

**IN THE LAND VALUATION TRIBUNAL
AT WELLINGTON**

**I TE TARAIPŪNARA WĀRIU WHENUA
KI TE WHANGANUI-A-TARA**

Decision [2024] NZLVT 001

IN THE MATTER

of an objection under s 36 of the Rating
Valuations Act 1998

BETWEEN

MALCOLM ALLAN FRAZER

(ENV-2022-WLG-023)

Objector

AND

WELLINGTON CITY COUNCIL

Respondent

Tribunal: District Court Judge L J Semple, Chairperson

Hearing: In Chambers

Last case event: 15 January 2024

Date of Decision: 24 January 2024
(On the papers)

Date of Issue: 24 January 2024

DETERMINATION OF THE LAND VALUATION TRIBUNAL

A: By consent, the valuation of the property at 31 Holloway Road, Mitchell Town,
Wellington as at 1 September 2021 is as follows:

- (a) Capital Value: \$270,000;
- (b) Land Value: \$270,000; and
- (c) Value of Improvements: \$0.

B: There is no order as to costs.

FRAZER v WELLINGTON CITY COUNCIL



REASONS

Introduction

[1] This determination relates to an objection filed by Malcolm Allan Frazer (the Objector) to the valuation adopted by the Wellington City Council in relation to a property at 31 Holloway Road, Mitchell Town, Wellington under the Rating Valuations Act 1998. The parties have now resolved the objection by agreeing to a new rating valuation for the property.

Background

[2] A general revaluation was undertaken as at 1 September 2021. That valuation was \$690,000 comprising \$690,000 Land Value and \$0 Value of Improvements. After considering an objection made by the Objector, the Council subsequently altered the valuation to \$560,000 comprising \$560,000 Land Value and \$0 Value of Improvements

[3] The objection before this Tribunal was based on the Objector's view that the property had still been overvalued. The Objector proposed that the Capital Value should be changed to \$300,000 comprising \$300,000 Land Value and \$0 Value of Improvements.

Agreement reached

[4] The parties have advised the Tribunal that they have reached an agreement in relation to the valuation of the property. The agreed valuation, as at 1 September 2021, is as follows:

- (a) Capital Value: \$270,000;
- (b) Land Value: \$270,000; and
- (c) Value of Improvements: \$0.

The Onus of Proof

[5] The Land Valuation Tribunal is a specialist tribunal, with its primary task in determining rating valuation objections, being to form a view as to the correct valuation.

[6] The onus of proof lies with the Objector, with the burden imposed being the persuasion burden.¹ A party meets this burden by convincing the fact finder to view the facts in a way that favours that party.

[7] The High Court in *Robinson v Whangarei District Council*² stated the following in relation to the onus of proof:

The onus of proof on the objection lay on Mr Gilbert as the objector. The initial revaluation signed by a registered valuer in the name of the Valuer-General was presumptively correct. Mr Gilbert - both before the Tribunal, and before this Court on appeal - had the affirmative burden. It was not enough for Mr Gilbert - through Mr Robinson - to show that the scales were even at the end of the hearing. He had to show that the Valuer-General was wrong.

[8] In this case, the parties have agreed on the valuation of the property. Accordingly, the Objector is no longer in a position where he is required to prove to the Tribunal that his valuation is to be preferred over that of the Council.

[9] Given that the parties have agreed on an appropriate valuation for the property, I will determine the objection on the papers under s 19(8)(b) of the Land Valuation Proceedings Act 1948.³

¹ *Bottinga v Auckland Council* [2017] NZLVT 11.

² *Robinson v Whangarei District Council* [2018] NZHC 182.

³ The District Court Judge who is the Chairman of the Tribunal sitting alone has jurisdiction to make an order which is not opposed.

Determination

[10] By consent, the valuation of the property at 31 Holloway Road, Mitchell Town, Wellington as at 1 September 2021 is as follows:

- (a) Capital Value: \$270,000;
- (b) Land Value: \$270,000; and
- (c) Value of Improvements: \$0.

[11] I direct that the above valuation be included on the relevant district valuation roll forthwith.



Judge L J Semple
Chairperson of the Land Valuation Tribunal

