

CAYMAN ISLANDS
LAND REGISTRY

IN THE MATTER OF THE ROADS LAW (2005 REVISION)
AND IN THE MATTER OF THE LAND ACQUISITION LAW -2 A 11: 25
AND IN THE MATTER OF A COMPENSATION CLAIM BY MRS. MARY
LAWRENCE FOR BLOCK 44B PARCELS 159 AND 329

The committee comprised:
Mr. Paul Aiken, Member
Mr. Rex Creighton, JP Member and
Mrs. Grace Donalds, Chairman

APPEARANCES

The claimant appeared in person
Ms. Reshma Sharma of Legal Dept for the Roads Authority also present was:
Mr. Colin Uche Obi, Senior Valuation Officer, Dept of Lands and Survey

The Roads Assessment Committee met at 10:00 a.m. on Wednesday the 27th day of September 2006 in the Magistrate's Chambers of the Courts Building.

The matter was a claim for compensation by Mrs. Mary Lawrence proprietor of land registered as Bodden Town, Block 44B, Parcels 159 and 329.

Boundary plan 171 published in Gazette Number 3 on February 3rd, 1986 indicated that 0.05 acres of land were acquired from Block 44B Parcel 159.

On November 9, 1987 Gazette Number 23 was published. It indicated that in the earlier Gazette No.3 an area of 0.35 acres were taken from Parcel 329, however, this information relating to Parcel 329 had been omitted from Gazette No.3.

On April 28, 1997 a declaration was published in Gazette Number 9 in accordance with Section 3 of the Roads Law (1995 Revision) indicating the Government's intention to acquire land from Parcels 159 and 329 in order to widen Mijall Road, Bodden Town.

According to Prescribed Composite Map 211 published on February 24, 2003 the actual land taken from Parcel 159 was 0.03 acres and 0.7 acres were taken from Parcel 329.



The claimant, Mrs. Mary Lawrence is seeking \$189,570.00 as compensation for both parcels of land. The issue before the Committee is the amount of compensation which should be awarded to the claimant..

PARCEL 329

On 28th April 1997 Gazette Number 9 was published indicating that under Boundary Plan 369 the area acquired from the Parcel was 0.69 acres which was 0.35 acres larger than the land acquired under Boundary Plan 171 published on 3rd February 1986. Compensation would have been due for the additional area acquired under Boundary Plan 369 i.e. 15,246 square ft or 0.35 acres.

The declared date under the Roads Law was the 28th April 1997. Prior to the Gazette this parcel was used as a private right of way. This parcel had a width of 25 feet and could only be used as a road. On that basis the valuator for the National Roads Authority urged this Committee to discount the valuations for undeveloped land by 10% in order to arrive a nominal value for this land.

However, the Committee has to offset any increase in the value of the remaining portion of the claimant's land against the compensation which would have been due for 0.35 acres. The Government has taken over the liability of maintaining Mijall Road. The evidence adduced on behalf of the Roads Authority was that the cost of maintaining a road in 1997 was C\$75 per sq. yard per year or C\$3.50 per sq. yard every 5 years. This cost includes cutting bush twice per year; blowing drainage wells twice per year and repairing spray and chip surface every 5 years. In perpetuity this cost greatly exceeds any compensation which would have been payable for the value of the land taken. The claimant liability for maintaining the road has been passed on to the Roads Authority. This amount has to be deducted from the value of the land taken. By virtue of section 8 of the Law any damage attributed to land taken must exceed the value of the advantage to the claimant gained by the presence of an improved road. Accordingly the claimant does not qualify for compensation for Parcel 329 since the advantage to her outweighs any loss sustained.

PARCEL 159

The Prescribed Composite Map 211 published on 24th February 2003 which declared Mijall Road as a public road establishes that the actual land taken from this Parcel was 0.03 acres or 1,307 sq ft.

It was argued on behalf of the Roads Authority that no compensation was due on the acquisition this land which had apparently already been acquired on February 3rd 1986 under Boundary Plan 171 which expressly stated that no compensation was payable. It was further submitted on behalf of the Roads Authority that no compensation should be awarded to the Claimant because the claimant failed to specify a precise sum.

Mrs. Lawrence's evidence was that the Government encroached on her land by chipping and spraying an area of her property causing the surface of the road to extend to her

apartment building. She stated that her property had been opened up as a "highway and a race track"

The claimant also submitted a claim for damages of \$144,000.00 sustained under the heading of 'injurious affection'. She submitted that the road-widening scheme made it more difficult for her to rent her apartments and resulted in a 50% net earnings loss. The claimant however failed to adduce any evidence to establish such a claim. As such no award will be made under this heading. The claimant further sought compensation for severance. The evidence was that the volume of traffic had increased on Mijall Road. The claimant failed to demonstrate that this was a result of the widening of the road and the declaration of the road as a public road. As such no award is made for severance. There was also a claim for CI\$2,000.00 based on the loss of one tamrind and two cherry trees. No evidence was adduced as to the cost of these trees at the time nor was evidence adduced in order to substantiate the claim. As such the Committee declines to make any award for loss of crops and trees.

Despite the submissions on behalf of the Roads Authority on "land take" the Committee rejects these submission and holds that compensation is due to the claimant for the 1,307 sq. ft of land acquired from Parcel 159. The committee determines that the market value of the land as at the declared date was CI 1.50 per sq. ft. and awards compensation of CI\$1,960.50

From 24th September 1997 the Government agreed to erect a wall at the front of the Lawrence property and relocate the walls between the road.. This has not been done. The claimant is accordingly directed to obtain and submit two quotations for this work. The Authority will there upon select a quotation.. When the work is completed the invoice is to be sent to the Authority for payment. If the work is not done within 90 days of submission of such invoices the claimant should be compensated for the cost of building the wall and relocating the wells.

The Roads Authority sought an award of costs against the claimant if unsuccessful. The Committee does not consider an award of costs appropriate in this case where the claimant has been partially successful in her claim and is a lay person who was not legally represented. In the circumstances the Committee exercises its discretion so as to decline to make any award for costs.



Grace Donalds
Chairman