

**IN THE LAND VALUATION TRIBUNAL
AT AUCKLAND**

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

Decision [2024] NZLVT 008

IN THE MATTER OF

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

BETWEEN

AN & M SAHIM

(ENV-2024-AKL-000019)

Objectors

AND

AUCKLAND COUNCIL

Respondent

Tribunal: Judge J A Smith, Land Valuation Tribunal Chairperson

Hearing: On the papers
Last case event: 26 February 2024

Date of Decision: 5 March 2024

Date of Issue: 5 March 2024

DECISION OF THE LAND VALUATION TRIBUNAL

A: There is a valid objection.

B: An objection was filed with the Tribunal in time. In the alternative, the time for filing an objection with the Tribunal is enlarged in accordance with Rule 29 of the Land Valuation Tribunals Rules 1977.

C: Costs are reserved.



REASONS

Introduction

[1] This decision relates to an objection filed by AN and M Sahim to the valuation adopted by Auckland Council in relation to the property at 64 Greenpark Road, Penrose, Auckland under the Rating Valuations Act 1998 (**RVA**).

[2] The time of filing of the objection with the Tribunal needs to be addressed.

Background

[3] By Notice of Valuation dated 15 March 2022, the Objectors were advised a general revaluation had been undertaken.¹ The property was valued at \$3,000,000, comprising \$1,350,000 Land Value and \$1,650,000 Value of Improvements. The Notice of Valuation stated that if there was disagreement with the valuation shown, an objection could be lodged with the Council by no later than 22 April 2022.

[4] A & M Sahim filed an objection to valuation with the Council. The attachment to the objection form is dated 26 May 2022. They proposed the Capital Value be \$2,225,000, comprising \$780,000 Land Value and \$1,445,000 Value of Improvements. The objection to the Council appears to have been filed out of time. While the Tribunal has no letter confirming the objection was accepted as being received out of time, I have assumed so given a letter reviewing the valuation was subsequently sent by the Council to A & M Sahim.

[5] The valuation was reviewed, and on 26 July 2023 the Council advised that a decision had been made to alter the valuation as follows:

- (a) Capital Value: \$2,850,000
- (b) Land Value: \$1,300,000
- (c) Value of Improvements: \$1,550,000.

¹ Valuation reference 01950-00000009605.

[6] On 19 January 2024, a letter was sent to the Objectors advising that a decision had been made not to alter the valuation. The valuation was stated as:

- (a) Capital Value: \$2,850,000
- (b) Land Value: \$1,300,000
- (c) Value of Improvements: \$1,550,000.

[7] On 19 February 2024, the Objectors filed an objection before the Tribunal. The objection before the Tribunal is based on the Objectors view that the property had been valued incorrectly. The Objectors propose that the Capital Value be \$1,680,000, comprising \$780,000 Land Value and \$900,000 Value of Improvements.

[8] On 26 February 2024 Auckland Council emailed stating:

Auckland Council has investigated its records in this matter, and can provide the following information about the valuation of 64 Greenpark Road, Penrose.

- On 15 March 2022, Council sent out a Notice of Valuation.
- On 26 July 2023, Council sent out a Review Letter, with an altered valuation. Council understands no objection was filed in the LVT in respect of the altered review valuation in this letter.
- On 19 January 2024, Council sent out another Review Letter in error, with the same values as the previous Review Letter. The phrase in this Review Letter “a decision has been made not to alter the valuation as shown below” is incorrect and appears on the letter due to an incorrect system input.

The 19 January 2024 Review Letter being sent out in error occurred when the Council changed from one contract valuer to a different contract valuer for its Penrose valuation assessments at the end of 2023. It appears that the pre-objection valuation for the subject property was transferred from the old contract valuer to the new contract valuer. Subsequently, the new contract valuer updated this pre-objection valuation to the altered review value in its system, using the ‘objection’ code to reflect the change. At this point the review letter should have been removed from the automated objection review letter extract in order to prevent a second letter being automatically generated and sent out. However, this did not happen, resulting in a second Review Letter being sent out, which recorded that the valuation was ‘unaltered’.

Council apologises to Mohammed Sahim and A Sahim for this error, and is looking into how this could be prevented in the future. Considering its error, Council confirms it will not object to any enlargement of the filing timeframe with the LVT for this objection.

Legal framework

[9] The Tribunal is not seized of an objection under s 36 RVA until the preliminary steps including a valid objection under s 32 and a review under s 34 have occurred. Where the objection to council is within time (or a late objection accepted) and a review is conducted under ss 32 and 34 RVA, the objector may then proceed to the Tribunal pursuant to s 36 RVA. Pursuant to s 36 of the RVA, any affected person who is dissatisfied with a review of a territorial authority may, within 20 working days after service of the notice of review, require the objection to be heard by a Land Valuation Tribunal by filing and serving an objection in accordance with that section.

