

LAND ACQUISITION ACT

APPEALS BOARD

AB 2001.086

In the Matter of the Acquisition of Land at  
Lots 1327N and 1892P of Mukim 23  
124 and 126 Paya Lebar Road

Between

Autoacc Trading Pte Ltd

... Appellant

And

Collector of Land Revenue

... Respondent

DECISION

The decision of this Board is:

(1) That the award of the Collector of Land Revenue of compensation in an amount of \$7 170 000 in respect of the land at Lots 1327N and 1892P of Mukim 23 be increased to \$8 140 000;

And

(2) That the Collector of Land Revenue pay to Bank of China the mortgagee of the acquired land at the acquisition date for the account of the appellant the amount of such increase together with interest at 6% per year from the date of taking possession;

And

(3) That the deposit paid by the appellant be paid out to the appellant;

And

(4) That the costs of and incidental to this appeal be paid by the Collector.

## BRIEF STATEMENT OF REASONS

The reasons for the Decision/Order are:

### *Appeal*

(1) On 28 April 2001 ("acquisition date") a notification was published in the *Gazette* under s 5 of the Land Acquisition Act ("s 5 declaration") declaring that the land ("acquired land") at Lots 1327N and 1892P of Mukim 23 together with the buildings at 124 and 126 Paya Lebar Road ("124PLR" and "126PLR") was needed for a public purpose namely Construction of Circle Line and Comprehensive Development. The appellant was then the proprietor of the acquired land for an estate in fee simple having bought 124PLR in 1997 and 126PLR in 1990 and is a person interested.

(2) For the purpose of the inquiry held under s 10 the appellant submitted a claim of \$9 700 000 for compensation. The respondent ("Collector") found that the market value of the acquired land as at 28 April 2001 was \$7 170 000 and on 14 December 2001 he made an award of compensation in that amount.

(3) The appellant appeals against the award. In its petition of appeal it says that the award is inadequate and that the Collector has relied on transactions relating to 216 Tagore Lane and 62 Tannery Lane which are inferior properties and further that the Collector should have taken into account the transaction relating to 10 Howard Road. At the hearing the Collector did not seek to support his finding that the market value of the acquired land was \$7 170 000 and did not rely on the two transactions referred to in the petition. He adduced evidence that the market value was \$7 250 000.

### *Acquired Land*

(4) Lots 1327N and 1892P are two adjacent near rectangular plots on the East side of Paya Lebar Road between Arumugam Road to the North and PIE to the South. A petrol service station lies between Lot 1892P and Arumugam Road and Lot 1327N is close to the turn into Paya Lebar Way which continues into the East bound carriageway of PIE. Access to the West bound carriageway of PIE is about 1km away. The acquired land is in a largely industrial locality. Flatted warehouse and factory buildings are nearby and across Paya Lebar Road on the West are HDB residential flats. Lot 1327N has a road frontage of about 25m and Lot 1892P about 24m.

(5) It was not in dispute that the site was zoned Light Industry and that the maximum permissible gross plot ratio ("MPGPR") was 2.5. 124PLR is a single storey detached factory building with a 2 storey office annex at the front on Lot 1327N. At the acquisition date the first storey was used for a workshop for motor vehicles and the sale of accessories and the second storey was used for ancillary offices and a store. The gross floor area ("GFA") was agreed to be 419.3sm for the first storey and 111.5sm for the second storey for an aggregate of 530.8sm and the site area of Lot 1327N was agreed at 725.8sm. 126PLR is a 2 storey detached factory building on Lot 1892P. At the acquisition date the first storey was used for a workshop for motor

vehicles and the sale of accessories as in the case of 124PLR. The second storey was used for ancillary offices and sale of motor vehicle accessories. It was agreed that the GFA of the first storey was 443.6sm and the second storey 461.0sm for an aggregate of 572.5sm and the site area of Lot 1892P was agreed at 763.7sm.

(6) The acquired land was affected by a road line ("RL") at the acquisition date and has been so affected from a date prior to March 1990 when the appellant purchased 126PLR and October 1997 when it purchased 124PLR. The RL runs along the front of both properties to a depth of about 5.5m from the existing Paya Lebar Road. The front of both buildings are adversely affected although substantial additions and alterations were carried out to 126PLR in 1991 and 1995 and to 124PLR in 1998 and written permission was granted for these developments.

