

**IN THE LAND VALUATION TRIBUNAL  
AT AUCKLAND**

**I TE TARAIPŪNARA WĀRIU WHENUA  
KI TĀMAKI MAKĀURAU**

**Decision [2024] NZLVT 006**

IN THE MATTER OF

an objection pursuant to s 36 of the  
Rating Valuations Act 1998

BETWEEN

EDEN PARK BED & BREAKFAST

(ENV-2023-AKL-0000215)

Objector

AND

AUCKLAND COUNCIL

Respondent

Tribunal: Judge J A Smith, Land Valuation Tribunal Chairperson

Last case event: 21 December 2023

Date of Decision: 26 February 2024

Date of Issue: 26 February 2024

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**DECISION OF THE LAND VALUATION TRIBUNAL**

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A: The Tribunal has no jurisdiction to consider this matter under s 36 of the Rating Valuation Act 1998.

B: I direct the Registrar not to accept the objection and refund the associated filing fee.

**REASONS**

**Introduction**

[1] This decision relates to a purported objection filed by Anthony and Marlene

Eden Park Bed & Breakfast v Auckland Council



McAnulty on behalf of Eden Park Bed & Breakfast to the valuation adopted by Auckland Council in relation to the property at 20 Bellwood Avenue, Mt Eden, Auckland under the Rating Valuations Act 1998 (**RVA**).

## **Background**

[2] By Notice of Valuation dated 15 March 2022, the Objector was advised a general revaluation had been undertaken as at 1 June 2021.<sup>1</sup> The property was valued at \$2,575,000, comprising \$2,175,000 Land Value and \$400,000 Value of Improvements.

[3] The Notice of Valuation stated:

An owner or ratepayer (if different) may object to any information contained in a notice of valuation within the time and in the manner specified in regulations made under the Rating Valuations Act 1998. If you object to a value that is a component of your valuation, Auckland Council will review that value, and may also review any other value components of the rating unit, i.e land value, value of improvements, and/or capital value.

...

For an objection to be valued and considered it must:

- Be received by Auckland Council no later than 22 April 2022

...

[4] The Tribunal have been provided with a copy of a Combined Rates Assessment and Debit/Credit Note for the billing period 1 July 2023 to 30 June 2024.

[5] On 14 November 2023, Mr McAnulty emailed Auckland Council. The email states (*sic*):

Objection to Rating Information Database  
Our square meter age is not correct and the value of additions is not showing.

...

I have authority to request the change to the rating information database ...

[6] On 21 November 2023, a Customer Service representative for Auckland

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<sup>1</sup> Valuation reference 02370-00000005800.

Council responded stating:

... We have checked our records and can see there is already a valuation review in process for your property. Your reference number for this is 8240951699. Our team will contact you with an outcome once your review is complete. ...

[7] A letter dated 22 November 2023 from Auckland Council to Mr and Mrs McAnulty advises that the objection review process had been completed by a registered valuer, and a decision made not to alter the valuation.

[8] On 13 December 2023, the Objector filed an objection with the Tribunal. The objection before this Tribunal was based on the Objector's view that the property had been valued incorrectly. The Objector proposed that the Capital Value be \$3,000,000, comprising \$2,300,000 Land Value and \$700,000 Value of Improvements.

[9] An email dated 21 December 2023 from Auckland Council to the Tribunal states (*sic*):

... Auckland Council has no record of an objection to this Notice of Valuation.

Investigation into Council's online records show that on 22 August 2022 there was a rates query by one of the owners (Marlene McAnulty) of the subject property. The note recorded in Council's system on 1 September 2022 states "*Please contact Marlene ... to discuss the value under commercial rates – rate payer wanting to ask more questions on this. possibly may object to it however wants to speak to someone first and to have more understanding of this – ioked*"

Council notes the deadline for objecting to the Notice of Valuation expired on 22 April 2022, four months prior to Marlene McAnulty making the rates query to Council.

There is a further note on Council's system which records that the owner had been spoken with and no further action was required.

The query was entered into Council's system with the incorrect request type of "Val Req – Objection" instead of "Val Request – Ad Hoc", which triggered a review of the values by Council's contract valuer as if an objection had been lodged. As a result the Valuation Review letter dated 22 November 2023 was sent out in error, and Council apologises to Marlene and Anthony McNulty for this mistake. The review decision declined to alter the values, which remain as set out in the Notice of Valuation.

...

