

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

BETWEEN: IN THE MATTER OF A CLAIM FOR COMPENSATION
 BY LOUIS AND TALMAGE EBANKS REGISTERED
 PROPRIETORS OF BLOCK 14C PARCEL 135
 GEORGE TOWN

AND

IN THE MATTER OF THE ROADS LAW 1974 AND
THE LAND ACQUISITION LAW.

TO: His Excellency the Governor
FROM: The chairman, Assessment Committee

R E P O R T

The Assessment Committee met at 3 o'clock in the afternoon of 24th day of October, 1986 in the Law Courts Building.

The first matter dealt with was a claim for compensation by Messrs Louis and Talmage Ebanks, registered proprietors of Block 14c Parcel 135 George Town, under the Roads Law 1974 and the Land Acquisition Law.

Present were the chairman and the two members of the committee Messrs Ezzard Miller and McKeeva Bush. Also in attendance were the claimants accompanied by their attorney at law Mr. Ormond Panton. Watching proceedings on behalf of the Government was Mr. M.G. Conolly of the Lands and Survey Department.

An unlettered lands and survey plan of area showing Block 14c Parcel 135 was referred to for identification purposes.

The statutory guidelines which determine the assessment of compensation under the Land Acquisition 1963 provide inter alia :-

- (a) That compensation shall be equal to the market value of the land at the time of the publication. In the subject case the relative date is 11th March, 1985.

The Roads Law, Roads 1974 section 8 stipulates that where the Assessment Committee is satisfied that the applicant has suffered or is likely to suffer undue damage or serious hardship at the time of the taking of the portion of land, inter alia, the Assessment Committee shall assess the amount of compensation to be paid to the applicant.

The claimants Mr. Louis Ebanks are the registered proprietors of Block 14c Parcel 135 of Georeg Town. They ^{are} seeking compensation for the loss of approximately 0.21 acre. The claimants assess the area as being 10,800 square feet valued at \$4.00 per square feet. Total compensation claimed being C.I. \$43,200.00 Applicants claim is based on the loss of the use of the land. Mr. Panton for the applicants submitted that the loss has caused undue damage to any future development in that his clients had planned to put a commercial building on the ~~s~~ite. A plan had been prepared and funds promised to finance it. As a result of this acquisition the building can no longer be erected. He also pointed out that the land is of great sentimental value to the applicants, being in the family for over a hundred years and that its loss has created serious hardship to the applicants. he produced a valuation by Crighton Properties Ltd. of the section acquired. This shows that at \$4.00 per square foot the loss sustained by the applicants would be C.I. \$43,200.00 the amount now claimed.

The new road divides Parcel 135 into two sections now referred to as section A and section B. Mr. Conolly the Lands Officer pointed out that the severance rather than causing a diminution in the value of the claimants remaining land, will have the effect of upgrading section B from a back land to road front land with a resulting increase in value. With regards section A the severance will have the effect of upgrading the site from a road front to a corner parcel, thereby increasing its value as

a commercial site. The Lands officer agreed that the valuation before severance was \$4.00 per square foot, but pointed out that after severance the value of section A, being a corner parcel, would be increased to \$6.00 per square foot, and section B, a road front lot, would be valued at \$3.50 per square foot. In support of these valuations he produced two sketch plans, the first being a location plan showing comparable evidence and the second showing increase value for corner location.

The claimants also own 14c 135 adjacent to section B, which can easily be combined with the latter to form a single site having a corner portion with excellent road frontage on two sides. It allows that as a result of the severance, the claimants now own two prominent corner portions at a busy intersection.

It is evident that car-oriented ventures are well represented in this vicinity. Esso garage stands to the west of Parcel 135 and Parcel 134 is Seymour Tyre Service. Prominence in respect of road traffic is obviously important for such use. With increase traffic which an intersection creates, the subject properly, (and claimants other land 14c, 134) is even more suitable for this use.

The Committee did not consider that any loss undue damage or serious hardship has been suffered or is likely to be suffered by the frustration of the proposed building as no planning permission has been sought or obtained in that regard. It was however pointed out that the publication of the declaration in the Gazette (Appendix A) as the only notice of the intended acquisition, is most unfair to the public at large who seldom if ever come into possession of a Gazette. The Committee agreed that some efforts should be made to have such declarations published in media readily available to those who might be affected.

