Matter of the Acquisition of Land at  
Strata Lot 3769-4-A of Mukim 24  
207 Upper Paya Lebar Road

Between

- 1 Hia Soo Boon
- 2 Goh Soo Siang as administrator  
of the estate of Chia Eng Hui deceased

... Appellants

And

Collector of Land Revenue

... Respondent

Mr Michael Hwang SC and Mr Ernest Wee for Appellants  
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 \$240 000 in respect of the land at Strata Lot 3769-4-A of Mukim 24 be increased to \$255 000;

And

(2) That the Collector of Land Revenue pay to the appellants 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 appellants be paid out to the appellants;

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 3769-4-A of Mukim 24 ("acquired land") was required for a public purpose. The appellants were then the proprietors of the acquired land for an estate in fee simple and are persons interested.

(2) For the purpose of the inquiry held under s 10 the appellants submitted a claim of \$500 000 for compensation. The respondent ("Collector") found that the market value as at the acquisition date was \$240 000 and that this was not higher than as at 1 January 1995 and on 9 April 1999 he made an award of compensation in that amount.

(3) The appellants appeal 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 they claim compensation of \$406 000.

### *Acquired Land*

(4) The acquired land comprised a flat at 207 Upper Paya Lebar Road which was on the 1st Storey of the front block of Elling Court together with a 1/15 share of the common property on Lot 3769. A description of Elling Court and Lot 3769 is given in the Brief Statement of Reasons in the Decision in AB 1999.069 dated 26 October 2002 ("Decision in AB 1999.069") to which reference should be made. The whole of Lot 3769 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 69/1999 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 69/1999 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. 207B was one of the flats in Elling Court. 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 is \$285 000.

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

(9) In the Decision in AB 1999.069 this Board said at para (24):

The appellant relies heavily on her own purchase in April 1999 of 319A Upper Paya Lebar Road ("319A") for which she paid \$465 000. 319A was not at any time at all affected by a road line. It was obviously not a comparable transaction and no inference can be drawn from that transaction or any others in respect of the apartments in the same block as to the probable price or market value of the acquired land as at the acquisition date.

Counsel for the appellants submitted that this was an error and that 319A was in fact affected by a road line.

(10) 319A is a unit on the second storey of an apartment building constructed on land at the junction of Quemoy Road and Upper Paya Lebar Road. It is not disputed that at the time of the transaction a road line had been drawn along the boundary of the land abutting Quemoy Road and across part of the open land abutting Upper Paya Lebar Road. The building itself was not affected and there was no evidence that if the road proposal as evidenced by the road line was to be carried into effect then any more than that part of the open land that was adversely affected by the road line would be acquired.

(11) In AB 1999.069 (as in this case) the road line was drawn across the building itself and all the units in the building were adversely affected. There could be no doubt in the mind of anyone proposing to buy a unit in the building that if the road proposal as evidenced by the road line was to be carried into effect then the land would have to be acquired together with the building and all the units in it. This would have had a much greater effect on the price he would be willing to pay for it than in a case where only part of the land is affected by the road line and not the building as in the case of 319A and there was no evidence as to any price adjustment for such difference.

(12) While it was inaccurate in the circumstances to describe 319A as not affected by a road line the inaccuracy was not an error that in any way at all affected the decision of the Board. It may be mentioned in passing that it was the appellant's case in AB 1999.069 that 319A was not affected by a road line and she said in her affidavit that her unit was "not affected by the 1986 road reserve line that affected [her] neighbours in No 207, 207A, 207B, 209, 209A and 209B, which [were] in the block in front of [hers]". "1986 road reserve line" was a reference to the 1983 road line or the 1985 road line both of which were drawn across part of the land at Lot 3769 with the front block on the reserved part of the land but without affecting the rear block where her unit was. "207" was a reference to the acquired land in this appeal.

(13) This Board has reviewed the evidence and is satisfied that the 319A transaction of April 1999 was not a comparable transaction.

(d) *Acquired land*

(14) The Collector concedes that the base value of the acquired land as at the acquisition date should be revised to \$243 000 following the Decision in AB 1999.069. On the evidence and the facts agreed this Board finds that the base value should be \$245 000. To that will be added \$10 000 for corner unit and windows for a total of \$255 000 and this Board finds that the market value of the acquired land as at the acquisition date was \$255 000.

*Award*

(15) 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 \$255 000. 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*

(16) For the purpose of the inquiry held under s 10 the appellants made a claim of \$500 000. 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 appellants are not entitled to their costs.

Dated 2004 September 17

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