

Submission  
No 430

**INQUIRY INTO IMPACT OF THE WESTCONNEX  
PROJECT**

**Name:** Mr Richard Capuano

**Date Received:** 3 September 2018

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Partially  
Confidential

***Submission to the Inquiry into the  
Impact of the WestConnex Project***

**(d) the compulsory acquisition of property for the project**

Dear Committee Members,

Thank you for taking the time to consider my submission.

I would greatly appreciate the opportunity to give evidence to the Inquiry.

My (former) home at **Campbell St, St Peters** was Compulsory Acquired by the RMS for Stage 2 of the WestConnex project.

I purchased the property in 1998, a 4br two-storey terrace. I enjoyed living in St Peters and worked from home, and was close friends with many of my neighbours. The property was conveniently located across the road from *Sydney Park*, close to public transport with easy access to the CBD, and within walking distance of *Newtown* and *Marrickville Metro*.

My neighbours and I were not opposed to the acquisition of our homes, and knew an existing road corridor affected our properties. We met an RMS representative at a community meeting several weeks before we received official notification on 4 November 2014, and initiated a meeting to commence the acquisition process.

On 10 November 2014, we met with Christopher Swann (former WestConnex Stage 2 Project Director), representatives from the WestConnex Communication Team and RMS Acquisition Team - including . The meeting was amicable; we enjoyed tea/coffee and my neighbor brought along a cake she had made.

During the meeting, we all expressed concern that residents who had their properties compulsory acquired were not being compensated full Market Value, yet we were assured that we'd be 'looked after' and 'more than adequately compensated'.

We were led to believe that we'd be able to purchase another home in the area, that the transition into a new home would be effortless, and that the acquisition process would be 'on our timeframe' and completed by the end of 2015.

We shook hands and put our trust in the RMS, however, what eventuated was the complete opposite - we had been deceived. The RMS treated us with considerable disrespect throughout the acquisition process, and offered less than Market Value for our properties.

It turned out to be a truly agonising and traumatic experience that adversely impacted our financial stability and health and wellbeing - and something I wouldn't wish upon anyone.

I believe we were punished simply because we either questioned or chose to appeal the unreasonable offer, we just wanted to be properly compensated.

Those who appealed their unreasonable offer - including myself, had our lives turned upside down. We were dragged through a lengthy and very expensive appeals process, and presented with many hurdles from nasty RMS Lawyers and Valuers with very deep pockets.

## Initial RMS offer

We were introduced to \_\_\_\_\_ from Slater and Gordon at a community meeting. We engaged him to guide us through the acquisition process, and asked to remain as a 'block' to share costs and information, however, we were split up and played off against each other. We also found he charged residents for attending the initial 'sales pitch' community meeting, and became wary of his intentions.

We also questioned the valuations arranged by \_\_\_\_\_ that were well below Market Value for our properties, but by then it was too late.

In May 2015, we received the initial offer from the RMS.

I received an unreasonable offer of \$850,000 after RMS Valuer \_\_\_\_\_ conducted a 'kerbside valuation'. My property was even compared to a significantly inferior 2br semi under the flight path in Sydenham, and several properties affected by 'blight' due to the impact of the WestConnex project.

It was well known that WestConnex had negatively affected property sales. Some residents panicked and sold their homes for less than Market Value, which was then used to drive down the value of our properties. The RMS knew exactly what they were doing.

### 56 Market value

(1) In this Act:

market value of land at any time means the amount that would have been paid for the land if it had been sold at that time by a willing but not anxious seller to a willing but not anxious buyer, disregarding (for the purpose of determining the amount that would have been paid):

(a) any increase or decrease in the value of the land caused by the carrying out of, or the proposal to carry out, the public purpose for which the land was acquired, and

I knew the RMS offer didn't reflect the Market Value of my property, and that it would be impossible to ever purchase another home in St Peters - not even a 2br unit. I faced an uncertain future.

I noticed there were alarming inconsistencies between our offers, for example, properties directly behind me in Albert St, St Peters were offered \$1.35-4m.

My neighbours also received unreasonable offers that just didn't make any sense.

To add insult, we learned that the property at **Campbell St, St Peters** was acquired for \$2,400,000 in April 2015 - a month before we received the RMS offer. I knew this better reflected the Market Value of properties in the area.

I asked \_\_\_\_\_ why this property wasn't included in our Valuation and/or reflected in the RMS offer - and was told the RMS does not take acquisitions into consideration when determining Market Value.

This was absurd... how could the RMS acquire a property several blocks away for \$2.4m, then turn around and offer other residents only a fraction - in my case a third, that's a whopping difference of \$1.550,000. It didn't make any sense, this was fraud.