[10] Where the objection is filed with the Tribunal, the Tribunal has a broad discretion to grant extensions under Rule 29 LVT Rules. The Land Valuation Tribunals Rules 1977 (**LVT Rules**) provides:

29 Enlargement or abridgement of time

- (1) Subject to the provisions of these rules, any of the times fixed by or by virtue of these rules for—
 - (a) taking any step in any proceedings; or
 - (b) filing any document; or
 - (c) giving any notice—
 may be enlarged or abridged by consent of all parties, or by the Tribunals on the application of any party.
- (2) An order enlarging time may be made although the application for it is not made until after the expiration of the time allowed or appointed.

Evaluation

[11] For an objection to the Tribunal to be valid there must be:

- (a) *a notice of revaluation* – in this case there is a Notice of Valuation dated 15 March 2022;
- (b) *an objection to council filed in the statutory period, or if the original objection was out of time Regulation 6 gives the territorial authority a discretionary power to determine whether*

or not a late objection shall be accepted – an objection to the Council was to be filed by 22 April 2022. A & M Sahim filed an objection with the Council on or around 26 May 2023, which was out of time. While the Tribunal has no letter confirming the objection was accepted as being received out of time, we have proceeded on the assumption that it was given a letter reviewing the valuation was subsequently sent to A & M Sahim (letter dated 26 July 2023), and the Council has not raised the objection being filed out of time as a matter of concern;

(c) *a Council revaluation* – the Council provided a revaluation letter dated 26 July 2023, and a further revaluation letter dated 19 January 2024; and

(d) *an objection with the Tribunal within 20 working days after service of the notice of review* – A & M Sahim did not file an objection with the Tribunal after the 26 July 2023 letter. A & M Shaim did however file an objection with the Tribunal on 19 February 2024 which is within 20 working days of the revaluation letter dated 19 January 2024.

[12] There was a valid objection under s 32 and a review under s 34 RVA. The issue to be addressed here is the timing of the objection being filed with the Tribunal.

[13] The Tribunal concludes there is a valid objection here.

[14] The Objectors filed an objection with the Tribunal based on the 19 January 2024 review letter. The objection was filed with the Tribunal on 19 February 2024, being 20 working days after the notice of review, and therefore in time in accordance with s 36 RVA.

[15] The Tribunal does however note that the 19 January 2024 letter was sent in error. An objection to the Tribunal based on the 26 July 2023 review letter would be out of time. The Council have confirmed that they do not object to an enlargement of the filing timeframe. Therefore, by the consent of the parties, in the alternative, the time for filing this objection is enlarged in accordance with Rule 29 of the LVT Rules.

[16] This matter will proceed on the basis that:

- (a) the Objectors are objecting to the values of: \$2,850,000 Capital Value, \$1,300,000 Land Value, and \$1,550,000 Value of Improvements; and
- (b) the Objectors propose the values should be: \$1,680,000 Capital Value, \$780,000 Land Value, and \$900,000 Value of improvements.

Directions

[17] I direct as follows:

- (a) the parties are encouraged to engage and reach an agreement between themselves as to the valuation of the property the subject of this objection;
- (b) the Council, after consulting with the Objectors, shall advise the Tribunal and the Objectors, by **5:00pm on 31 May 2024**, whether the matter has been resolved or with an estimate of hearing time required if it has not;
- (c) if the matter is not resolved by 5:00pm on 31 May 2024, the following timetable will take effect:
 - (i) the Objectors shall file their evidence with the Tribunal, and serve it on the Council, by **5:00pm on 2 July 2024**;
 - (ii) the Council shall file their evidence with the Tribunal, and serve it on the Objectors, by **5:00pm on 30 July 2024**;
 - (iii) the Council shall file all evidence with the Tribunal by **5:00pm on 6 August 2024** in the following format:
 - four hard copies of all evidence, indexed, tabulated, paginated and compiled into A4 lever-arch files;
 - an electronic copy on a USB flash drive of all evidence

contained in electronic folders equivalent to the physical volumes of the hard copy; and

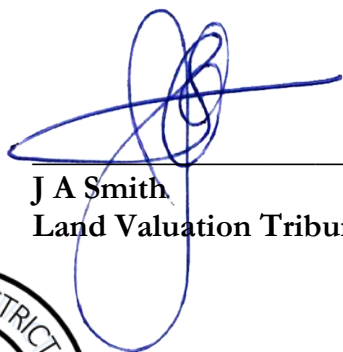
- the electronic briefs of evidence should be named as per the following format “Surname of witness – Discipline – Objectors/Council”; and

(d) the Tribunal shall issue to the parties a Notice of Hearing in due course; and

(e) any hearing required may be conducted online after consultation with the parties.

[18] The scheduling fee for setting down a matter before the Land Valuation Tribunal is \$900.00. The hearing fee for matters heard before the Land Valuation Tribunal is \$900.00 for each half-day or part of a half-day after the first half-day of hearing.² The scheduling fee and hearing fee will be paid by the Objectors.

[19] The parties may seek leave of the Tribunal, upon notice to the other party, for a judicial conference if additional or different directions are required.



J A Smith
Land Valuation Tribunal Chairperson



² See Schedule 1 of the District Court Fees Regulations 2009.