

LAND ACQUISITION ACT

APPEALS BOARD

AB 2001.046

In the Matter of the Acquisition of Land at
Lot 3651 of Mukim 24
17 Harper Road

Between

NHC Pte Ltd

... 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 \$3 010 000 in respect of the land at Lot 3651 of Mukim 24 be increased to \$4 900 000;

And

(2) That the Collector of Land Revenue pay to the appellant the amount of such increase together with interest at 6% per year from the date of taking possession;

And

(3) That the deposit paid by the appellant be paid out to the appellant;

And

(4) That the costs of and incidental to this appeal be paid by the Collector.

BRIEF STATEMENT OF REASONS

The reasons for the Decision/Order are:

Appeal

(1) On 28 April 2001 ("acquisition date") a notification was published in the *Gazette* under s 5 of the Land Acquisition Act ("s 5 declaration") declaring that the land ("acquired land") at Lot 3651 of Mukim 24 was needed for a public purpose namely Construction of Circle Line and Comprehensive Development. 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 to compensation of \$5 300 000 for market value under s 33(1)(a) and an amount to be ascertained for expenses under s 33(1)(e). The respondent ("Collector") found that the market value of the acquired land as at 28 April 2001 was \$3 010 000 and on 8 November 2001 he made an award of compensation in that amount.

(3) The appellant appeals against the award. In its petition of appeal which was lodged on 1 April 2002 the appellant says that the award is inadequate and that the Collector has erred in his determination of the market value and further that the Collector has failed to consider awarding damages under s 33(1)(e). It claims compensation as in the claim submitted for the purpose of the inquiry.

(4) The Collector took possession of the acquired land on 31 October 2002 and on 19 November 2002 he purported to increase his award to \$3 770 000 by making a supplementary award of \$760 000. At the hearing the appellant claimed compensation of \$5 300 000 under s 33(1)(a) and \$255 666 under s (33)(1)(e). The Collector did not seek to support his finding that the market value of the acquired land was \$3 010 000. He adduced evidence that the market value was \$3 770 000 but shortly before the close of the hearing this was increased to \$4 000 000 in view of a change in one of the parameters.

Acquired Land

(5) Lot 3651 is a near rectangular plot at Harper Road on the West side of Upper Paya Lebar Road a short distance to the North of its junction with MacPherson Road. On site is a 2 storey corner terrace factory building at 17 Harper Road ("17HR"). It is not in dispute that at the acquisition date the site was zoned Light Industry and that the maximum permissible gross plot ratio ("MPGPR") was 2.5. The acquired land was then in a largely industrial locality. Warehouse and factory buildings were nearby on both sides of Upper Paya Lebar Road and there were HDB residential flats nearby on the same side.

(6) Lot 3651 is a corner lot with a site area of 684sm. It has a shorter frontage to the East-West section of Harper Road and a longer frontage to the North-South section of the same road with vehicular access to both. The Collector's grounds of award say that it has one frontage of 12m and an average depth of 36m. This does not appear to this Board to be correct. The report dated 2 July 2001 of Mr Loh Kin Mun Steven of Steven Loh Consulting Pte Ltd who testified for the appellant says

that it has 2 road frontages and that they measure 19m and 37m. 17HR has an equivalent gross floor area ("EGFA") of 539.2sm as the appellant consistently maintained and as the Collector agreed near the close of the hearing. The EGFA assumes the gross floor area ("GFA") of the 2nd storey to be equivalent to 80% of the GFA of the 1st storey for valuation purposes.

(7) Mr Neo Swee Leong a director of the appellant said in his affidavit that the appellant bought the acquired land in February 1993 from BT Services (S) Pte Ltd the Singapore subsidiary of a substantial British telecommunications company which continued to occupy it as tenant at the monthly rent of \$21 150. It was next occupied by Nachi (S) Pte Ltd the Singapore subsidiary of a substantial Japanese trading and manufacturing company as tenant from July 1994 to July 1999 at the monthly rent of \$19 000 and from July 1999 to July 2002 (which would be well after the acquisition date) at the monthly rent of \$13 666. It appears that at the acquisition date the gross return in respect of the acquired land was about \$164 000/year.

Compensation

(8) 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

No notification under s 3(1) was published and the s 5 declaration was published on 28 April 2001 (the acquisition date as noted earlier) and it is common ground that the market value as at 28 April 2001 was lower than as at 1 January 1995 and it is the market value as at 28 April 2001 that among other matters has to be taken into consideration.