My neighbours, \_\_\_\_\_, also questioned \_\_\_\_\_ and were told the same thing. They owned a significantly superior property, yet were offered \$1.6m - a staggering difference of \$800,000.

They are an elderly couple who were stressed by the acquisition process, they feared for their health and weren't in a position to appeal the offer - and were upset that they had no choice other than to accept. They were unable to purchase a comparable 5br home in St Peters, and eventually moved to the Central Coast.

This inevitably drove down the value of our properties.

Another neighbor was offered even less for her stunning 3br home that faced *Sydney Park*. She was stressed and also faced some serious health concerns, and believed there was no choice other than to accept the unreasonable offer.

The RMS also refused to pay a local business any relocation costs, and found it was stressful trying to conduct his business while forced to take legal action against the RMS.

### **“They stress you out to get you out.”**

There are many residents and businesses who were cheated. I watched helplessly as the RMS picked off the weak and elderly, they trampled all over us.

I became a shoulder to cry on, it was heartbreaking to see my friends break down in tears every day – it was a living hell, and we were unable to do a thing about it. We turned to the media, and soon became resentful of the RMS and very suspicious of

Residents who questioned the offer and sought to lodge an appeal with the VG were bullied and intimidated by RMS representatives.

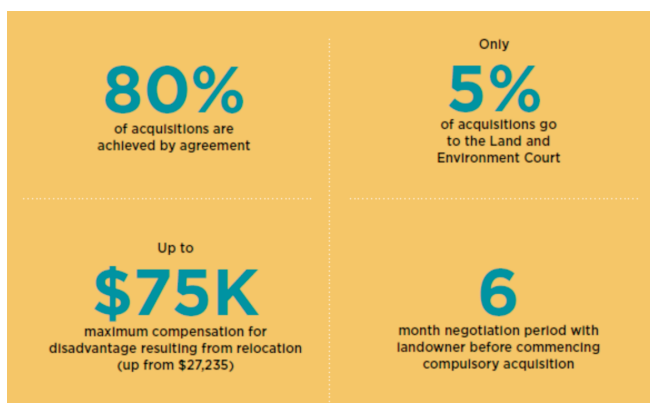
also discouraged, we were told the RMS would drag us through lengthy and expensive legal action, that the outcome from the VG wouldn't be any better, and that the offer was 'the best you'll get, that was it'.

We were devastated, and convinced that was not doing right by us.

Many unwillingly accepted the offer, they believed they had no other choice - and feared the RMS. There was no negotiation; it was "take the offer or we'll turn your lives upside down".

We knew this was not fair or just – and it was clear the Government and RMS had made a mockery of the *Land Acquisition (Just Terms Compensation) Act 1991*.

Considering the deception and bullying tactics used by the RMS, it's clear that figures released by NSW Minister Dominic Perrottet regarding the number of acquisitions achieved by 'agreement' are misleading and deceptive – and was not 'fair' at all.



The NSW minister for finance, services and property, Dominic Perrottet, said the government was committed to a land acquisition process that is fair and efficient for all parties.

"It should be noted the vast majority of land acquisitions are already achieved by agreement," he said.

**Warning of 'unfair' process unheeded as government forges ahead with property resumptions, SMH, 10 January 2016**

We were obviously upset the RMS had deceived us, and we didn't appreciate the way we had been treated. We quickly realised it was always their intention to cheat us out of compensation - despite what they had assured us.

## Appeals process – Valuer-General

I immediately gave notice of my intention to appeal the offer, however there was an unexplained delay. We didn't hear from the RMS until later that year, and the appeal process resumed early 2016. We lodged our appeal to the VG after our properties were 'Gazetted' on 22 April 2016 – the day after Stage 2 WestConnex works were approved.

By then, several neighbours and I engaged another Lawyer to guide us through the VG appeal - we didn't trust

On 16 June 2016, I received notification from the RMS that the VG offer was \$900,000. I was shattered. I believed the VG would deliver a better outcome.

I was told the VG also delivered unreasonable properties valuations elsewhere – there was clearly a systemic pattern of behavior.

It also turned out that VG Valuer , Omega Property Consultants, was/is an employee of RMS Valuers Lunney Watt and Associates. only established the business several months earlier.

VG and completely ignored my submission, yet included a page in the determination that talked up the benefits of the WestConnex project.

According to information available on the VG website:

*“The Valuer General is appointed by the Governor of New South Wales as a statutory officer and acts independently of both State and local government. This independence is important so there is a clear separation between the acquisition of land by government for a public purpose and the determination of compensation.”*

I was appalled that the RMS had compromised the *Statutory Independence* of the VG - the valuation was completely biased toward the RMS, and it makes me believe the Government has directed the RMS and VG to cheat residents out of compensation.

