

IN THE MATTER OF A COMPENSATION CLAIM PURSUANT TO  
SECTION 8 OF THE ROADS LAW

AND IN THE MATTER OF BLOCK 23C PARCEL 12

BETWEEN: ROBERT SELKIRK WATLER 111

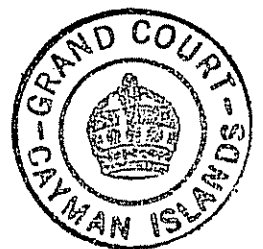
CLAIMANT

AND: HIS EXCELLENCY THE GOVERNOR IN COUNCIL RESPONDENT

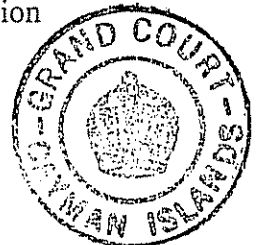
PRESENT

Mr. Uche Obi, Senior Valuation Officer, Lands & Survey  
Ms. Vicky Ellis for the National Roads Authority, acquiring Authority  
Mr. Anthony Akiwumi for the Claimant  
Mr. Robert Selkirk Watler 111, Claimant  
Mr. Paul Key of Andrews Key Ltd  
Ms. Alexandra Farrington of JEC Property Consultants, Ltd  
Mr. Alex Harling of Bould Consulting Ltd  
Mr. Leonard Prospere, Member of the Committee  
Mr. Paul Aiken, Member of the Committee

1. A declaration was made under section 3 of the Roads Law published in the Cayman Islands Gazette Issue No 23/2006 dated 14<sup>th</sup> November 2006 to undertake road works within the boundaries depicted in green on Boundary Plan Number 493.
2. The Gazette indicated that the entire parcel of land being Block 23C Parcel 12 comprising an area of 0.8742 acres was to be acquired for the proposed scheme.
3. At the date of the Gazette the registered owner of the property was Mr. Selkirk Watler 111, the claimant.



4. At the declared date there was a single storey detached commercial building constructed in the property which was known as Red Bay Plaza and which was built on the 1970's.
5. The building was demolished when the Authority took possession of the Property in August 2007. However, prior to demolition, the building comprised 8 self-contained retail units each with an area of 1,000 square feet.
6. A Notice of Intention to Claim and a claim for compensation were submitted in which the claimant elected a one-stage assessment.
7. The total amount of compensation claimed was C\$2,012,135 comprising:
  1. Market value of the property – C\$ 2,007,135
  2. Loss of crops - \$5,000
  3. Agent's fees to be determined
8. The matter for determination by the Assessment Committee was the amount of compensation due to the claimant under Boundary Plan 493 published on 14<sup>th</sup> November 2006.
9. The Assessment Committee met on September 19<sup>th</sup> 2007 when the hearing was adjourned until October 12<sup>th</sup> 2007 and the National Roads Authority was permitted to obtain a second expert Report from Mr. Alex Harling, Chartered Surveyor of Bould Consulting Ltd.
10. The Assessment Committee reconvened on Friday October 12<sup>th</sup> 2007, at which time Ms. Vicky Ellis on behalf of the National Roads Authority objected to the admission into evidence of :



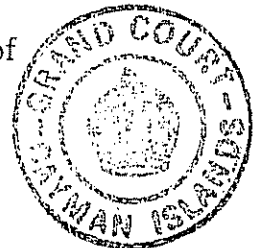
1. An Expert witness declaration, 'Red Bay Plaza' by Ms. Alexandra Farrington,
2. Corrections to a JEC Valuation dated 14<sup>th</sup> November 2006
3. Invoices relating to the management of Red Bay Plaza

11. The bases for the objection were that the source of evidence upon which the expert opinion was based was not annexed to the Original Report.

Further, it was submitted that the information constituted hearsay evidence because the expert would be relying on information provided by a third party in circumstances where the third party did not provide this evidence upon oath, and was not available for cross-examination before the Assessment Committee.

The Committee after consideration rejected the preliminary submission of the National Roads Authority acquiring authority and ruled that the documents were admissible before the Assessment Committee.

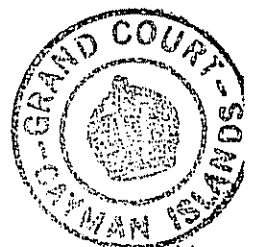
12. All parties agreed that the investment approach should be adopted in this case where the property was producing rental income of CI\$182,400 per annum. The divergence between the expert reports for the claimant and the reports on behalf of the National Roads Authority was attributed to the difference between calculating a net yield as distinct from a gross yield. The report from Mr. Uche Obi which was based upon calculation of a gross yield, assessed the compensation due to the claimant at CI\$1,170,800. The report from Mr. Alex Harling was also based upon calculation of a gross yield and assessed the market value at CI\$1,270,000. The experts for the respondent Roads Authority submitted that the net yield basis would be subject to uncertainty because there would be no way of testing the reliability of



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invoices obtained. On the other hand the experts for the claimant appeared to have obtained reliable figures for outgoings not only on the subject property but also for the three comparable properties selected by Mr. Uche Obi.

13. The subject property, Red Bay Plaza, had excellent passing trade as Shamock Road forms a main thoroughfare from George Town to Savannah and the eastern districts. This heavy traffic flow and the prominence of the property were likely to increase investor demand as tenants were likely to have been drawn towards the property as a result of heavy passing traffic.
14. From the evidence it appeared that the J&P building was the best comparable to Red Bay Plaza but the J & P building is a more expensive building to maintain because the landlord pays utilities and pays for the extensive outside lighting.
15. The Assessment Committee decided to adopt the net investment approach not only because this reflects more accurately the point of view of the investor, whose interest is in the net yield and not in the gross yield; but also because it appears to be the basis more commonly relied upon for valuations.
16. The expert report from Mr. Paul Key assessed the market value of the property at CI\$2,000,000. The report from Ms. Farrington assessed the market value at CI\$1,910,000. Taking the average of these two valuations the amount for the market value would be CI\$1,955,000.
17. However, the claimant received income from 14<sup>th</sup> November 2006 to 31<sup>st</sup> July 2007. The rent received for this period was CI\$129,200. This rent received has to be



deducted from the market value of the property to give the net loss suffered by the claimant. Based on the foregoing, the total compensation is CI\$1, 955,000 of which the claimant has received CI\$129,200.

18. The balance due to the claimant is CI\$1,825,800.
19. The claimant did not adduce any evidence to establish a claim for compensation for loss of trees and crops. This head of claim is accordingly rejected.
20. The claimant is awarded compensation of CI\$1,825,800 in full and final settlement of all heads of claims in addition to costs to be assessed or agreed.



Grace Donalds  
Chairman

