

**IN THE LAND VALUATION TRIBUNAL
AT AUCKLAND**

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

Decision [2024] NZLVT 014

IN THE MATTER OF

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

BETWEEN

TIMOTHY ROBERT MCENALLAY

(ENV-2024-AKL-000003)

Objectors

AND

AUCKLAND COUNCIL

Respondent

Tribunal: Alternate Judge L J Newhook, Chairperson

Date of Decision: 5 April 2024

Date of Issue: 5 April 2024

DETERMINATION OF THE LAND VALUATION TRIBUNAL

A: By consent, the valuation of the property at 22 Pollen Street, Grey Lynn, Auckland as at 1 June 2021 is as follows:

- | | | |
|-----|-----------------------|---------------|
| (a) | Capital Value: | \$39,400,000; |
| (b) | Land Value: | \$10,400,000; |
| (c) | Value of Improvements | \$29,000,000. |

B: There is no order as to costs.



REASONS

Introduction

[1] This determination relates to an objection filed by Timothy McEnallay as a director of MHPNZ Pollen Street Limited to the valuation adopted by Auckland Council in relation to the property at 22 Pollen Street, Grey Lynn, Auckland 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 evaluation was undertaken as at 1 June 2021. The property was valued at \$41,000,000, comprising \$10,400,000 Land Value and \$30,600,000 Value of Improvements.

[3] The valuation was reviewed, and on 19 December 2023 the Council advised that a decision had been made to alter the valuation as follows:

- (a) Capital value: \$40,000,000
- (b) Land Value: \$10,400,000
- (c) Value of Improvements: \$29,600,000.

[4] 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 \$39,400,000.

Agreement reached

[5] The Tribunal received a memorandum of the parties dated 20 February 2024 which set out an agreed settlement. The Objector and the Council have agreed that for the purpose of the 2021 Auckland Council general revaluation the value of this property as at 1 June 2021 should be:

- (a) Capital Value (CV): \$39,400,000;

- (b) Land Value (LV): \$10,400,000;
(c) Value of Improvements: \$29,000,000.

The onus of proof

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

[7] 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.

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

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.

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

[10] 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

Determination

[11] By consent, the valuation of the property at 22 Pollen Street, Grey Lynn, Auckland as at 1 June 2021 is as follows:

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

² [2018] NZHC 182 at [25].

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

(a) Capital Value (CV): \$39,400,000;

(b) Land Value (LV): \$10,400,000;

(c) Value of Improvements: \$29,000,000.

[12] Auckland Council has confirmed that the district valuation roll has been updated accordingly.

[13] There is no order as to costs.



L J Newhook
Land Valuation Tribunal Chairperson