## Unsafe removal of asbestos contaminated waste

During this time, the RMS Compulsory Acquired the Dial-a-Dump site near our properties, and commenced shipping out asbestos contaminated waste. We were happy the contaminated waste was finally being removed, however the RMS weren't doing it safely and we were being exposed to asbestos.

There were hundreds of truck movements each day spreading asbestos contaminated waste up and down the street. Our homes were covered in dirt, it would enter our homes and we were unable to open our windows during the day. WestConnex refused to wash down the street – or wet the dirt inside the site, and on hot dry windy days we would see dust storms near the entrance and outside our homes.

I wrote to WestConnex begging them to use an alternative entry away from the residential area, and replied saying that wasn't possible due to the location of the weighbridge and wheel wash – which wasn't even being used.

My neighbours and I made complaints to the EPA – they were slow to investigate and instead told me to photograph the trucks. The City of Sydney sent a street sweeper, although Marrickville Council wouldn't send a street sweeper and failed us.

I started to photograph the trucks. They were covered in dirt and inadequately covered – dirt would escape out of the gap at the back of the truck.

I sent the photographs to the EPA, but they failed to do anything. This continued for several months, and by that time residents took to protesting daily outside the site entry.

WestConnex were upset with us. They didn't care that we were being exposed to asbestos contaminated waste, and we were also concerned for residents who lived along the truck route that were unaware what these trucks were carrying past their homes.

Instead of addressing the issues, they sent Newtown police to break up the protests. The matter soon received media attention – and Duncan Gay referred to us as 'nasty little anarchists' in Parliament. The matter was eventually resolved, however we have potentially been exposed to asbestos.

I believe the way I was treated during the compulsory acquisition process was some form of payback and retribution for trying to address the unsafe removal of asbestos contaminated waste from the St Peters Interchange site.

### **Removed from St Peters**

During this time, former Premier Mike Baird issued a 'mea culpa' about keeping the *Russell Review* secret, and acknowledged the 'insensitive' way residents had been treated.

Yet, Baird only implemented changes to "Customer Service", and increased the *Solatium* payment – an '**absolute insult**' considering the amount of compensation we were being cheated.

In late August 2016, we were assigned "Customer Service Representatives". They didn't care we were being forced out of our homes – or that we wouldn't be able to purchase another property in the area considering the unreasonable RMS and VG offers, their role was to facilitate the removal of residents from their properties.

They bullied and lied to us, and put undue pressure on us to vacate simply to accommodate the RMS schedule. There was real urgency about getting us out of our homes.

I was shocked when they forced my neighbor into a tiny studio serviced apartment with only basic tea/coffee making facilities - it was so tiny you couldn't even swing a cat. She was also cheated out of compensation and was stressed by the process. They arranged removalists to come into her home to pack up her belongings - and shoved them in storage somewhere. She was treated with little dignity, and was broken and humiliated by the 'brutal' experience - she was unhappy and constantly broke down in tears.

They also tried to shove me in the same apartments, but I preferred to find alternative rental accommodation.

There was also an underlying threat of police intervention if we did not comply – which made me feel very uneasy. This was evidenced when my neighbor was forcibly removed from his home and thrown in jail.

I was terrified about an uncertain future, and had no idea what was going to happen to me. I was being forced into a rental situation when I just wanted to purchase another home,

I was stressed and dreaded when Customer Service Representatives would contact me, I felt they were pressuring me into accepting a solution that did not meet my needs or adequately replace my former home.

The RMS had taken control of my life – they were calling the shots, and trying to dictate how and where I should live. My choices had been taken away from me and I was of the view that RMS had no interest in the welfare of residents undergoing the Compulsory Acquisition of their properties.

By this time, my physical and mental health had significantly deteriorated. There was no escaping what the RMS were putting me through – they were relentless, and the uncertainty and sense of powerlessness played on my mind day and night.

I was depressed, anxious, angry, and considerably stressed. I suffered both physical and mental symptoms. My doctor diagnosed me with anxiety, depression and insomnia, and I was referred to a Thyroid Specialist who diagnosed me with the autoimmune disease Hashimoto's hypothyroidism.

I was prescribed anti-depressant tablets, sleeping medication, thyroid medication, and was referred to Counseling. My Doctor, Counselor and Specialist monitored my health, and recommended I move away from Sydney to remove myself from the stress and repair my health - and wait for my Appeal in the LEC.