The Lands officer's valuation of \$6.00 per square foot was challenged by the claimants. However when invited to provide an alternative estimate from their own valuator who was available, the claimants declined.

The valuation accepted by the committee - Mr. McKeeva Bush dissenting - were as follows:-

VALUE OF LAND BEFORE ACQUISITION

14c 135 approximately 1.25 acre = 54,450 ft²
54,450 ft² at C.I. \$4.00 per ft² = C.I. \$217,800
full commercial development value = C.I. \$217,800

VALUE OF PROPERTY AFTER ACQUISITION

Portion A at enhanced value due to road.
Approximately 0.77 acre (33.540ft²) at C.I. \$6.00
= C.I. \$ 201,240

Portion B
Approximately 0.27 acre (11.760ft²) at C.I. \$3.50
= C.I. \$41,160

TOTAL VALUE = C.I. \$242,400

SUMMARY

Before value C.I. \$217,800

After value C.I. \$242,400

Increase in value due to road say C.I. \$24,600

CONCLUSION

There are no standing crops of commercial value to give rise to loss under section 10 (3) (a) Road Law 1970. The severance of the portion of the land is advantageous in that it gives applicants ownership of two sides of the intersection.

Accordingly the committee agreed (Mr. McKeeva Bush dissenting) to recommend that no compensation be paid to claimants in respect of the said block 14c parcel 135.

The other matter dealt with was a claim for compensation in respect of West Bay North West, Block 4c Parcel 109. The claimants Mr. Ken Hurlston and Ms. Tamara Jackson are the registered proprietors. They were represented by Mr. Phillip Boni, Attorney at Law.

Land Survey sketch plans appendix 1 showing proposed road widening and new road construction in area, appendix 3 sketch showing claimants lot and remaining portion after acquisition and appendix 4, sketch showing lots sold in area and their relative value, were all referred to by the committee.

For the claimants Mr. Boni referred to a letter to your Excellency through the executive council stating his claim for compensation. He re-iterated that the construction at the road has severely affected the value of the claimant's lot as they were going to build a dwelling house on it in which they would reside. As a result of the acquisition they have suffered severe loss which will cause them serious hardship. He further submitted that the loss suffered by the claimant's cannot just be measured in monetary terms as their nest egg has been grossly depleted and undue hardship must eventually result.

The statutory guideline were used to determine the assessment of compensation.

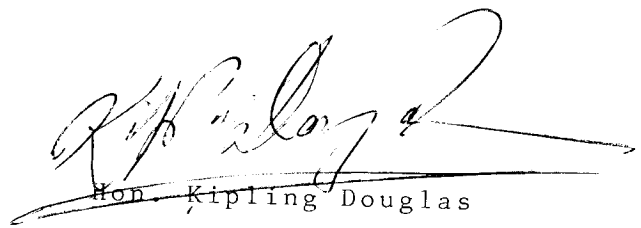
The lot is an undeveloped parcel of land situated at the northern end of Mount Pleasant Road. The area is zoned for low density residential development. The effect of the road scheme was to render the land unsuitable for the purpose for which it was intended, the remaining portion being of

substandard size and unlikely to be the subject of a grant of planning permission for residential purposes. There was no loss due to any standing crops or trees. There was no appreciation in the value of the land due to the road scheme.

The land was purchased by the claimant's in 1984 for the sum of \$5,000.00. A 1985 valuation by Bould Chartered Surveyors, puts the value at \$9,000.00. This is supported by a sketch plan of the area showing the 1985 sale prices of lots there on being appreciated up to 67% from 1983. The lands officer's 1985 valuation of the lot is \$5,000, and the value of the remaining portion after the road scheme at \$3,500.00 making the loss to the claimants \$2,500.00


However, the committee were of the opinion that due to the unsuitability of the remaining portion for residential development, it should be purchased by government and the claimants compensated, not only for their loss, but also for the undue hardship likely to be suffered by them as a result of this road scheme.

Accordingly the committee recommend that the sum of \$7,000 be paid to claimant's as compensation, provided that the remaining portion of the land be transferred to government.



Hon. Kipling Douglas
Chairman,
Assessment Committee.

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Ezzard Miller
Assessment Committee

... 
McKeeva Bush
Assessment Committee