Appellant's Valuation

(9) Mr Loh stated in his report of 2 July 2001 that he adopted the direct comparison approach in the valuation of the acquired land and he determined that the market value as at the acquisition date was \$5 300 000. He did not refer to any relevant transactions for comparison in his report. In his affidavit he produced a chart which referred to the following transactions and the Collector's awards:

<i>Property</i>	<i>Site Area EGFA</i>	<i>Price /sm EGFA</i>	<i>Transaction Date</i>
1 1 Irving Place ("1IP")	586.4sm 327.6sm	\$3 000 000 \$9 158/sm	1999 Dec 29
2		\$3 250 000 \$9 921/sm	(Collector's award)
3 23 Harper Road ("23HR")	680.4sm 518.4sm	\$5 450 000 \$10 513/sm	1996 May 21
4		\$6 000 000 \$11 574/sm	1996 Aug 8
5		\$4 600 000 \$8 873/sm	(Collector's award)

The Collector's award in each of the cases above was made following acquisition arising out of a s 5 declaration published on the same date as the s 5 declaration in this appeal and was made on the basis of the market value as at the same acquisition date. Irving Place is just a short walk to the North of Harper Road and on the same side of Upper Paya Lebar Road and 1IP is a corner terrace factory building.

(10) Mr Loh made adjustments for differences including +6%, -20% and -21% for time for the 1IP transaction and for the first and second 23HR transactions, -13% for EGFA for the 1IP transaction and +10% for corner lot for all the 1IP and 23HR transactions and derived an average value of \$5 379 000 for the 3 sale transactions (excluding the awards). He rounded that down to \$5 300 000 for the market value of the acquired land.

Collector's Valuation

(11) Ms Chee Hok Yean of Jones Lang LaSalle Property Consultants Pte Ltd testifying for the Collector stated in her valuation report dated 30 August 2001 that she arrived at her valuation by direct comparison with transactions of comparable properties within the vicinity and elsewhere around the material dates of valuation. She determined that the market value as at the acquisition date was \$3 010 000. The transactions of comparable properties were not disclosed. She prepared another report dated 19 January 2004. She said in this report that the market value was \$3 770 000. She adopted the same approach and she referred to the following transactions:

<i>Property</i>	<i>Site Area EGFA</i>	<i>Price /sm EGFA</i>	<i>Transaction Date</i>
1 3 Kim Chuan Terrace ("3KCT")	567.8sm 459sm	\$3 700 000 \$8 061/sm	2001 Apr 1
2 12 Kim Chuan Terrace ("12KCT")	557.6sm 459sm	\$2 800 000 \$6 100/sm	2000 Jun 7
3 23 Harper Road ("23HR")	680.4sm 563sm	\$6 000 000 \$10 657/sm	1996 Aug 8

Kim Chuan Terrace is about 1km to the North of the acquired land on the other side of Upper Paya Lebar Road and 3KCT and 12KCT are both intermediate terrace factory buildings. The 23HR transaction is the same as the second 23HR transaction referred to by Mr Loh.

(12) At the hearing Ms Chee produced her analysis showing that she made adjustments including -31% for time in respect of the 23HR transaction and +2.5% for corner plot. Taking an average of the 3 transactions as adjusted for time and corner plot and for other differences she derived a market value of \$3 770 000 for the acquired land. This was based on an EGFA of 503.2sm for 17HR but after it had been agreed at 539.2sm as noted above she amended the adjustments for EGFA and derived a market value of \$4 000 000.

Comparable Properties

(a) 23HR

(13) The 23HR transaction of 8 August 1996 is the only transaction that is common to both Mr Loh's and Ms Chee's analyses and it appears to provide very good evidence of the market value of the acquired land as at the acquisition date. Both sites are in the same street and on the same side and they are very close to each other. The site areas are nearly the same. 17HR and 23HR are the 2 end units of a row of 4 terrace units. They are not without some significant differences. The site of the acquired land has 2 road frontages but the site of 23HR has a frontage to the East-West section of Harper Road only. On the West it is bounded by part of Lot 4746 with a 6 storey industrial building on it. Both Mr Loh and Ms Chee have made adjustments for this transaction. Ms Chee also has a larger EGFA for 23HR for which she has also made an adjustment.