### Appeals process – LEC Conciliation Conference

I was upset that the RMS had forced me into the LEC, but was left with no choice other than to appeal the unreasonable VG offer.

I engaged *Project Lawyers* who had significantly more experience to guide me through the LEC process. There were another three residents left standing – and another who remained with

I received a letter from the RMS several days before the LEC Conciliation Conference indicating they had reduced their offer to \$825,000 – being \$75,000 less than the VG offer.

Unbelievable... the SMH raised the matter with the Finance Minister Victor Dominello who 'vowed to review' how this could possibly happen – the RMS adjusted the offer back to \$900,000 and refused to budge any further

During the Conference in late February, it was noted that RMS Valuer \_\_\_\_\_ didn't state a value of the property on their Valuation. \_\_\_\_\_ instead argued it was a 3br property and that it would cost \$350,000 in completely unnecessary 'renovations' such as replacing the entire electrical wiring, water pipes, etc. to get the property to a 'high standard'.

It was absolutely ridiculous, though led me believe that \_\_\_\_\_ had valued the property at \$1.25-3m. By this time, my home had already been demolished.

I spoke with the other 3 residents who told me they weren't any better off. They were exhausted by the process – and unable to afford any further legal and associated costs, and reluctantly accepted the offer. I know residents are still waiting to be reimbursed the legal costs from the Conciliation Conference - 1½ years ago.

We then found out the resident who remained with \_\_\_\_\_ – and owned the property at **Brown St, St Peters**, received an extraordinarily generous offer of \$1,850,000 – being \$500,000 more than what \_\_\_\_\_ were offered, and double what I was offered.

We knew there were no comparable sales as they would've been included in our submissions. We wondered if they were allowed to take the acquisition of **Campbell St, St Peters** in consideration – or allowed an adjustment for 'blight' that we were refused.

We were furious – including \_\_\_\_\_ who had a significantly superior home and forced to accept a lower offer.

How could this be?

## Appeals process – LEC Hearing

I was forced to proceed to what turned out to be a very expensive 3-day hearing in the LEC.

I was initially told the LEC hearing would occur some time in June/July, however the RMS refused to allocate any time and pushed the hearing to September. I was annoyed, however it was yet another unnecessary delay – and indication that the RMS were in control.

I soon understood why... RMS Valuers and [redacted] bombarded me with unnecessary Structural and Engineers reports, it was obviously a tactic to overwhelm me with legal and associated costs – it seemed that every time they sneezed it cost \$50,000.

In the end, my legal and associated costs were approximately \$280,000 - a staggering amount of money, and clearly a deterrent to residents who sought to appeal the unreasonable RMS offers. No landowner should be forced into the situation.

During the Hearing, the RMS Barrister, [redacted], went on endlessly about negative adjustments to comparable properties - mostly affected by 'blight'), and eventually argued for a value of \$1m.

It was astounding how they reduced every comparable property to \$1m. A 2br terrace across the road sold for \$1.2m. It was inferior to my property and the new owner considered it a 'bargain' even though it was located above the tunnel entry. It was also adjusted to \$1m. The process is ridiculous.

The RMS also refused to consider any adjustment for 'blight' – even the Judge wouldn't take it into consideration, which was in stark contrast to terms of the *Land Acquisition (Just Terms Compensation) Act 1991*.

However, there were two properties that clearly demonstrated the affect of 'blight' on sales in the area. One of the properties put forward by the RMS arrived at a value of \$1,300,000 after numerous adjustments (except for 'blight'), while the other sold for less a year later due to the impact of Stage 3 works – being a tunnel directly underneath the property.

The Judge considered the 'benchmark' for the property to be \$1.3m based on this comparable property, yet when the RMS realised this, their Barrister and Lawyer [redacted] from Clayton Utz panicked and desperately tried to have the property removed.

The Judge agreed that it should be considered a comparable property – much to the dismay of the RMS.

There was now clear evidence before the LEC that proved the value of my property was \$1.3m - and closer to my valuation, which had been significantly reduced to \$1.4m. Adding an adjustment for 'blight', the value would've been around my 2015 valuation of \$1.5m.

After three years, there was finally clear evidence that the RMS had willfully cheated and defrauded residents out of compensation – and for the first time, I was hopeful that I would be adequately compensated and able to possibly afford another home in the St Peters area.

I had to wait another 6 months before the LEC Judgment arrived, only to find I was offered \$1m. What? The Judge 'disregarded' the \$1.3m comparable property because of the difference with the other property – which was due to 'blight' arising from Stage 3 works.

After a year in the L&E Court, I was devastated and angry - and suspected the RMS has influenced the Judge and LEC.