### **Issue of Jurisdiction**

In *Thompson v Auckland Council* [2022] NZLVT 027, this Tribunal observed at paragraph 25 that it “...is only empowered to consider objections referred to it under s 36 of the Act where the preliminary steps, including a valid objection under s 32 and a review under s 34, have occurred”. The Tribunal further observed the lack of statutory provision giving the Tribunal power to grant leave from strict compliance.

Accordingly, the Tribunal has no further jurisdiction to hear this matter, as there was no valid objection made to Council under s 32(2) of the Rating Valuations Act 1998.

### **Objection to the Land Valuation Tribunal**

[10] The Land Valuation Tribunal is a judicial body with limited jurisdiction. The Tribunal’s jurisdiction to hear objections is conferred by s 36 of the RVA. The Land Valuation Tribunal is only empowered to consider objection referred to it under s 36 RVA where the preliminary steps, including a valid objection under s 32 and a review under s 34, have occurred. There is no statutory provision I am aware of giving the Tribunal power to grant leave from strict compliance.

[11] Section 32 of the RVA affords an owner or ratepayer the option to object to a notice of valuation. Pursuant to s 32(2) RVA an objection to a rating valuation must be made within the time specified in regulation made under the Act. Regulation 4 of the Rating Valuations Regulation 1998 stipulates that for a general revaluation, objections must be lodged [with the Council] by the date provided in the public notice. The date must be at least 30 working days later than the date on which the public notice required under s 12 RVA is published.

[12] In respect of this matter, there was no valid objection under s 32 RVA. The Notice of Valuation dated 15 March 2022, stated that an objection had to be received by the Council by 22 April 2022. The McAnulty’s did not file an objection on behalf of Eden Park Bed & Breakfast with the Council by this date.

[13] The Council received a rates query on 22 August 2022. This was some four months after the date specified in the Notice of Valuation. Regulation 6 gives the territorial authority a discretionary power to determine whether or not a late objection shall be accepted. Regulation 6 applies to territorial authorities, not the Tribunal. There is no right to a waiver of time and there is no clear power for the Land Valuation

Tribunal to review any decision under Regulation 6.

[14] The query was marked in the Council system as “Val Req – Objection” instead of “Val Request– Ad Hoc” triggering a review of the values as if an objection had been lodged. This was a clerical error. The Valuation Review letter dated 22 November 2023 was sent out in error. Auckland Council has apologised for the mistake. A query as to rates does not amount to an objection to a notice of valuation, even if it were in time.

[15] The McAnulty’s provided a copy of email correspondence to Auckland Council dated 14 November 2023 with the subject line “Rates Objection Submission”. This appears to be about rating information, not valuation. It refers to square meterage and values of additions not showing, rather than specifying any concern with the actual valuation components (i.e., land value, value of improvements and/or capital value). Further it was some 19 months after the date for lodging an objection to the notice of valuation as specified.

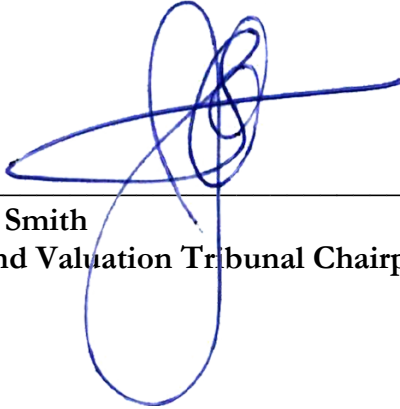
[16] Based on the information provided by the Objector and Auckland Council, I conclude there was no objection to the Notice of Valuation dated 15 March 2022 within the time and/or in the manner specified. I accept that it was a Council error which led the owner to think there was a valid objection.

[17] The Council has therefore not produced a decision under s 34 RVA capable of founding an objection to the Tribunal. There is no prerequisite valid “notice” or related decision capable of founding an objection to the Tribunal and, hence, no jurisdiction for this Tribunal under s 36 RVA.

### **Outcome**

[18] The Tribunal has no jurisdiction to consider this matter under s 36 of the Rating Valuation Act 1998. While I sympathise with the owners for the confusion caused by the Council miscoding the enquiry that does not give the Tribunal jurisdiction.

[19] Accordingly, I direct the Registrar not to accept the objection and refund the associated filing fee.

A handwritten signature in blue ink, consisting of several loops and a long horizontal stroke extending to the right.

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**J A Smith**  
**Land Valuation Tribunal Chairperson**