(14) Mr Loh also referred to the 23HR transaction of 21 May 1996 but Ms Chee did not. She gave no reason for excluding the earlier transaction while she included the later transaction. Ms Chee was also retained as the Collector's valuer in the acquisition of 23HR and in that capacity she prepared a valuation but for that purpose she did not analyse either of the 2 transactions in respect of 23HR itself at all. She explained that she was not sure which of the 2 transactions to use. She said that a rise in price of 10% was not borne out by market evidence. She did not say what market evidence she referred to. She said that later she prepared another valuation of 23HR although she had no instructions to do so. When it came to this the second valuation she said that she saw no reason why 23HR itself should not be

referred to. She analysed the second 23HR transaction (of August 1996). She did not analyse the first (of May 1996).

(15) On the evidence this Board can see no reason at all to disregard the 23HR transaction of 21 May 1996 and finds accordingly. Mr Loh has made adjustments for this transaction and these will be considered later.

(b) *1IP, 3KCT, 12KCT*

(16) Mr Loh referred to the 1IP transaction of 29 December 1999. For the purpose of this appeal Ms Chee did not refer to it but for the purpose of her first valuation of 23HR referred to above Ms Chee prepared an analysis of the same 1IP transaction as well as the 3KCT and 12KCT transactions. A printout of this analysis was produced as R8-2. This analysis was part of her advice on the market value for the purpose of a settlement after an appeal had been lodged. She derived an adjusted EGFA rate of \$9 982/sm from the 1IP transaction and this was about 17% and 37% higher than the adjusted EGFA rates derived from the 3KCT and 12KCT transactions. She determined that the market value was about \$4 610 000. The appeal in that acquisition was settled at \$4 600 000.

(17) When she prepared the second valuation of 23HR (without any instructions from the Collector) Ms Chee found a market value of about \$4 258 000. This was significantly less than the market value she had earlier advised but she did not communicate to the Collector either the later valuation or her analysis of any transactions on which it was based. Her evidence before this Board appears to be that she allowed the Collector to act on advice she no longer believed in if in fact that was the case.

(18) In her first valuation of 23HR Ms Chee analysed the 3KCT and 12KCT transactions as well as the 1IP transaction as noted above. In the second valuation she analysed the 3KCT and 12KCT transactions and also the 23HR transaction of 8 August 1996 but she excluded the analysis of the 1IP transaction. The following table shows the adjustments she made for the 3KCT and 12KCT transactions in the 2 valuations:

<i>Adjustments for:-</i>	<i>Earlier Analysis (R8-2)</i>	<i>Later Analysis</i>
Location	0%	+1.25%
Age/condition	+5%	\$240 000
Corner unit	+2.5%	+1.25%

She also made an adjustment of -2.5% for road line although this Board has heard no evidence of any road line adversely affecting 23HR. There was no adjustment for location or corner unit for the 1IP transaction. Irving Place as noted above is only a short walk from Harper Road on the same side of Upper Paya Lebar Road and 1IP is a corner unit like 23HR. 3KCT and 12KCT are both intermediate units. She offered no reason for excluding the 1IP transaction when she decided to include one of the 23HR transactions.

(19) There are significant differences for location and for corner unit and Ms Chee must have recognised these differences in her valuation of 23HR. She made adjustments for them in her analysis of the 3KCT and 12KCT transactions. No such adjustments were made in respect of the 1IP transaction. She must have concluded that there were no significant differences on these accounts between 1IP and 23HR.

(20) 12KCT was transacted at \$2 800 000. 3KCT was transacted at \$3 700 000 or about 32% more. There was a very substantial difference in the prices at which they were transacted. Ms Chee did not say if she made any inquiries and she offered no explanation but she was not asked for any. Mr Loh also was not asked about the price difference and he gave no explanation. Ms Chee adopted both the 3KCT and 12KCT transactions without giving any consideration to the substantial price difference. She made exactly the same adjustments for both but both cannot be equally good comparables in view of the unexplained wide disparity in the transacted prices.

(21) Ms Chee aggregated the derived values with the value derived from the analysis of the 23HR transaction to obtain an average value. The adjusted EGFA rates for the 3KCT and 12KCT transactions were \$8 303/sm and \$6 283/sm. There was no empirical evidence to support the adjustments for location and corner plot. In the circumstances there would be a serious risk if not a real likelihood of error on account of excessive weighting in adopting both the 3KCT and 12KCT transactions while adopting only one other transaction namely the 1IP transaction or one of the 23HR transactions.

(22) On the evidence this Board finds that both the 3KCT and 12KCT transactions are poor comparables. This Board further finds that the 1IP transaction is a good comparable with adjustments for differences.