I wanted to appeal the Judgment – yet was told the RMS would tie me up in the Courts with endless appeals and eventually bankrupt me. I am no stuck in limbo.



## Uncertain future

Despite the *Land Acquisition (Just Terms Compensation) Act 1991* stating the resident must be 'justly compensated', I instead found the RMS has bent the rules and trampled all over me.

After 4 years, it is now impossible for me to ever purchase a similar home in the St Peters area - or Sydney market, due to the unjust actions of the RMS, VG and LEC.

I am now stuck in a rental situation – and still waiting to be reimbursed the \$280,000 in legal and associated costs, with no idea when these costs will be reimbursed.

To add further insult, I was advised that I would lose 20% of legal costs – on top of what the RMS has already cheated me... it's criminal that residents should be further out of pocket because of the heartless actions of the RMS.

The Government and RMS have made an absolute mockery of the *Land Acquisition (Just Terms Compensation) Act 1991*.

What shocked me the most, was to discover the VG and LEC have been 'tainted' and deliver favourable outcomes for the RMS – which certainly needs to be investigated. This is completely unjust, and it's upsetting that residents are being forced into this situation.

A terrible set of circumstances, no doubt engineered by the Government and RMS to ensure they get away with cheating residents. Yet the Government continues to pay RMS Lawyers, Barristers and Valuers to willfully cheat and bully residents – as recently seen in Randwick and the *Desane* case, then tell us they're listening and that the process is now transparent.

This now sets a dangerous precedent that residents can no longer rely on the VG and L&E Court as an option to appeal the unreasonable RMS offers, which goes against everything the *Land Acquisition (Just Terms Compensation) Act 1991* stands for.

## The Government and RMS have engaged in misleading and deceptive conduct

It is now public knowledge the Government is aware the Compulsory Acquisition process is unfair towards landowners– and failed/refused to fix the process. I have also included media articles at the end of my submission.

It's well known the Government withheld the *Russell Review* and refused to implement a number of Recommendations - particularly the '**re-instatement**' recommendation, that would have ensured residents would be able to purchase another home in their area.

Former Premier Mike Baird and Minister Perrottet told the media they wouldn't implement the 're-instatement' recommendation because 'Market Value should be sufficient to purchase another home' - yet we now know this is an absolute lie.

The Government has spent over \$650m on legal and associated costs (SMH, Oct 2017) to cheat landowners, brushed aside numerous complaints from residents who weren't being adequately compensated, and recently refused to accept the *Desane* decision.

Recent 'Customer Service' changes do not go far enough towards addressing these issues and/or make the Compulsory Acquisition and Appeals process any fairer for landowners – and we have seen that residents continue to be cheated out of compensation.

There can be no doubt that the Government and RMS have engaged in **misleading and deceptive conduct** with the intent to willfully and deliberately cheat and defraud landowners out of compensation – this should be the basis of an Inquiry into the Compulsory Acquisition and Appeals process.

Despite the 'mea culpa' from former Premier Mike Baird nothing has really changed.

### **Further changes are required**

Residents are now aware of the way the RMS conducts itself during the compulsory acquisition process, and we should not tolerate this behaviour any longer while the Government rolls out more infrastructure projects - and take more homes.

"Compulsory Acquisition" are now dirty words that inspire fear in homeowners – and instantly reduce property values.

A Parliamentary Inquiry into the Compulsory Acquisition and Appeals process is desperately needed – as recommended by Recommendation 20 of the *Russell Review* -

*“that the next review into the Just Terms Compensation legislation be undertaken by a reviewer who is obliged to hold public hearings and take evidence from interested parties”*

To ensure the process is fair and just, further changes are needed:

- implement the 're-instatement' recommendation in the *Russell Review* that the Government refused,
- ensure the Statutory Independence of the VG
- alternatively, establish an Independent Body to undertake Government Valuations – “Valuation Commission” as proposed in 2013 and rejected by the Government,
- ensure Hardship provisions are easier to access for residents living next to infrastructure projects, in Road Corridors, or areas re-zoned for future Infrastructure projects.

Please HALT any future acquisitions. There can be no doubt that the Compulsory Acquisition and Appeals process is 'broken', and needs to be 'fixed' to ensure the process is fair and just for everyone.

**Please immediately initiate a full Inquiry and review of our acquisitions, and please recompense residents and businesses what we have been willfully cheated.**

Thank you for taking the time to consider my submission.

