

LAND ACQUISITION ACT

APPEALS BOARD

AB 1999.177

In the Matter of the Acquisition of Land at
Lot 891-5-B of Mukim 1
Block 31 Lower Delta Road #02-509

Between

Ng Hui Eng
Tan Lay Tin

... Appellants

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 \$218 500 in respect of the land at Lot 891-5-B of Mukim 1 be increased to \$219 500;

And

(2) That the Collector of Land Revenue pay to the Appellants the balance of the award;

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:

(1) The acquired land comprises a residential flat of about 82sm in area at Block 31 Lower Delta Road #02-509 of which the Appellants were at the time the award was made the proprietors for the residue of the term of 99 years which would have expired on 30 June 2071. Block 31 Lower Delta Road is a 5 Storey HDB walk-up residential building comprising on each storey a row of 8 residential 4 Room (Improved) flat units. The acquired land is an intermediate flat on the 2nd Storey.

(2) At the inquiry held under s 10 the Appellants claimed \$420 000 for the acquired land. On 4 October 1999 the Collector of Land Revenue made an award of \$218 500 as the compensation which in his opinion should be allowed for the acquired land.

(3) The Appellants appeal against the award on the ground that it is inadequate. In their amended petition of appeal the Appellants claim \$342 095 as to \$315 000 for the price they paid for the acquired land in 1997, \$24 095 for repairs carried out after the purchase and \$3 000 for "transport costs" which the parties agree to be a reference to reasonable expenses under s 33(1)(e). The Appellants do not say what the relevant date is for the purpose of s 33(1)(a) or what the market value of the acquired land was as at the relevant date.

(4) Section 33 of the Land Acquisition 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) ... 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, [the person interested] is compelled to change his residence ... the reasonable expenses, if any, incidental to that change

(5) No notification under s 3(1) was published. The declaration made under s 5 was published on 31 March 1999.

(6) Mr Wong Kum Sek of Wong Kum Sek Valuers & Property Consultants testifying for the Appellants said that the market value of the acquired land as at January and May 1997 was \$315 000. He referred to the price paid by the Appellants for the acquired land. The contract was made in January 1997 and the purchase was completed in May 1997. He said that the market value as at 1 January 1995 was \$270 000. He agreed that the market value as at 1 January 1995 was lower than as at 31 March 1999.

(7) Mr Dennis S K Low of Associated Property Consultants Pte Ltd testifying for the Collector of Land Revenue said that the market value of the acquired land was \$218 500 as at 1 January 1995 and \$270 000 as at 7 October 1998. 7 October 1998 is the date of an event which is not relevant for the purpose of this appeal. There is no evidence as to the market value of the acquired land as at 31 March 1999 but Mr Low also said that it was lower as at 1 January 1995 than as at 31 March 1999. He referred to the following sale transactions among others in his report dated 10 November 1998:

	<i>Property</i>	<i>Area</i>	<i>Price</i>	<i>Contract Date</i>
1	BI 31 Lower Delta Rd #01-507	85sm	\$220 000	22 Jul 95
2	BI 31 Lower Delta Rd #02-507	82sm	\$211 500	29 Jul 95
3	BI 31 Lower Delta Rd #05-507	82sm	\$230 000	15 Oct 95

He then referred to the HDB Resale Price Indices for 1995 and concluded that the market value of the acquired land as at 1 January 1995 was \$218 500. He admitted that he did not know the methodology for deriving the indices.