*Compensation*

(7) Section 33 of the Act provides:

(1) In determining the amount of compensation to be awarded for land acquired under this Act, the Board shall ... take into consideration the following matters and no others:

(a) the market value -

(i) ...

(C) as at 1st January 1995 in respect of land acquired on or after 27th September 1995;

(ii) as at the date of publication of the notification under section 3(1) if the notification is, within 6 months from the date of its publication, followed by a declaration under section 5 in respect of the same land or part thereof; or

(iii) as at the date of publication of the declaration made under section 5,

whichever is the lowest;

...

(5) For the purposes of subsection (1)(a) -

...

(e) the market value of the acquired land shall be deemed not to exceed the price which a bona fide purchaser might reasonably be expected to pay for the land on the basis of its existing use or in anticipation of the continued use of the land for the purpose designated in the Development Baseline referred to in section 36 of the Planning Act 1998, whichever is the lower, after taking into account the zoning and density requirements and any other restrictions imposed under the Planning Act 1998 and any restrictive covenants in the title of the acquired land, and no account shall

be taken of any potential value of the land for any other more intensive use ....

No notification under s 3(1) was published and the s 5 declaration was published on 28 April 2001 (the acquisition date as noted earlier) and it is common ground that the market value as at 28 April 2001 was lower than as at 1 January 1995 and it is the market value as at 28 April 2001 that among other matters has to be taken into consideration.

#### *Appellant's Valuation*

(8) Mrs Lydia Sng of Knight Frank Pte Ltd testifying for the appellant stated in her valuation report dated 6 January 2003 that she determined the market value by the Comparable Sales Method. She referred to the following transactions:

<i>Property</i>	<i>Site Area EGFA</i>	<i>Price /sm Site Area /sm EGFA</i>	<i>Transaction Date</i>
1 10 Howard Rd ("10HR")	- 2 145.6sm 2 289.88sm	\$14 800 000 \$6 898/sm \$6 463.23/sm	2001 May 11
2 3 Kim Chuan Terrace ("3KCT")	- 568sm 443.70sm	\$3 700 000 \$6 514/sm \$8 338.97/sm	2001 Apr 27

At the hearing Mrs Sng also referred to the valuation report of Mr Ong Han Boon of OHB Real Estate Consultants & Services Pte Ltd dated 1 December 1997. In the report Mr Ong stated that the then current open market value of 124PLR was \$4 500 000. Mrs Sng assumed that the second storey was equivalent to 80% of the first storey and the third storey was equivalent to 60%. She did not refer to any transactions in support of this assumption but for a single user factory building such as 124PLR and 126PLR the assumption is not unreasonable. She found an equivalent GFA ("EGFA") of 508.50sm for 124PLR and 812.40sm for 126PLR and for the two reference properties as stated above.

(9) Mrs Sng derived the EGFA rates for the two reference transactions and Mr Ong's valuation and made adjustments for differences including -5% for the RL in the case of the two transactions, and +1% for age/condition and -19% for time in respect of 124PLR. She allowed a weighting of 50% for the valuation and 25% each for the two transactions and applied the rates to the EGFA of 124PLR and determined that its market value as at the acquisition date was \$4 060 000. For 126PLR Mrs Sng adopted the same approach. She made certain adjustments including -12% for unit size, +1.5% for age/condition and -19% for time and allowed the same weighting and determined that its market value as at the acquisition date was \$5 640 000 and that the market value of the acquired land was the sum of the market values or \$9 700 000. It should be observed that Mrs Sng reached the same conclusion in her valuation report without reference to Mr Ong's valuation.

#### *Collector's Valuation*

(10) Ms Chee Hok Yean of Jones Lang LaSalle Property Consultants Pte Ltd testifying for the Collector stated in her valuation report dated 3 January 2003 that she arrived at her valuation by direct comparison with transactions of comparable properties but she referred to the following single transaction only:

<i>Property</i>	<i>Site Area GFA</i>	<i>Price /sm Site Area</i>	<i>Transaction Date</i>
1 124PLR	-	\$4 100 000	1997 Oct 2
	725.8sm	\$5 649/sm	
	530.8sm	-	

The GFA has been restated to accord with the areas agreed. 124PLR was bought by the appellant for \$4 100 000 by contract dated 2 October 1997 although Mr Ong's valuation was \$4 500 000 as at 1 December 1997 as noted above. It was not in dispute that there was no significant difference for time between the two dates.