Best regards,  
Richard Capuano

## Chronology

1. I purchased the property at Campbell St, St Peters in 1998. It was a 4br two-storey terrace, and I adored its original/heritage features. I understood the terraces were built in the 1890s to accommodate senior managers and their families who worked at the former brickworks in what is now *Sydney Park*. I understood the terrace was identified as a propose Heritage Item by Marrickville Council, but this was later abandoned,
2. I was aware a Road Corridor affected the property. After speaking with the RTA in 1998, I was told they had no plans to acquire the land in the next 10-15 years, and that I would be paid Market Value for the property – unaffected by the public purpose. I went ahead and purchased the property.

### The Acquisition process commences

3. On Tuesday 4 November 2014, *Melbourne Cup Day*, residents in St Peters received formal notification from the RMS that our homes would be Compulsory Acquired for the WestConnex project. My neighbours and I did not have any objection to this.
4. On Monday 10 November 2014, we attended a meeting with Christopher Swann (former WestConnex Stage 2 Project Director), representatives from the WestConnex Communication Team and RMS Acquisition team - including to discuss the Acquisition process.
5. We expressed concerns that residents were not being compensated the full Market Value for their properties, and they assured that we would be 'looked after' and 'more than adequately compensated', and that the process would be 'on our timeframe' and completed by the end of 2015 – from the WestConnex Communication Team repeatedly asked 'where do you want to be New Year 2015?'
6. We left the meeting feeling confident about the Compulsory Acquisition process, that we would have nothing to worry about, and that we would be able to purchase another home in the St Peters area.
7. In late January 2015, the RMS commenced the Compulsory Acquisition process, and we engaged from Slater and Gordon (SnG) to help navigate us through the Acquisition process. We were told to prepare our properties for Valuation.
8. In early/mid March 2015, RMS Valuer , Certified Practicing Valuer for MJ Davis Realty Appraisals, requested access to the property. I explained that I was painting and in the process of obtaining finance to undertake some minor renovations to prepare the house for Valuation – which included reinstating the wall to the 4th bedroom at a cost of \$2,000.
9. advised me not to undertake any renovations - stating it would have absolutely no impact on the Valuation, so I cancelled the finance application and halted the renovations on her advice.
10. I next heard from in early April when she told me the RMS were putting considerable pressure on her to submit Valuations. I told her she was welcome to inspect the property, but she declined and advised she would undertake a 'kerbside' valuation.
11. asked about the property and any improvements, which I explained in detail.

12. [redacted] was shocked to learn it was a 4br double story terrace with new ceilings and rosettes, polished floorboards, original/heritage features. She told me she thought it was a 2br single-storey semi. [redacted] assured me she would adjust the Valuation to take this into consideration, which did not happen.

### **RMS Initial Offer**

13. In May 2015, I received the initial offer from the RMS. I was shocked at the unreasonable offer of \$850,000, and that my property had been compared to significantly inferior properties – including a 2br semi on the Princes Highway, Sydenham under the flight path. This offer did not in any way reflect the Market Value of the property.
14. I found that my neighbours also received significantly low offers.
15. We then learned that a 3br property at [redacted] Campbell St, St Peters was acquired in April 2015 for \$2.4m, which we believed better reflected the Market Value in St Peters.
16. My neighbours and I asked [redacted] why this property was not taken into consideration in our Valuation, only to be told that the RMS would not take acquisitions into consideration when determining offers.
17. My neighbours, [redacted] - who had a significantly superior property (5br, immaculately presented house with large attic space, 4 car lock-up garage, established front/rear gardens, and rear lane access on a larger block of land), were initially offered \$1.425m – a staggering \$925,000 difference.
18. The [redacted], being elderly residents, were stressed by the process and feared for their health, and reluctantly accepted an unreasonable offer of \$1.6m after being told by [redacted] ‘that is the best offer the RMS would make, that was it’.
19. We were upset as this contradicted what we were told during our initial meeting, and we realised that we had been misled and deceived. The flow-on effect was that it significantly reduced the value of our properties.
20. I also noticed significant differences between offers, for example, several 2br weatherboard properties on Alfred Street – directly behind my property, were offered \$1.45m (total). It didn’t make sense.
21. The acquisition process was causing considerable stress for many residents, and the RMS were bullying and intimidating residents into accepting the unreasonable offers - under threat of lengthy and expensive Appeals process, and I know many did not sign over their homes willingly.
22. At no time did the RMS negotiate with me - instead dictating its terms, and I was left with no choice but to appeal the offer to the VG.

### **Appeal to the Valuer-General**

23. I rejected the RMS offer, in accordance with the timetable set out in the *Land Acquisition (Just Terms Compensation) Act 1991*, yet I heard nothing from the RMS and the acquisition process stalled. I was left in limbo without any explanation.
24. After an unexplained and lengthy delay, the remaining homes were ‘Gazetted’ on 22 April 2016 – the day after Stage 2 works were approved.

