

LAND ACQUISITION ACT

APPEALS BOARD

AB 2001.088

In the Matter of the Acquisition of Land at
Strata Lot 6025-15-D of Mukim 18

Between

Lau Huai Eng

... Appellant

And

Collector of Land Revenue

... Respondent

DECISION

The decision of this Board is:

(1) That the award of the Collector of Land Revenue of compensation in an amount of \$73 200 in respect of the land at Strata Lot 6025-15-D of Mukim 18 be confirmed;

And

(2) That the costs of this appeal be paid by the appellant;

And

(3) That the deposit paid by the appellant be paid out to the Collector of Land Revenue to account of the costs of this appeal.

BRIEF STATEMENT OF REASONS

The reasons for the Decision/Order are:

Appeal

(1) On 3 March 2001 the appellant was notified that Block 4 Seletar Road had been selected for the Selective En-Bloc Redevelopment Scheme ("SERS"). Strata Lot 6025-15-D of Mukim 18 ("acquired land") is a flat on the 4th storey of Block 4.

(2) On 23 March 2001 ("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 acquired land (together with other land) was required for a public purpose namely SERS - Seletar Road. The appellant was then the proprietor of the acquired land as lessee for a term of 99 years from 1 January 1976 and is an interested person.

(3) For the purpose of the inquiry held under s 10 the appellant submitted a claim of \$160 000 for compensation. The respondent ("Collector") found that the market value as at 1 January 1995 was lower than the market value as at the acquisition date and on 15 December 2001 she made an award of compensation in the amount of \$73 200.

(4) The appellant appeals against the award on the ground that the award is inadequate and on other grounds stated in the petition of appeal. The appellant further claims a sum for reasonable expenses incidental to a change of residence and compensation of \$160 000 in the aggregate.

Acquired Land

(5) Block 4 Seletar Road is a 5 storey building in a development at the junction of Seletar Road and Yio Chu Kang Road. The development comprises one building for a market and food centre and 4 buildings (including Block 4) with shops on the first storey and residential flats on the upper storeys. The land on which the buildings have been developed is zoned Commercial and Residential under the Master Plan.

(6) The acquired land is a 3 room flat on the 4th storey of Block 4. The floor area is 59sm. The accommodation comprises 2 bedrooms, a living room, a kitchen, a bathroom and a separate toilet. The developer and lessor is the Housing and Development Board ("HDB").

Compensation

(7) 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;

...

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

There is no evidence that any notification under s 3(1) was published. The s 5 declaration was published on 23 March 2001, the acquisition date, and the evidence is that the market value as at 1 January 1995 was lower than that as at the acquisition date and it is the market value of the acquired land as at the acquisition date that has to be taken into consideration.

Petition of Appeal

(8) In para 1 of Grounds of Appeal in the amended petition of appeal the appellant says:

The total compensation award of \$106 500 is too low and inadequate to be termed compensation as it is insufficient to fully reimburse the costs incurred in the purchase of the acquired property, to relocate and to purchase the allocated replacement flat, provided under [SERS].

The appellant purchased the acquired land for \$106 000 by contract made in May 2000. She paid about \$7 000 for repairs and improvements and about \$2 600 for fees in the purchase. She claims about \$1 600 for relocation expenses. She is still residing at the acquired land.

(9) s 25(3) of the Act provides:

The onus of proving that the award is inadequate shall be on the appellant.

The appellant has not adduced any evidence as to the market value of the acquired land as at the acquisition date or as at 1 January 1995. She paid \$106 000 but that was under a contract made in May 2000. The market value of the acquired land as at May 2000 may well be about \$106 000 but that is not what I have to take into consideration under s 33(1)(a).

Market Value

(10) In para 4a of her grounds of award the Collector says:

It is considered that the market value of the acquired property as at 1 January 1995 is lower than that as at the date of gazette publication i.e. 20 March 2001....

