

LAND ACQUISITION ACT

APPEALS BOARD

AB 1999.056

In the Matter of the Acquisition of Land at
Strata Lot 3553-1-B of Mukim 24
269A Upper Paya Lebar Road

Between

Ng Poh Guan

... 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 \$275 000 in respect of the land at Strata Lot 3553-1-B of Mukim 24 be increased to \$295 000;

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 3553-1-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 \$688 000 for compensation. The respondent ("Collector") found that the market value as at the acquisition date was \$275 000 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 he claims compensation of \$510 000.

Acquired Land

(4) Lot 3553 was a near rectangular plot of land at Upper Paya Lebar Road on its West side a short distance to the North of its junction with Bartley Road as it was at the acquisition date. It was a 2 level site with the lower level abutting Upper Paya Lebar Road and the higher level at the back. The site area was 1 446.3sm.

(5) On site was an apartment building comprising 12 walk-up flats with 6 flats in-line on each of 2 storeys directly above facilities for car parking and a management office all of which were on the first storey. It was so constructed on the 2 level site that it was a 3 storey building for access from Upper Paya Lebar Road but a 2 storey building when seen from the back. Apart from the car parking facilities which were available to the proprietors of all the flats the proprietors of the flats on the lower storey also had the use of the garden at the back by agreement with the management corporation and on payment of a periodical charge. The general configuration of the building and the resulting amenities set it apart from Elling Court to which reference will be made later.

(6) During the hearing the apartment building was referred to as the unnamed building and it will be so referred to in this decision and in this decision the unnamed building will be described as a 3 storey building. The car parking facilities and management office were on the 1st Storey and the apartment units were on the 2nd and 3rd Storeys. The acquired land comprised a flat at 269A Upper Paya Lebar Road which was a corner flat on the 3rd Storey together with a 1/12 share of the common property on Lot 3553. The whole of Lot 3553 has also been acquired together with the acquired land.

(7) At all material times and in particular at the acquisition date Lot 3553 together with the building on it was adversely affected by a road line drawn across it. The adverse effect of the road line was one of the common features shared with the apartment buildings at Elling Court on Lot 3769 of Mukim 24 all of which have also been acquired. See the Decision in AB 1999.069 dated 26 October 2002 ("Decision in AB 1999.069"). Lot 3769 was a short distance to the South on the other side of the Upper Paya Lebar Road/Bartley Road junction.

(8) 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

(9) 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")

(10) 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*

(11) 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")*

(12) 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*

(13) 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 and \$10 000 for corner unit and windows for a total of \$295 000 and this Board finds that the market value of the acquired land as at the acquisition date was \$295 000.

Award

(14) 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 \$295 000. 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

(15) For the purpose of the inquiry held under s 10 the appellant made a claim of \$688 000. 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 his costs.

Dated 2004 September 17

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