(11) It was also not in dispute that renovations, additions and alterations were carried out to 124PLR and 126PLR. The expenses incurred were \$103 559 in 1998 for 124PLR and \$90 492 in 1991 and \$908 000 in 1995 for 126PLR. In her valuation of 124PLR Ms Chee took this into account and made an adjustment of +5% for age/condition. She also made an adjustment of -25% for time for a net total of -20% and she derived a market value of \$3 280 000 as at the acquisition date. For the adjustment for time she referred to the property price index ("PPI") in URA, *Property Market Information (2nd Quarter 2001)* which showed a fall of about 27% between the 4th quarter of 1997 and the 2nd quarter of 2001 for "All Industrial" and marginally less for "Multiple-user Factory". She also referred to transactions of flatted factory units in multiple-user factory buildings in MacPherson Road and Kallang Pudding Road. 124PLR and 126PLR are single user factory buildings as noted above.

(12) The renovations, additions and alterations to 126PLR increased its GFA considerably and generally improved its condition. Ms Chee's approach in this case was to take the site area rate derived from the 124PLR transaction of October 1997 and make an adjustment of +10% for age/condition (in addition to -25% for time) and apply the adjusted site area rate to the site area of 126PLR. She then added \$300 000 for the additional GFA on the basis of the depreciated replacement cost ("DRC") calculated at the average market rate prevailing as at the acquisition date and determined that the market value of 126PLR as at the acquisition date was \$3 970 000 and that the market value of the acquired land as at the acquisition date was \$7 250 000. This was more than the amount of the Collector's award.

(13) In the course of the hearing Ms Chee adopted an alternative approach. From the market value of 124PLR of \$3 280 000 as at the acquisition date as determined by her she took off the value of the building component on the basis of its GFA and the DRC calculated at the same rate leaving the value of the land component. She then derived the site area rate of the land component which she applied to the site area of 126PLR. She then added the DRC of the building component of 126PLR for a market value of \$3 786 343 as at the acquisition date. This will give a market value of about \$7 066 000 for the acquired land which is less than the amount of the Collector's award.

## Market Value

124PLR as at October 1997

(14) Mr Ong testified for the appellant and confirmed his valuation. He referred to his valuation report of 1 December 1997 in which he stated that the then current open market value was \$4 500 000. The valuation report did not refer to any comparable transactions. The valuation was done about 5 years ago and he said that his records or working papers were in the warehouse. When he was called to testify he did his valuation all over again.

(15) Mr Ong referred to the following transactions:

	<i>Property</i>	<i>Type</i>	<i>Site Area GFA</i>	<i>Price</i>	<i>Tenure</i>	<i>Transaction Date</i>
1	21 Kim Chuan Terrace ("21KCT")	2 Storey Intermediate Terrace Factory	556.0sm 490.0sm	\$4 600 000	Freehold	1997 May 23
2	5 Kim Chuan Terrace ("5KCT")	2 Storey Intermediate Terrace Factory	573.6sm 490.0sm	\$4 470 000	Freehold	1997 Oct 9

He said 21KCT was sold for \$4 600 000 on 23 May 1997 and 5KCT was sold for \$4 470 000 on 9 October 1997. 124PLR had a frontage to Paya Lebar Road and had a larger site area. Its GFA was close to 490sm and it was in a better location. He said any buyer looking at 124PLR would say the price could not be lower than \$4 500 000. He said "by right" he should have valued it higher but he explained that although the appellant was his client he was also on the panel of Bank of China which was proposing to grant banking facilities to the appellant on the security of a mortgage of 124PLR and he gave a conservative valuation of \$4 500 000. Mrs Sng valued it at about \$4 785 000 while Ms Chee referred to the price of \$4 100 000 at which the appellant bought it and concluded that the market value was \$4 100 000.

(16) Testifying for the appellant Mr Low Chee Meng its managing director said that "in early September 1997" he was approached by Mr Lim Hoe Huat a director of Star Corporation Pte Ltd ("Star Corporation") the previous owner of 124PLR. He and Mr Lim Hoe Huat were personally acquainted as they had been neighbours from 1991 to 1995. Mr Low said:

After some bargaining, Mr Lim offered to sell 124 to the Appellant for \$4,100,000.... Mr Lim informed me that the shareholders of Star had passed a resolution at an Extraordinary General Meeting ("EGM") on 22 March 1997 to dispose of 124 for a price not less than \$4,100,000. Mr Lim informed me that Star had many shareholders and obtaining their consent for the sale of that property was difficult.

