

**Submission
No 103**

INQUIRY INTO LAND VALUATION SYSTEM

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Submission regarding the valuation system.

I have had my property compulsorily acquired for the South West Rail Link. The acquiring body was the Land and Property Management Authority.

I am writing a submission based on things which happened to me and my recommendations

LPMA's appointed a valuer who valued the property I received an independent valuation, which was 3 times higher than LPMA's valuer. There were negotiations between the 2 valuers but they couldn't come to an agreement.

LPMA's valuer did not come and talk to us and ask us, was there any information we could give him about my property.

It is my belief LPMA's valuer did not research the planning documents and was not given the appropriate documents. I asked for a copy LPMA's valuation but it was denied by the LPMA.

I believe this is unjust and by denying a landowner a copy of the valuation puts doubt into the landowner's minds as to what are they hiding. This causes animosity and sometimes breaks up communication to try and lead to an agreement

The property was compulsorily acquired and the Valuer general was asked to do a valuation to determine compensation to be paid to us, the dispossessed landowners. We were contacted and the VG came out on site. The acquisition was rescinded before the acquisition but we didn't see the valuation report prepared by the VG.

The property was to be acquired again 2 years later but in the mean time there were big changes in the area as the area had been released and was to be rezoned within 18 months. The LPMA sent the same offer from the first valuer, the valuation was not updated, and the release was disregarded. The VG was asked to value the properties again as we could not come to an agreement with LPMA and no attempt to negotiate with us was made. The properties were compulsorily acquired. After 2 years had passed the VG did not come onto the property again to see if there was any change or to see if there was any information, which we could supply him, to give us just compensation for our land.

The Valuer General was under the banner of the Land and Property Management Authority. The Acquiring body and the VG office under the same banner clearly show this is not independent.

Why were there 2 valuers used?
Why the expense to the taxpayer?

My property was supposedly revalued after the second round of Compulsory Acquisition, but the old valuation was used instead of updating and factoring in all the changes in the planning and release of the property.

I believe the VG is given all other valuations done on the properties. They are given a copy of all the offers put on the table to the dispossessed landowner.

This information should not be released to the VG. To be independent and to look at things in an independent way the VG must make their own determination must research and obtain all planning documents, must appoint a town planner to give him a town planning report to help him with the highest and best use of the land. He must talk to local real estate agents to find out what their views are and what they think the property can achieve in the open market. And also what he thinks the property would achieve with the future potential if any. He must ask why the properties were sold if the seller had to sell for some reason as the Act says non-eager buyer and seller. He must physically drive to the locations of his comparable sales.

All valuations which are completed for a landowner's property should be given a copy of the valuation so the landowner can view and ask any questions and the valuation can be scrutinized.

The only valuation which is given to the landowner is the VGS valuation after the property has been compulsorily acquired and the VGS figure is offered to the landowner

The dispossessed landowner has then the option of taking the offer or file in court.

Every attempt to negotiate must be made before the compulsory acquisition and after the VG has made a determination to try and keep the matter out of court.

The dispossessed landowner does not receive any money until they file in the Land and Environment Court. How is a dispossessed landowner supposed to purchase another property without any money?

The dispossessed landowner has to pay rent from the day of acquisition until the day he vacates the property. How is the landowner supposed to file in the Court if they have no money? The costs to file are over \$4,500. If a pensioner has their property compulsorily acquired they may not be able to file in court because of financial difficulties then they must take the VGS Valuation figure and be denied justice

If you purchase a property in the open market you don't take possession of the property until you pay the full amount to the property owner. The same should apply here.

Once the dispossessed landowner has filed in Court the LPMI retain another valuer who values the property even lower than the VG. This is done to intimidate and scare the landowner into taking the offer and not continue with the court case. Why another valuation and extra costs to the landowner?

I believe the acquiring body in the LPMI should not have anymore to do with the court case once the property is compulsorily acquired

There should not be another valuer appointed and the Valuer who worked for the VG should be the one to go in court and put his case across and justify his valuation.

If there are 3 valuers appointed by the LPMI acquisitions dept then why not have 3 independent valuers value the same property, but they must not know who the other valuers are so they can work out a figure between the 3 of them. Once completed have the valuations checked by a chief valuer and use the highest valuation figure to compensate the dispossessed landowner.

