

LAND ACQUISITION ACT

APPEALS BOARD

AB 1996.374

In the Matter of the Acquisition of Land at
Lot 181-4 and Lot 181-5 of Town Subdivision 18

Between

Mustaq Ahmad @ Mushtaq Ahmad (s/o
Mustafa)

... Appellant

And

Collector of Land Revenue

... Respondent

DECISION

Upon this appeal having been remitted to the Board by Order of the Court of Appeal
dated 22 January 2002

The decision of this Board is:

(1) That the award of the Collector of Land Revenue of compensation in an amount
of \$3 300 000 in respect of the land at Lot 181-4 and Lot 181-5 of Town Subdivision
18 be increased to \$4 458 000;

And

(2) That the Collector of Land Revenue pay to the appellant the balance of the
award together with interest at 6% per annum from the date the Collector of Land
Revenue took possession of the acquired land 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:

Order of the Court of Appeal dated 22 January 2002

(1) By Decision dated 16 July 2001 ("Decision No 1") this Board determined that the amount of compensation to be awarded for the acquired land was \$5 640 000 and decided that the award of the Collector of Land Revenue of compensation in an amount of \$3 300 000 be increased accordingly.

(2) The Collector appealed to the Court of Appeal and the Court of Appeal by its Order dated 22 January 2002 ordered:

That ...

2 The case be remitted to the Appeals Board to make an award based on the Written Permission to achieve certainty

This Board has since heard further submissions from counsel.

Acquired Land

(3) The appellant before this Board ("landowner") obtained written permission for development of the site of the acquired land for a "3 storey and an attic residential building with a restaurant at the 1st storey (Total: 1 flat & 1 maisonette)" ("original development proposal"). The total GFA was calculated to be 966.43sm on a site area of 475.1sm for an achieved GPR of about 2.03. Construction works commenced but were suspended prior to completion pending an application by the landowner to amend the original development proposal. At the acquisition date the acquired land comprised land with a partially completed building on it.

Market Value

(4) It was common ground that the market value as at 1 January 1995 was the lowest for the purpose of s 33(1)(a) and in their valuation the valuers for both the Collector and the landowner adopted the summation approach. This approach assumes that the price the acquired land was likely to fetch may be estimated by adding land value, as if vacant, to the replacement cost of the improvements after deducting depreciation. In the circumstances of this appeal this Board accepts the approach as appropriate and by Decision No 1 this Board found:

(b) that the value of the land (without improvements) was \$4 500 000 and the value of the improvements was \$1 140 000 and that as at 1 January 1995 the market value of the acquired land was \$5 640 000

See para (48) of Decision No 1. This Board also found that the market value did not exceed the Master Plan use price determined in accordance with s 33(5)(e). In valuing the land the valuers for both the parties adopted the market comparison or inference from past transactions approach.

(5) In Decision No 1 this Board also found that the probable use of the acquired land for the purpose of determining its market value was use for a restaurant on the 1st storey and a boarding house on the upper storeys in a building with 4 storeys and an attic as proposed in the landowner's application for an amendment to the original development proposal and for which provisional permission had been granted. See para (41) of Decision No 1. The value of the land (without improvements) and the value of the improvements were determined on the basis of the probable use found. In accordance with the order of the Court of Appeal these values will now be determined based on the written permission for the original development proposal.

Value of Land

(6) For the value of the land (without improvements) Mrs Lydia Sng of Knight Frank Pte Ltd testifying for the appellant referred to the following sale transactions:

| | <i>Property</i> | <i>Site Area GPR</i> | <i>Price (Net (for Land Value)</i> | <i>Contract Date</i> |
|---|--|--------------------------|--|----------------------|
| 1 | 96 Owen Rd Local Shopping | 108.0sm 2.4 | \$5 363/sm | 23 Mar 95 |
| 2 | 126 Owen Rd Local Shopping | 118.0sm 2.46 | \$4 134/sm | 23 Feb 95 |
| 3 | 196 Race Course Rd Residential | 122.4sm 3.0 | \$4 357/sm | 9 Nov 94 |
| 4 | 62/66 Rangoon Rd Residential/Local Shopping | 322.1sm 2.83 | \$4 498/sm | 25 Oct 95 |

"Local Shopping" and "Residential" are references to the Master Plan zones. "Price (Net for Land Value)" is the GPR rate derived from the contract price (after deducting the depreciated value of the buildings on the land), site area and the GPR achieved on development without development charge. The depreciated value of the buildings is derived from an assumed site cover of 65% to obtain the total GFA and a value of \$538/sm for the total GFA.

(7) Mrs Sng made adjustments for differences in size and GPR of the land and other features including time of transaction and location (all on the basis of the original development proposal for the acquired land) and if she were to leave out of account entirely the transaction relating to 62/66 Rangoon Rd she would have obtained an average adjusted GPR rate of \$4 682/sm. Applied to the site of the acquired land this will yield a value of about \$4 516 000.