Shareholders' consent had been obtained for sale at a price of not less than \$4 100 000 but their consent or further consent would have been required if the price

was to be less than that and Mr Lim Hoe Huat's statement must have been prompted by Mr Low offering a lower price. As Mr Low himself said the price of \$4 100 000 was reached after some bargaining.

(17) The resolution for the sale of 124PLR was passed on 22 March 1997. Mr Lim Hoe Huat would have known then that his friend and former neighbour was now managing director of the company that owned the adjacent property or at least had some interest in it but it was only nearly 6 months later that he approached Mr Low. 124PLR would have been exposed for sale for some time before it was eventually offered to the appellant and offered to it at a price that was reached after some bargaining.

(18) Mr Low said that Star Corporation required two conditions to be met. The first was that the sale had to be completed before the end of 1997 and the second was that the appellant would lease the property back to Star Corporation for 6 months after completion for which it was prepared to pay rent of \$10 000/m only.

(19) Star Corporation and the appellant were negotiating a sale and purchase in the early part of September 1997. There would not be anything unusual at all about a seller stipulating then for completion at the end of December 1997. The option to purchase was eventually granted to the appellant on 19 September 1997 and this would have given the buyer more than 3 months to complete the purchase if the option was exercised before 30 September 1997. It was in fact exercised on 2 October 1997.

(20) Mr Low said:

The rental of \$10 000 per month was below the prevailing market rate and I made a counter offer to Star to accept the option to purchase the property before the end of 1997 but to only complete the sale after they were ready to move out in 6 months time. This offer was rejected by them.

Star Corporation and the appellant not only bargained about the price before it was agreed at \$4 100 000. They bargained about the lease-back and completion terms.

(21) Shortly after the option was exercised the appellant carried out renovations additions and alterations. Its professional consultant issued two invoices in November 1997 for "Proposed Development" and on 14 January 1998 an application was submitted to the planning authority for "Additions and Alterations with Change of Use". The professional consultant's invoice for the "Proposed Reconstruction of Existing Factory Building" was issued on 28 February 1998 and the contractors' invoices were all issued in the first week of August 1998. On 15 July 1998 the appellant and Autobacs Venture (S) Pte Ltd ("Autobacs") the existing tenant of 126PLR executed a lease of 124PLR for two years from 16 July 1998 at the rent of \$20 000/m. The rent for 126PLR was \$25 000/m. The renovations, additions and alterations were carried out at a cost of \$103 559 as noted above.

(22) On 15 May 2000 Autobacs wrote to the appellant:

**RE: Rental agreement for 124 & 126 Paya Lebar Road**

Dear Mr Low,

With reference to our rental agreement dated 15 July 1998, we wish to extend the agreement for a period of two years under the same terms and conditions.

Autobacs was not just a tenant of 124PLR. By entering into the lease of 15 July 1998 it was taking a lease to become a tenant of both 124PLR and 126PLR for the total rent of \$45 000/m. The rental agreement for both was to continue for two years after its expiry on 15 July 2000. \$20 000/m was the rent that a special tenant in the position of Autobacs agreed to pay for 124PLR and to pay for it in its improved state and condition.

(23) The price for 124PLR when the appellant bought it from Star Corporation was \$4 100 000. The property was adversely affected by a RL as noted above. Having regard to all the circumstances and the evidence adduced this Board finds that it has not been shown that the price paid by the appellant did not fairly reflect its market value at the date of the purchase. It is not disputed that the date of the transaction was 2 October 1997 and accordingly this Board finds that the market value as at 2 October 1997 was \$4 100 000.