This is not disputed and is supported by the report of Soh Kok Foo dated 8 June 2001 in the Collector's bundle of documents. "gazette publication" is a reference to the publication of the s 5 declaration and the date of publication is 23 March 2001.

(11) In para 4 of her grounds of award the Collector says:

After due consideration to the advice given by M/s SKF Valuers, the private licensed valuer appointed by [HDB] and s 33(1) of the Land Acquisition Act, a Collector's award of \$73 200 with vacant possession was issued to the appellant....

SKF Valuers is the professional name of Soh Kok Foo's practice. At p 5 of his report he says that the market value of the acquired land was \$71 000 as at 1 January 1995 and \$106 500 as at 3 March 2001.

Reasonable expenses incidental to change of residence

(12) The appellant has been compelled to change her residence. She was residing at the acquired land at the acquisition date and she would have to find alternative accommodation. She is still residing at the acquired land and while there is no evidence that she has in fact incurred any expenses she will undoubtedly have to do so before the Collector takes possession of the acquired land.

(13) The appellant has claimed about \$2 600 for fees incurred in the purchase of the acquired land. These may well be in the nature of expenses thrown away not altogether though as the appellant has been in possession of the acquired land since the fees were incurred but I do not think that they may properly be regarded as expenses "incidental to that change [of residence]".

(14) The appellant has also claimed about \$1 600 for "relocation expenses". The cost of fixtures such as the kitchen sink claimed is not in the nature of an expense but in the nature of the capital cost of acquiring an alternative property and is not an expense incidental to a change of residence. There will be expenses such as the cost of moving from the present location to another and the cost of finding the alternative property.

(15) The Collector appears to have allowed \$2 200 for expenses under s 33(1)(e) and on such evidence as there is before me I cannot say that this is inadequate.

Other Grounds

(16) The main ground appears to be that HDB approved the purchase of the acquired land by the appellant in 2000 when it knew that it was to be acquired for

SERS and it was in fact so acquired. The Head, Special Projects Unit, Projects & Development Section, Estate Administration & Property Department of HDB was subpoenaed to testify for the appellant. She wrote the letter dated 3 March 2001 to notify the appellant (and others) that the acquired land was selected for SERS. She said she first became aware the day before i.e. on 2 March 2001 that the acquired land was going to be acquired for SERS. Her Unit was informed by the En-Bloc Redevelopment Unit. She did not know when the Head of that Unit knew that the acquired land had been selected for SERS.

(17) The appellant applied to HDB for approval of her purchase of the acquired land in May 2000 and approval was in due time granted. She received the keys in July and by September 2000 she had completed her purchase and taken possession but there is no evidence that anyone in HDB knew before March 2001 that the acquired land had been selected for SERS and would be acquired.

(18) The appellant's case is not supported by the evidence but even if it were a fact that HDB knew of the intended acquisition before it approved of the purchase by the appellant and did not make any disclosure of this knowledge I am unable to see that this will affect the amount of the compensation to be allowed for the acquired land.

(19) This is one instance of hardship brought upon a landowner for which there may well be no redress and certainly no redress under the Act. The appellant purchased the flat after 1 January 1995 and less than a year later it was acquired under the Act. The s 5 declaration was published on 23 March 2001. The market value to be taken into consideration is the market value as at 1 January 1995 which is before the date of purchase or as at 23 March 2001 which is after, *whichever is the lower*. Unless the purchase price was for some reason low the market value to be taken into consideration is likely to be lower than the purchase price and the compensation will be less than what the landowner paid for the acquired land.

Award

(20) I have considered the evidence and the submissions of the appellant and of counsel for the Collector and in my decision this appeal fails. The award of the Collector is confirmed.

Costs

(21) As the amount awarded by this Board does not exceed the sum awarded by the Collector the costs shall be paid by the appellant in accordance with s 32(1) of the Act.

Dated 2002 April 10

T Q Lim
Commissioner of Appeals