(8) 62/66 Rangoon Rd was sold with the benefit of provisional permission for development for commercial use on the 1st storey and a boarding house on the upper storeys and on the evidence this was its probable (and intended) use. This use was substantially the same as the probable use that this Board found in respect of the acquired land but this Board has to make an award based on the written permission for the original development proposal and for this purpose 62/66 Rangoon Rd would not be a fair comparable.

(9) Other than 62/66 Rangoon Rd the properties were not "ripe for redevelopment" and were not purchased for redevelopment but for retention and continued use of the existing buildings for commercial purpose on the 1st storey and for residential purpose on the upper storeys. The plot sizes were relatively small. They ranged from 108sm to 122.4sm and the GFAs were 260sm, 290sm and 367.2sm. As comparables with the acquired land further adjustments down will have to be made for the differences in size and GPR.

(10) For the value of the land (without improvements) Ms Chua Beng Ee of Inland Revenue Authority of Singapore testifying for the Collector referred to the following sale transactions:

| <i>Property</i> | <i>Site Area</i> | <i>Price (GPR Rate)</i> | <i>Contract Date</i> |
|--|------------------|-----------------------------|----------------------|
| 1 132 Race Course Rd Residential | 223.1sm | \$2 326/sm | 6 May 96 |
| 2 138 Race Course Rd Residential | 216.6sm | \$2 396/sm | 6 May 96 |
| 3 437/447 Balestier Rd Local Shopping | 608.4sm | \$1 768/sm | 11 Mar 94 |
| 4 120 Race Course Rd Residential | 236.3sm | \$2 196/sm | 19 Dec 95 |
| 5 122, 124 Race Course Rd Residential | 453.2sm | \$2 577/sm | 13 Nov 95 |

"Residential" and "Local Shopping" are references to the Master Plan zone. 132 and 138 Race Course Road are on either side of 134 and 136 Race Course Road. They were bought by the owner of the intermediate properties. Ms Chua said that this was a special case and if anything it might have inflated the price. All the properties were redevelopment sites. Except for 437/447 Balestier Road all the properties are zoned "Residential With Commercial At 1st Storey Only" in the Development Guide Plan for Rochor.

(11) 132 Race Course Rd was sold subject to tenancy 14 months after the relevant date (1 January 1995) for the same price as 138 Race Course Rd by contract dated the same day. The properties were amalgamated with 134 and 136 Race Course Rd for a proposed development of a 6 storey building with shops on the 1st storey and 20 flats on the upper storeys. The total GFA for this development exceeded 3 000sm and the GPR was 3.49. 437/447 Balestier Rd was sold 9 months before the relevant date for a proposed development of a 6 storey building with a banking hall on the 1st storey, shops on the 2nd storey and flats on the upper storeys. 120 and 122/124 Race Course Rd were sold in December and November 1995 and amalgamated for development for 26% of the gross floor area for commercial use and 74% for residential use.

(12) Ms Chua made net adjustments of -20% for 132 and 138 Race Course Rd, +5% for 437/447 Balestier Rd and -12.5% and -10% for 120 and 122/124 Race Course Rd for the differences. She derived an average GPR rate of \$1 975/sm which she rounded up to \$2 000/sm for a value of about \$1 928 000 which she again rounded up to \$1 930 000. She also referred to transactions in other locations which yielded a value of \$2 080 000. She said that she only used that as a check. Nevertheless she found that the value of the land component was \$2 080 000. No adjustment was made for the substantial differences in size and GPR except +5% for 437/447 Balestier Rd and +2.5% for 122/124 Race Course Rd. Her adjustments for time were -20% for 132 and 138 Race Course Rd, +15% for 437/447 Balestier Rd and -12.5% for 120 and 122/124 Race Course Rd.

(13) 132 and 138 Race Course Rd should be seen as a purchase for a single development (together with the intermediate properties) and 120 and 122/124 should also be seen as a purchase for a single development. There are substantial differences in the resulting plot sizes and GPR and as comparables the net adjustments will have to be revised upwards. Adjustments for time also have to be revised. As a guide reference has been made to URA, *Price & Rental Indices*.

Value of Improvements

(14) The parties have agreed the improvements on the basis of the written permission at \$1 258 000 and this will be added to the value of the land without improvements for the value of the acquired land.

Award

(15) In accordance with the Order of the Court of Appeal dated 22 January 2002 and on the admitted facts and the evidence adduced this Board finds that the value of the land (without improvements) was \$3 200 000 and the value of the improvements was \$1 258 000 (as agreed) and determines that the amount of compensation to be awarded for the acquired land on the basis of the written permission granted for the original development proposal is \$4 458 000. This exceeds the amount of the Collector's award and this Board orders that the Collector pay to the appellant the excess together with interest at the rate of 6%/year from the date of taking possession to the date of payment.

Costs

(16) For the reasons given in Decision No 1 and in the circumstances of this appeal the appellant is not entitled to his costs.

Dated 2002 April 25

Commissioner of Appeals T Q Lim
Assessor Lim Sean Teck
Assessor Lim Lan Yuan