*124PLR as at acquisition date*

(24) Mrs Sng adjusted the October 1997 value by -19% for time and Ms Chee adjusted it by -25%. In support of her adjustment Mrs Sng referred to 2 pairs of transactions one for 10HR transacted on 6 December 1996 and 11 May 2001 and another for 5KCT transacted on 8 August 1997 and 27 April 2001. The 10HR transactions showed a fall of about 23% while the 5KCT transactions showed a fall of about 17%. 10HR is a 3 storey warehouse building with a substantially larger site area of 2 146sm and GFA of 2 862.3sm while 5KCT is a 2 storey terrace factory building with a GFA of 490sm which is closer to that of 124PLR. Mrs Sng made an adjustment of +1% for age/condition while Ms Chee made an adjustment of +5%. On the evidence adduced this Board accepts the adjustments of -19% for time and +1% for age/condition and finds that the market value of 124PLR as at the acquisition date was \$3 360 000.

*126PLR as at acquisition date*

(25) Mrs Sng referred to the 3KCT and 10HR transactions in addition to the valuation of 124PLR as at October 1997. 10HR is a much larger multiple-user 3 storey warehouse building on a much larger site and this Board finds that it is not a suitable comparable. 3KCT is a single user terraced factory building but there are a number of differences for which adjustments have to be made. On the evidence this Board finds that the October 1997 transaction in respect of 124PLR is the most suitable comparable notwithstanding the fact that it is the only transaction to take into account.

(26) Mrs Sng found that the EGFA of 126PLR was 812.4sm as noted above. On a market value of \$4 500 000 for 124PLR she derived an EGFA rate of \$8 850/sm. She adjusted this by -12% for size, +1.5% for age/condition and -19% for time and applied the adjusted EGFA rate to the EGFA of 126PLR and should have obtained a value of about \$5 069 000. She also took into account the 3KCT and 10HR



transactions before she determined the market value as at the acquisition date. Ms Chee allowed an adjustment of +10% on the site area rate for age/condition of the building in addition to \$300 000 on the basis of the DRC of the additional GFA. In the circumstances of this appeal this Board prefers the EGFA approach and finds accordingly. This Board further finds that the second storey in a single user factory building such as 124PLR and 126PLR is equivalent to 80% of the first storey.

(27) The difference in age and condition is the difference between the building at 124PLR in October 1997 before the renovations additions and alterations were carried out and the building at 126PLR at the acquisition date after the renovations additions and alterations were carried out at a cost of \$90 492 in 1991 and \$908 000 in 1995. On the EGFA rate approach adopted by Mrs Sng and on the basis that the market value of 124PLR in October 1997 was \$4 100 000 +1.5% amounts to a contribution of about \$98 000 only to the market value of 126PLR. In this Board's view this is much too low. On the site area rate approach adopted by Ms Chee +10% amounts to a contribution of about \$431 000 (in addition to the DRC of \$300 000 for the additional GFA) which is much too high.

(28) Using data from the 124PLR transaction of October 1997 this Board finds that the EGFA is 508.50sm for an EGFA rate of \$8 063/sm. This Board accepts the adjustments of -12% for unit size and -19% for time and finds that +4% should be allowed for age/condition for an aggregate net adjustment of -27%. This Board accepts that the EGFA of 126PLR is 812.40sm and finds that the market value as at the acquisition date was \$4 780 000.

(29) At the commencement of the hearing it was agreed that the market value of the acquired land determined by this Board on the evidence would not exceed the existing use price or the Development Baseline use price. In the premises this Board finds that:

- (a) for the purpose of s 33(1)(a) the market value of the acquired land as at 28 April 2001 was the lowest;
- (b) the market value of the acquired land as at 28 April 2001 was \$8 140 000; and
- (c) the market value so found does not exceed the existing use price or the Development Baseline use price determined in accordance with s 33(5)(e).

#### *Award*

(30) Taking into consideration the market value as at 28 April 2001 this Board determines that the amount of compensation to be awarded for the acquired land is \$8 140 000. This exceeds the amount of the Collector's award and this Board orders that the Collector pay to Bank of China as mortgagee of the acquired land at the acquisition date for the account of the appellant the excess together with interest at the rate of 6% per year from the date of taking possession to the date of payment.

#### *Costs*

(31) For the purpose of the inquiry held under s 10 the appellant made a claim of \$9 700 000. This was a claim made pursuant to the Collector's notice under s 8 and as it does not exceed the amount awarded by this Board by more than 20% s 32(4) does not apply and in accordance with s 32(2) the costs of and incidental to this appeal shall be paid by the Collector.

Dated 2003 February 26

Commissioner of Appeals T Q Lim SC  
Assessor Yap Neng Chew  
Assessor Tan Kim Choon