(8) Mr Bill Moh also of Associated Property Consultants Pte Ltd produced printouts from the computer database of his company for transactions between January 1994 and January 1996 relating to apartments in Block 31 Lower Delta Road. Apart from those disclosed in the report dated 10 November 1998 and mentioned above there were nine transactions including the following:

	<i>Property</i>	<i>Area</i>	<i>Price</i>	<i>Contract Date</i>
1	BI 31 Lower Delta Rd #02-519	82sm	\$190 000	1 Mar 94
2	BI 31 Lower Delta Rd #04-515	82sm	\$140 000	1 Apr 94
3	BI 31 Lower Delta Rd #05-513	82sm	\$128 000	1 May 94
4	BI 31 Lower Delta Rd #04-507	82sm	\$250 000	13 Oct 95
5	BI 31 Lower Delta Rd #01-507	85sm	\$220 000	1 Nov 95
6	BI 31 Lower Delta Rd #02-507	82sm	\$211 500	1 Nov 95
7	BI 31 Lower Delta Rd #05-505	82sm	\$198 000	3 Nov 95

(9) The Collector of Land Revenue agreed for the purpose of this appeal that the value of the consideration in respect of the purchase of the acquired land by the Appellants was \$315 000 and that such value had been stated by or with the knowledge or consent of the Appellants in a document required to be delivered to a public officer under the provisions of a written law and accepted by him at that value for the purpose of assessing the duty payable on the value within the meaning of s 33(5)(d) and that such statement was made within two years of 31 March 1999.

(10) Mr Chiam of counsel for the Appellants submitted that the market value of the acquired land for the purpose of this appeal was \$315 000. He referred to s 33(5)(d) which provides:

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

...

(d) if any land in respect of which a value has been stated by or with the knowledge or consent of the owner thereof in any ... document required to be ... delivered to any public officer under the provisions of any written law and accepted by him at that value for the purposes of assessing the duty payable thereon where the statement was made within two years of the date of the notification under section 5(1) in respect of the land, the market value of the acquired land at the date of the statement shall be deemed not to exceed the value therein contained

(11) Alternatively the Appellants claim \$297 095 by substituting \$270 000 for the market value of the acquired land as at 1 January 1995 for the price paid.

(12) s 33(5)(d) does not provide that the market value of the acquired land whether as at 1 January 1995 or as at the date of publication of the declaration made under s 5 or as at any other date shall be deemed to be the value stated in the document. What it does provide is that the market value as at the date of the statement shall be deemed not to exceed such value. It provides an upper limit to the market value as at the date of the statement for the purpose of s 33(1)(a) and this Board holds accordingly. On the admitted facts in this appeal the market value as at the period January to May 1997 is deemed not to exceed \$315 000. It may be \$315 000 or it may be less than that. The market value as at some other date may be less than \$315 000 or it may be more than that. See *Teng Fuh Holdings Pte Ltd v Collector of Land Revenue* [1988] SLR 44.

(13) One of the matters that this Board is required to take into consideration is the market value as at one of the three dates mentioned in s 33(1)(a) whichever is the lowest. In so far as the market value as at any date in the period January to May 1997 is relevant then for the purpose of s 33(1)(a) such market value (i.e. the market value as at the January to May 1997 date) is deemed not to exceed \$315 000.

(14) On the facts admitted and the evidence adduced this Board finds:

(a) that for the purpose of s 33(1)(a) the market value of the acquired land was the lowest as at 1 January 1995;

(b) that the market value of the acquired land as at 1 January 1995 was \$218 500;

(c) that in consequence of the acquisition the Appellants are compelled to change their residence;

(d) that the reasonable expenses incidental to the change of residence amount to \$1 000;

(15) Taking into consideration the market value as at 1 January 1995 and the reasonable expenses incidental to the change of residence this Board determines that the amount of compensation to be awarded for the acquired land is \$219 500.

(16) The Appellants partially succeed in this appeal but:

(a) as their claim exceeds the amount awarded by this Board by more than 20% they are not entitled to their costs under s 32(4); and

(b) as they did not make any claim in respect of the expenses incidental to the change of residence until the amended petition was filed,

this Board makes no order as regards interest on the amount by which the amount awarded by this Board exceeds the amount awarded by the Collector of Land Revenue.

Dated 2001 May 26

Commissioner of Appeals T Q Lim
Assessor Lim Sean Teck
Assessor Teo Pin