

IN THE SUMMARY COURT OF THE CAYMAN ISLANDS
HOLDEN AT GEORGE TOWN, GRAND CAYMAN.

IN THE MATTER OF CLAIMS FOR COMPENSATION
BY THE PROPRIETORS OF STRATA PLAN NO. 25
RE - PARCEL 24 BLOCK 6D, GEORGE TOWN SOUTH.

AND

IN THE MATTER OF THE ROADS LAW (REVISED).

TO: HIS EXCELLENCE THE GOVERNOR
FROM: THE CHAIRMAN, ASSESSMENT COMMITTEE.

REPORT

The Roads Assessment Committee met at 10.00 a.m. on Friday 15th January, 1993 in the No. 2 Summary Court. The matter dealt with was a claim for compensation by the Proprietors of Strata Plan No. 25 in respect of Parcel 24, Block 6D, George Town South. Present were the Chairman and the members of the committee Mr. Vernon Jackson J.P. and Mr. Rene Hislop. Also in attendance, were Mr. Kent Eldemire representing the Claimants, and Mr. R.C. Buchanan the Lands Officer who represented the Government.

Boundary Plan No. 232 and Drawing No. 6D 43 annotated by the Public Works Department and photographs of the area, both pre and post scheme, were referred to. The statutory guidelines which determine the assessment of compensation are now consolidated in the Roads Law 1974 (Law 18 of 1974) as amended by Law 24 of 1983 and Law 6 of 1988.

Section 8 (2) provides inter alia -

"A claimant does not qualify for compensation as having suffered a net loss unless, at the time of dispossession of such portion of land under this law, any damage attribute to-

(a) loss of any standing crop or trees on the portion of land;

(b) the severance of such portion of land from the claimant's other land;

(c) the injurious effect on the claimant's other land of the dispossession of such portion land; and

(d) the loss of such portion of land, assessed at its market value, exceeds the value of the advantage to the claimant gained by the presence of the new or improved road adjacent to his land".

Section 6 (1) of the Second Schedule of this Law provides inter alia -

(1) In determining the amount of compensation to be awarded in respect of any portion of land under this Law the Committee shall take into consideration -

(a) the market value of the land at the declared day;

(c) any damage sustained by the claimant at the time of the taking possession of the land, by reason of the severing of such land from his other land;

(f) any damage bona fide resulting from diminution of the profits of the land between the declared day and the time of taking possession of the land;

(g) any increase in the value of the claimant's interest-

(i) in any remaining portion of the land in respect of which the claim is made; and

(ii) in other land contiguous or adjacent to (whether or not actually touching) any land mentioned in sub-paragraph (i) to which the claimant was entitled in the same capacity on the declared day, which is likely to accrue from the use to which the land subject of the claim will be put.

The area of the land acquired was approximately 0.02 acre of plant bed, kerbing and asphalt surface. The Committee after hearing the testimony of Mr. Buchanan the Lands Officer who testified on oath, and having regard to the precedents produced in evidence and submissions of Mr. Eldemire for the claimant, the Committee came to the conclusion that the sliver of land acquired had no real market value on the declared day. Accordingly the Committee was of the opinion that the spot figure of \$500.00 being the assessed value of amenity was a fair assessment.

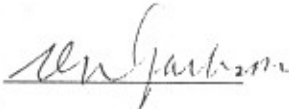
The assessment for loss of crops and trees was agreed by both parties as being \$1845.00, somewhat more than was originally claimed. There was no claim for loss for severance, injurious effect nor any of the other factors to be taken into consideration under section 6 (1) of the Law.

Accordingly the preliminary amount assessed by is \$2500.00, of which 75% is hereby approved by the Committee to be paid to the claimant as an interim award, this amount being \$1912.50.



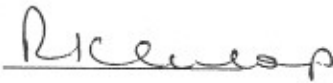
Kipling Douglas

Chairman



Vernon Jackson

Member



Rene Hislop

Member

DATED THIS 20 DAY OF January 1993.