25. I no longer had any confidence in \_\_\_\_\_, and engaged another Lawyer who helped prepare my Submission to the VG.
26. My submission included properties that were acquired by the RMS – including the property at \_\_\_\_\_ Campbell St, St Peters and those directly behind my home in Albert St. I believed this better reflected the Market Value of the property. The valuation was \$1.5m.
27. In June 2016, the VG made its Determination. I was only offered \$900,000. I believed this to be an unreasonable offer. The VG had completely ignored my submission, and included a page in his Valuation that talked up the benefits of the WestConnex project.
28. I learned the VG Valuer, \_\_\_\_\_, Omega Property Consultants (est. September 2015), was/is employed by RMS Valuers Lunney Watt & Associates.
29. I learned that the VG assigned to us is \_\_\_\_\_, had also under-valued many properties.
30. According to information available on the VGs website:
- “The Valuer General is appointed by the Governor of New South Wales as a statutory officer and acts independently of both State and local government. This independence is important so there is a clear separation between the acquisition of land by government for a public purpose and the determination of compensation.”*
31. I believe there was significant bias toward the RMS, and that the Statutory Independence of the VG was ‘tainted’ by the RMS with the intention to deliberately and willfully cheat residents out of compensation.

### **Land and Environment Court appeal**

32. I had no choice but to appeal the VG Determination in the Land and Environment Court, and was upset that I had been forced into this situation.
33. I was not entitled to receive any compensation until after I had submitted the appeal application, and was required to pay \$665 per week in rent from the date my home was ‘Gazetted’ on April 22 2016 - for the privilege of continuing to live in my former home.
34. I subsequently found that the RMS had deducted over \$9,000 in rent. This practice seemed very unfair to me, however it was recovered at the LEC Conciliation Conference.
35. In late August 2016, we were assigned “Customer Service Representatives”. They did not care that we were being forced out of our homes – or that we wouldn’t be able to purchase another property in the area considering the unreasonable RMS and VG offers.
36. They bullied and lied to us. It was clear their role was to facilitate the removal of residents from their properties, and they put undue pressure on us to vacate – simply to accommodate the RMS schedule.
37. I was shocked when they forced my neighbor \_\_\_\_\_ into a tiny studio serviced apartment with only basic tea/coffee making facilities - it was so tiny she couldn’t even swing a cat. Removalists came into her home, packed up her belongings, and shoved them in storage somewhere. She was treated with little dignity, and was broken and humiliated by the ‘brutal’ experience - she was unhappy and broke down in tears.
38. They also tried to shove me in the same apartments, but I preferred to find alternative rental accommodation.

39. There was also an underlying threat of police intervention if we did not comply – which made me feel very uneasy, and this was evidenced when my neighbor was forcibly removed from his home and thrown in jail - for trying to defend his family and home.
40. I was terrified about an uncertain future as I would soon be homeless without finding a suitable place to live. I had no idea what was going to happen to me. I was stressed and dreaded when Customer Service Representatives would contact me, I felt they were pressuring me into accepting a solution that did not meet my needs or adequately replace my former home.
41. I felt that the RMS had taken control of my life and were dictating how and where I should live. My choices had been taken away from me and I was of the view that RMS had no interest in the welfare of residents undergoing Compulsory Acquisition of their properties.
42. During this time, my physical and mental health deteriorated. I was depressed, anxious, and considerably stressed. I suffered both physical and mental symptoms. My doctor diagnosed me with anxiety, depression and insomnia, and I was referred to a Thyroid Specialist who diagnosed me with the autoimmune disease Hashimoto's hypothyroidism. I was prescribed anti-depressant tablets, sleeping medication, thyroid medication, and was referred to Counseling. My doctor and Specialist monitored my health. It was recommended I move away from Sydney to remove myself from the stress and repair my health, and wait for the Appeal in the Land and Environment Court (LEC).
43. At the time, I understood I wouldn't be able to get a LEC Conciliation Conference date until mid-2017.
44. I was forced to live with the stress and uncertainty every day. I was constantly reminded about my situation – I was consumed by it, and it was making me sick. I had no home and no future prospects of being able to purchase in the current Sydney market.
45. On November 18, I handed over the keys to my home to the Customer Service Representative while RMS Valuer undertook another valuation of the property. It started out amicably, however indicated he would value the property as 3br – not 4br, and kept going on about some minor water damage in the stairway. This upset me, and I knew the RMS was going to make it difficult for me during the LEC.
46. In early December 2016, my Lawyers notified me that had requested that I provide building inspection and consultants reports - at my expense, for no specified reason. refused to reveal what the 'issues' were, and I requested the RMS pay for these unnecessary reports. I received no response. I could not understand why and the RMS needed these reports when they intended to bulldoze the property.
47. On February 28 2017, I attended the LEC Conciliation Conference. The RMS would only offer \$825,000 for my home, which was less than the VG Determination of \$900,000. My independent Valuation was reduced to \$1.45m.
48. RMS Valuer claimed that the house was seriously defective, which he did not have the expertise to ascertain, indicating it would cost \$350,000 to repair the property – for which he had no quotes or evidence. By this time, the RMS had already demolished the property.
49. The RMS reluctantly increased the offer to the VG offer of \$900,000. The Commissioner had also picked up that had not submitted a property value in his Valuation.
50. I had no choice other option than to proceed to a full hearing in the LEC.