EGFA of 23HR

(23) Ms Chee took the EGFA of 23HR to be 563sm. She said she derived this by scaling from the building plans supplied to her. Mr Loh took the EGFA to be 518.4sm. He said that he made inquiries and learned from the valuation done by Allied Appraisal that the GFA was 576sm and that he arrived at the EGFA from this. In his affidavit he produced the report of Richard Ellis (Pte) Ltd dated 28 November 1997 where there is this statement at para 2.0:-

Based on information provided by the client, the property has a built-in area of approximately 576 sq m.

The Richard Ellis report mentions a built-in area of 576sm which may be different from the GFA. It appears that Mr Loh assumed that the built-in area was the same as the GFA and that the GFA was 576sm and that the GFA of the 1st storey was the same as that of the 2nd storey. This will result in 518.4sm as the EGFA as he took it to be.

(24) At the hearing of this appeal 23HR was still there and apparently still occupied by the owner at the time of the acquisition (and still is at the date of this decision) and there was no reason why a joint inspection and agreement as to the EGFA could not

be achieved. In the event this Board was informed that the Collector declined the appellant's invitation for a joint inspection and Mr Davinder Singh SC of counsel for the appellant submitted that the only reliable evidence was that of Mr Loh. He invited this Board to find that the EGFA was 518.4sm.

(25) Both Mr Loh and Ms Chee have not determined the EGFA by measurement. Ms Chee determined the GFA by scaling which cannot be accurate and further it depends on copies of the plans worked on having been drawn or printed exactly to scale. Mr Loh relied on the statement as to the built-in area in the Richard Ellis report and his assumptions. Attached to the Richard Ellis report as Appendix D are the floor plans for the 1st and 2nd storeys with the dimensions for calculating the GFA given.

(26) This Board has calculated the GFA of the 1st storey to be about 305.58sm and the GFA of the 2nd storey to be about 287.89sm and it follows that the EGFA is about 536sm. It is also apparent from the photographs produced by the appellant that some changes may have been made which may have altered the GFA but without actual measurement on site it would be impossible to say if there has in fact been any change in the GFA. On the evidence this Board finds that the EGFA of 23HR is 536sm.

Adjustments for Differences

(a) *Time*

(i) *23HR (second transaction)*

(27) 23HR was transacted on 8 August 1996 and for time down to the acquisition date Mr Loh allowed -21%. Ms Chee allowed -31%. There was no empirical evidence of the fall in prices of comparable properties adduced by the parties before this Board. Ms Chee relied on the indices in URA, *Property Market Information (Commercial & Industrial Properties)* ("PPI"). PPI for space in a multi-user factory building shows a fall in prices of about 30% but there is no separate index for freehold land with a single-user factory building. Mr Loh said he did a count of the transactions in the 3rd quarter of 1996 (which would cover August 1996), 4th quarter of 1996 and the 2nd quarter of 2001 (which would cover the acquisition date) and he found that transactions of freehold and low-rise factory buildings accounted for only 4%, 4% and 2% respectively for the 3 periods as opposed to transactions of leasehold and high-rise factory buildings which accounted for the rest. He concluded that complete reliance on PPI would be wrong in this case.

(28) Mr Loh referred to the decision of a differently constituted Board in *Autoacc Trading Pte Ltd v Collector of Land Revenue* (AB 2001.086) ("*Autoacc*") where the question was the adjustment for time for the period October 1997 down to the acquisition date (which was the same in *Autoacc*) for land zoned Light Industry as in this case. PPI showed a fall of 28% and the Board accepted an adjustment of -19% for time. For the additional period from August 1996 to October 1997 it showed a fall of 3%. Mr Loh concluded that for the period August 1996 to the acquisition date the adjustment for time should be -20% to -21%.

(29) Ms Chee testified for the Collector in *Autoacc* and she herself allowed -25% when PPI to which she made reference showed a fall of 28%. As noted above PPI showed a fall of 3% from August 1996 to October 1997 and 28% from October 1997 to the acquisition date. An adjustment of -31% (which Ms Chee made) appears to have been arrived at by adding the fall in the two periods which is quite inappropriate. The PPI fall from August 1996 to the acquisition date was 30% and not 31%.