If all the negotiations fail then the government should try and work out how much it would cost to run the case in court and offer that figure on top of the VGs Valuation figure to the landowner to try to get the landowner to stop court proceedings. I believe this would save the taxpayer and government a lot of money trying to fight cases. My case alone without putting a foot in the Court room cost \$150,000 plus the Governments costs

Also there should be a ruling as to where there is doubt in evidence then the dispossessed landowner should be given the benefit of the doubt. Some properties are the landowner's livelihoods and superannuation and they have worked hard not to be a burden to the taxpayer and should be treated with respect not just a property number.

There should be legislation in place if any valuer willingly or coerced into giving a false valuation or given a direct order to give a low figure then the valuer and the person giving the direct order should be punishable by law and charged with fraud.

<http://legal-dictionary.thefreedictionary.com/Fraud>

fraud n. the intentional use of deceit, a trick or some dishonest means to deprive another of his/her/its money, property or a legal right. A party who has lost something due to fraud is entitled to file a lawsuit for damages against the party acting fraudulently, and the damages may include punitive damages as a punishment or public example due to the malicious nature of the fraud. Quite often there are several persons involved in a scheme to commit fraud and each and all may be liable for the total damages.

To be fraudulent, a false statement must be made with intent to deceive the victim.

Dishonesty calculated for advantage

Fraud must be proved by showing that the defendant's actions involved five separate elements: (1) a false statement of a material fact, (2) knowledge on the part of the defendant that the statement is untrue, (3) intent on the part of the defendant to deceive the alleged victim, (4) justifiable reliance by the alleged victim on the statement, and (5) injury to the alleged victim as a result.

Third, the false statement must be made with the intent to deprive the victim of some legal right.

A misleading statement is more likely to be fraudulent when one party has superior knowledge in a transaction, and knows that the other is relying on that knowledge

Finally, the false statement must cause the victim some injury that leaves her or him in a worse position than she or he was in before the fraud.

There should be legislation in place that only land required for the public purpose should be acquired and if there is no access to any excess land as a result of the acquisition then the Acquiring body should do any works on the property to provide access if the landowner wants to retain any part of his land which is not used for the public purpose. see case

Mandurah Enterprises Pty Ltd v Western Australian Planning Commission [2010] HCA 2 (3 February 2010)

If any land is required temporarily for Example stock piling of materials or to store stock or a depot then the land must not be acquired it must be leased.

When valuing a property the valuers MUST use properties with comparable sales to give a true valuation. If there are no properties in the immediate vicinity of the land to be acquired then they are allowed to look outside the immediate vicinity in different suburbs where the prices of properties are similar as a whole and then look at comparable sales and value property accordingly.

If there are no recent comparable sales then the valuer should look at the premium paid for land with different zonings in a land release.

Example. If I cannot find a comparable then I look at sales, which happened many years back. I look at the difference percentage wise.

I look at the figure sold for a property with residential zoning then I look at a figure with commercial zoning. I then work out the premium paid for the commercial zoning over the residential land, which could be 100% Or 150%. I go back to the property to be acquired and

look at sales in residential zoning in this vicinity, and then if its say \$100 per square meter then I multiply that figure by the percentage of the premium paid and that's the valuation figure for the commercial land. A valuer cannot just say there are no properties with the same zonings sold in yr area so I'm just going to come up with a valuation and compare your property to the property around the corner from you even though its has a different zoning

The valuers use RPDATA and another program to look on the computer and value the properties. When I had my property acquired I was talking to a real estate agent and he said "How can they use that to value properties.? I have seen cash under the table furniture swapped even cars given as payment for the properties. These programs don't reflect the true value of the property when it was sold because the cars and furniture have a monetatary value and this is hidden". I don't know how this can be overcome but maybe you could look at ideas to change this.

When I was under compulsory acquisitions there was a campaign Hands off our Homes. I was very interested in it at the time, I have tried to find it on the net but cant. It said there was going to be legislation put in place where if any land is taken from a landowner and the land becomes surplice and is sold off, if the land is sold off at a profit the Dispossessed landowner or their beneficiaries receives 80% of the profit and the government receives 20%. I think this was incorporated in English law. I have been trying to find it but cannot. I don't know if you have access to campaigns but I believe this would be fair to the landowner.

Where there is a property required for pulic purpose the landowner must not be paid less than what the owner paid for the property.

Under the Just Terms Compensation Act the landowner must not be worse off.

A property to the owner is a major investment and property owner should not be ripped off by the system. They should be treated carefully and with respect and not be intimidated

I hope what I have written has helped in some way.

There needs a lot of the Just Terms Act left in but a lot of the Act Changed for the better

I hope this can be achieved and a good outcome for both government and landowners out of the whole inquiry

Yours sincerely.

Francesca Vumbaca

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