

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

IN THE MATTER OF A CLAIM FOR COMPENSATION
BY MR. BERTRAM CONNER REGISTERED PROPRIETOR
OF BLOCK 72B PARCEL 103

AND

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

TO: His Excellency the Governor
FROM: The Chairman Assessment Committee

REPORT

The Assessment Committee met at 3:00 o'clock in the afternoon of 27th day of August, 1985 in the conference room of the Court Building.

Present were the Chairman and two members of the Committee Messrs. Ezzard Miller and McKeeva Bush. Also in attendance was Mr. Alvin Conner the son of the claimant who appeared on his father's behalf. Watching the proceedings on behalf of the government was Mr. A.H. Flatt, Lands officer of the Lands and Survey Department.

The matter dealt with was a claim for compensation, under the Roads Law 1974 and the Land Acquisition Law by Mr. Bertram Conner the registered proprietor of Block 72B Parcel 103.

During their deliberation the Committee referred to a copy of claimants letter dated 5th September, 1984 lands officer's report, 2 plans showing subject land, extract from gazette no.26 of 1984 and copy of boundary plan no. 156.

The statutory guidelines used by the Committee in order to determine the claimants eligibility for compensation are

- (1) Land Acquisition Law 1963 which provides inter alia, that compensation shall be equal to the market value of the land at the time of the Gazette publication.
- (2) The Roads Law 1974 Section 10 (3) which 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 the land, inter alia, the Assessment Committee shall assess the amount of compensation to be paid to the applicant if the loss exceeds the advantage gained to the applicant by the presence of the new or improved road adjacent to his land.

The claimant Mr. Bertram Conner was the registered owner of a large parcel of land at East End, designated Parcel 70 of BLock 72B. This land did not have a road frontage for access. The land register shows that this parcel did not have a registered vehicular right of way over other properties to the main road, and it is assumed that a Common Law pedestrian access or access by custom usage was the only means of entry upon the land.

The construction of the first phase John McLean Drive opened up claimant's land with an excellent modern estate service road, and the claimant has now been able to create residential subdivisions which lead onto this public road.

However, phase 1 having been completed phase 2 was implemented, being Gazetted on 6th November, 1986 after the completion of the subdivision. This extension to the existing roadway took away a piece of claimants land, lot 103 being reduced in size by 0.2 acres. The estimated value of this lot at the time of taking was \$5,000.00. The taking away of the land reduced the value by \$1,500.00

There were two points put forward by the claimant and considered by the committee. Firstly that the subdivision was completed before the gazetting of the extension which must now be treated as separated from phase 1. This extension has brought no benefit to claimant's land, but rather he has suffered undue damage by the loss of the said land. He is therefore entitled to the value of the land lost, i.e. \$1,500.00. Secondly, that the existing size of lot 103 makes it unlikely that the claimant could obtain planning permission for its development. Should such permission be unobtainable the compensation to which he is entitled would be the full value of the land, i.e. \$5,000.00.

The meeting was adjourned to enable the claimant to apply for, and to positively ascertain whether he would obtain the required permission.

By Central Planning Committee letter dated 28th October, 1985 the relevant permission was granted and the Committee notified on 24th February, 1986.

At 3 o'clock in the afternoon of Friday 11th April, 1986 the Assessment Committee met again and compensation was assessed.

Present were the chairman and two members of the Committee Messrs Ezzard Miller and McKeeva Bush. Watching proceedings on behalf of the government was Mr. A.H. Flatt, Lands officer of the Lands and Survey Department.

Assessment of compensation.

BEFORE ACQUISITION

Extent of portion of land 0.34 acres = \$5,000.00

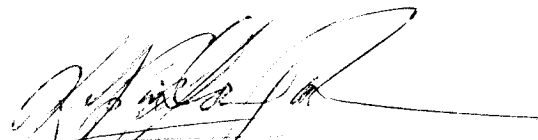
AFTER ACQUISITION

Extent of land 0.22 acres = \$3,500.00


VALUE OF LAND TAKEN \$1,500.00

BENEFIT TO CLAIMANT OF NEW ROAD NIL

Accordingly the Committee decided that claimant had suffered undue damage with no advantage accruing, and therefore recommend that compensation in the sum of \$1,500.00 be paid to the claimant.


Hon. Kipling Douglas - Chairman


Ezzard Miller - Committee Member


McKeeva Bush - Committee Member