(30) In *Autoacc* the Board said at para (24):

Mrs Sng adjusted the October 1997 value [of 124PLR] by -19% and Ms Chee adjusted it by -25%. In support of her adjustment Mrs Sng referred to 2 pairs of transactions one for 10HR transacted on 6 December 1996 and 11 May 2001 and another for 5KCT transacted on 8 August 1997 and 27 April 2001. The 10HR transactions showed a fall of about 23% while the 5KCT transactions showed a fall of about 17%. 10HR is a 3 storey warehouse building with a substantially larger site area of 2 146sm and GFA of 2 862.3sm while 5KCT is a 2 storey terrace factory building with a GFA of 490sm which is closer to that of 124PLR On the evidence adduced this Board accepts the adjustment[] of -19% for time

("10HR" and "5KCT" were references to 10 Howard Road and 5 Kim Chuan Terrace.)

Mr Loh adopted -19% for the same period. Ms Chee did not say what the adjustment would be for the same period in this case but she relied on PPI. She knew of the evidence tendered before the Board in *Autoacc*. In that case she herself referred to the PPI fall of 28% and adopted -25% as noted above. On the evidence this Board accepts an adjustment of -21% for time for the 23HR transaction of August 1996.

(ii) *23HR (first transaction)*

(31) Ms Chee made no reference to this transaction and did not say what adjustment should be made for time for the transaction of 21 May 1996. The PPI fall from this date to the acquisition date was about 28% or slightly less than from the date of the second transaction. Mr Loh allowed -20%. This Board sees no reason to disagree and finds accordingly.

(iii) *1IP*

(32) In R8-2 Ms Chee allowed +10% for time for the rise in prices since the 1IP transaction of 29 December 1999 to the acquisition date. She also prepared an analysis of this transaction for the purpose of valuation of 1IP itself as at the acquisition date which she submitted to the Collector and in this analysis she allowed an adjustment of +17% which appears to be a mistake. PPI shows a rise of about 10% and it is likely that she would have referred to PPI as in the case of the 23HR valuation. Mr Loh only allowed +6%. On the evidence this Board accepts an adjustment of +6% for time for the 1IP transaction of 29 December 1999.

(iv) *3KCT, 12KCT*

(33) For these two transactions Ms Chee made no adjustment. 3KCT was transacted one day before the acquisition date and 12KCT was transacted on 7 June

2000. PPI shows a fall of less than 2% since June 2000. Mr Loh gave no evidence as to what he would allow. These 2 transactions are not good comparables as this Board has found but it is apparent that no adjustment for time is required in respect of these 2 transactions.

(b) *Corner lot, Corner plot*

(34) The site of the acquired land is a corner plot (and Lot 3651 is a corner lot) and 17HR is a corner unit. The sites of 23HR, 3KCT, 12KCT and 1IP are not corner plots. 23HR and 1IP are corner units but 3KCT and 12KCT are not. They are intermediate units as noted above. Mr Loh used the term "corner lot" and Ms Chee used the term "corner plot" but it appears from their analyses that they both included corner plot and corner unit features including access from 2 frontages or dual access. To avoid confusion these features will be referred to as corner plot features in this decision.

(i) *23HR*

(35) The site of the acquired land had access to both the East-West section and the North-South section of Harper Road as noted above. Mr Loh allowed +10% for the 23HR transaction. He admitted that he had no empirical evidence and that he was testifying from his professional experience. He gave a breakdown of 3% to 4% for corner over intermediate units, 4% to 5% for dual access and 2% to 3% for visibility for an overall allowance of +10%. Since 23HR is a corner unit his evidence really is that he would allow 4% to 5% for dual access and 2% to 3% for visibility and further there would appear to be some overlap for dual access (by reason of corner plot) and visibility.

(36) Ms Chee allowed +2.5% for the 23HR transaction. She said she took into consideration corner features and she also took into consideration dual access. Both 23HR and 17HR are corner units and in reality her evidence is that she only took dual access into consideration. She did not refer to any evidence to support the adjustment and like Mr Loh she would also have relied on her professional experience. 2.5% translates to \$115 000 assuming a market value of \$4 600 000 for 23HR.

(37) This Board is unable to accept an adjustment of +10%. On Mr Loh's own evidence and on an aggregate basis it is only +6% to +8% without taking into account overlap. +2.5% allowed by Ms Chee is insufficient. On the evidence this Board finds that the adjustment to be made for corner plot in respect of the 23HR transaction is +5%.

(ii) *1IP*

(38) Mr Loh allowed +10% for the 1IP transaction the same as he did for the 23HR transaction. 1IP is a corner unit with no dual access just like 23HR but unlike 23HR it does have some visibility albeit from Playfair Road which is just across the canal. 17HR has visibility from Upper Paya Lebar Road. Ms Chee allowed for no differences in this respect in her valuation of 23HR. This Board is unable to accept an adjustment of +10%. Some upward adjustment should be made for dual access

and on the evidence this Board is satisfied that +4% should be allowed for corner plot in respect of the 1IP transaction.