51. The RMS refused a full hearing at the LEC in June/July - saying they didn't have any staff available, and made we wait until mid-September. By this time, it was nearly 3 years since the Compulsory Acquisition process commenced. This is extremely unfair.
52. I soon understood why... RMS Valuers and bombarded me with unnecessary Structural and Engineers reports, it was obviously a tactic to overwhelm me with the legal and associated costs – it seemed that every time they sneezed it cost another \$50,000.
53. In the end, my legal and associated expenses amounted to approximately \$280,000 - a staggering amount of money, and clearly a deterrent to residents who seek to appeal the unreasonable RMS offers. No landowner should be forced into the situation.
- Another concern is that there is no set timeframe for the RMS to reimburse legal and associated costs.
  - I'm aware another resident is still waiting to be reimbursed legal costs from the Conciliation Conference in February 2017 – 1½ years ago.
  - I am unable to proceed with an Appeal of the LEC Judgment as I am yet to be reimbursed legal and associated costs – another barrier and unfair practice, and there is no indication when I will receive the costs.
  - I am also forced to relinquish a percentage of legal costs – I believe 20%, being approx. \$30,000. It's unfair that I should be further out of pocket after the RMS forced me into the LEC because of their actions.
  - If the RMS legal and associated costs amounted to \$300,000, that's a staggering \$600,000 of taxpayer funds wasted on taking a single resident to LEC – and almost the amount of compensation I was cheated, so why not just compensate me properly in the first place and let me get on with my life.
54. During the Hearing, the RMS Barrister, , went on endlessly about negative adjustments to comparable properties (some already affected by 'blight') - and eventually argued for a value of \$1,000,000.
55. The RMS and LEC refused to consider any adjustment for 'blight', even though two properties considered clearly demonstrated the affect of 'blight' on sales in the area.
56. One of these two properties put forward by the RMS arrived at a value of \$1,300,000 - after numerous adjustments (except for 'blight'), and the Judge carefully considered the 'benchmark' to be \$1.3m.
57. After three years, there was now hope that I would be properly compensated – and clear evidence before the LEC that demonstrated the value of my property was closer to my valuation, which had been reduced again to \$1.4m. Adding an adjustment for 'blight', the value would have been around my initial 2015 valuation of \$1.5m.
58. When the RMS realised this, their Barrister and Lawyer from Clayton Utz tried desperately to have the comparable property dismissed. The Judge considered it to be a comparable property – much to the dismay of the RMS Lawyer and Barrister.
59. There was finally clear evidence that the RMS had willfully cheated residents out of compensation.

60. I waited another long 6 months before receiving the LEC Judgment, only to find I was offered \$1m. I realised it was a convenient 10% on top of the previous offer, so I was entitled to have my legal and associated costs reimbursed – whenever that happens.
61. It turned out the Judge 'disregarded' the \$1.3m property because there was a difference between the comparable properties – which was actually 'blight' due to Stage 3 works.
62. I was devastated and angry, and desperately wanted to appeal the Judgment – yet was told the RMS would tie me up in the Courts with endless appeals and bankrupt me.
63. I am terrified that I will never be able to purchase another home in my beloved suburb of St Peters, which was in stark contrast to terms of the *Land Acquisition (Just Terms Compensation) Act 1991*.
64. My life and choices are no longer my own, they are completely dependent on decisions made by government employees who are strangers to me. I have lost control over my own life. I was unable to operate my business due to the stress caused by this situation - which has increased my distress financially and emotionally.
65. I am now stuck in a rental situation unable to purchase another home in Sydney – and still waiting to be reimbursed legal and associated costs.
66. But more importantly, this now sets a dangerous precedent that residents can no longer have any faith in the VG and L&E Court to appeal the unreasonable RMS offers, which goes against everything the *Land Acquisition (Just Terms Compensation) Act 1991* stands for.