(iii) *3KCT, 12KCT*

(39) These 2 transactions are not good comparables as this Board has found but +2.5% as Ms Chee has allowed for both is clearly insufficient. An adjustment of +8% would better reflect the difference but in the circumstances this Board makes no finding in respect of the adjustment for corner plot.

(c) *Location, EGFA, Condition*

(40) There is no evidence that any adjustment is required for location in respect of the 1IP and 23HR transactions and this Board finds accordingly. For EGFA Mr Loh allowed -13% for the 1IP transaction but Ms Chee said that she would suggest -7% which would result in a higher adjusted EGFA rate (and higher market value for the acquired land). The EGFA of 17HR is larger than that of 1IP but the site area is also larger and this Board accepts an adjustment of -13%. Ms Chee also made an adjustment of -0.5% for EGFA in respect of the 23HR transaction but this was based on an EGFA of 563sm. This Board has found that the EGFA of 23HR is 536sm which gives an insignificant difference and accordingly finds that no adjustment should be made for EGFA in respect of the 23HR transaction. Mr Loh allowed +5% for condition in respect of the 1IP transaction which this Board accepts.

Market Value as at Acquisition Date

(41) This Board has found the EGFA of 23HR and the adjustments to be made and it is convenient to set these out together with the agreed transacted prices and EGFA of the comparable properties and the adjusted EGFA rates as follows:

	<i>Transactions</i>		
	<i>23HR (21 May 96)</i>	<i>23HR (8 Aug 96)</i>	<i>1IP (29 Dec 99)</i>
<i>Location</i>	0%	0%	0%
<i>Time</i>	-20%	-21%	+6%
<i>EGFA</i>	0%	0%	-13%
<i>Corner Plot</i>	+5%	+5%	+4%
<i>Condition</i>	0%	0%	+5%
<i>Total</i>	-15%	-16%	+2%
<i>Transacted Price (\$)</i>	5 450 000	6 000 000	3 000 000
<i>EGFA</i>	536sm	536sm	327.6sm
<i>Adjusted EGFA Rate (\$)</i>	8 643/sm	9 403/sm	9 341/sm

This Board finds that the average adjusted EGFA rate for the 23HR (2) and 1IP transactions is \$9 129/sm to be applied to the agreed EGFA of 17HR of 539.2sm. This gives a value of \$4 922 357 which will be rounded down to \$4 900 000 for the market value of the acquired land. The market value determined on this basis does not exceed the existing use price or the Development Baseline use price for the purpose of s 33(5)(e). In the premises this Board finds that:

- (a) for the purpose of s 33(1)(a) the market value of the acquired land as at 28 April 2001 was the lowest;
- (b) the market value of the acquired land as at 28 April 2001 was \$4 900 000; and
- (c) the market value so found does not exceed the existing use price or the Development Baseline use price determined in accordance with s 33(5)(e).

Reasonable Expenses under s 33(1)(e)

(42) In its petition of appeal the appellant says under para 1:

- (e) Grounds of Appeal ...
 - (5) The Collector has failed to consider awarding damages under Section 33 (1)(e) of the Act.

For convenience s 33(1)(e) is repeated below:

- (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:

...

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

What this provides is that the reasonable expenses must be taken into consideration in determining the amount of compensation to be awarded and not that damages might be awarded separately or additionally. In any case at the acquisition date the acquired land was let to Nachi and was not the appellant's place of business. The appellant was not compelled to change its place of business in consequence of the acquisition and it has not adduced any evidence of any expenses incidental to any change of place of business. There is no matter to be taken into consideration under s 33(1)(e) and counsel for the appellant has not submitted that there is.

Award

(43) Taking into consideration the market value as at 28 April 2001 this Board determines that the amount of compensation to be awarded for the acquired land is \$4 900 000. 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% per year from the date of taking possession to the date of payment.

Costs

(44) For the purpose of the inquiry held under s 10 the appellant made a claim of \$5 300 000 for market value and an amount to be ascertained for reasonable expenses under s 33(1)(e). The amount awarded by this Board exceeds the sum awarded by the Collector and as the appellant's claim does not exceed the amount awarded by this Board by 20% or more s 32(4) does not apply and the appellant is accordingly entitled to its costs under s 32(2).

Dated 2004 May 29

Commissioner of Appeals T Q Lim SC
Assessor Wong Chak Wai
Assessor Chua Koon Hoe