

LAND COURT

BRISBANE

12 OCTOBER 1995

**Re: AV94-509
An Appeal against an unimproved valuation -
Valuation of Land Act
Local Government: Whitsunday**

Maspra Pty Ltd

v.

Chief Executive, Department of Lands

(Hearing at Proserpine)

DECISION

The land to which this appeal relates is situated fronting Shute Harbour Road, on the southern frontage, between Erromango Drive and Cedar Court, Jubilee Pocket. It is zoned "Rural" and described as Lot 3 on Registered Plan 735923, Parish of Conway, containing an area of 3.691 hectares.

Shute Harbour Road is bitumen sealed and services available include water, sewerage, electricity, telephone and cleansing.

The land is "exclusively used for single-unit residential purposes" and has been valued by the Department of Lands, as at 30th June, 1993, in the amount of \$150,000 "as a single large site" pursuant to s.17(1) of the Valuation of Land Act. Although the land is said to have an enhanced value for residential subdivision, the exclusive use provisions of the Act require that any such enhancement shall be disregarded.

The appellant company was represented by Mr B. Conroy, registered valuer, whose valuation in this matter was \$100,000. He described the land as being level with Shute Harbour Road for approximately half its depth (total 215 metres) then rising steeply to the rear boundary. "The lower country is subject to flooding and water ponding during wet seasons", according to Mr Conroy.

In support of his valuation, Mr Conroy provided a schedule of seven sales of rural residential sites, generally around 2 hectares in area with one of 3.1 hectares (Sale 7) and another of 5.42 hectares (Sale 4). The sale prices ranged from \$55,000 to \$75,000 and except in two cases (again Sales 4 and 7) supported the valuations applied to those lands by the Department of Lands. It was put to Mr Conroy that his Sales 4 and 7 were the result of a vendor being in financial difficulties. Mr Conroy did not accept that these sales were at a level below market value because the properties had been exposed to the market for a sufficiently long period of time, in his opinion, for the market to have been tested. On the totality of the evidence which emerged

regarding the vendor's circumstances however, those two sales are seen to be an unreliable basis on which an opinion of value should be formed. Mr Conroy pointed out that the subject property was superior to each of the sales, the degree of superiority however being a question of opinion.

Mr S.J. Whitfield made the valuation for the Department. He described the land as comprising gentle to easy slopes for about two-thirds of the area, the balance one-third being "moderately steep and rocky in nature but affording excellent views towards Airlie Beach". The basis for his valuation was, he said, gained from four sales contained in a schedule with his report. The first sale of Mr Whitfield was of a site of 5,360m², adjoining the elevated rear section of the subject land, with access from Cedar Court. Mr Whitfield had referred to this sale in other appeals. It took place on 26th July, 1993, for a sale price of \$150,000. Mr Whitfield analysed the sale to show an unimproved site value of \$125,000. That valuation had been applied to the land. Improvements comprised clearing, house pad, driveway, trees (planted), power connection, water connection. It was Mr Whitfield's evidence that the vendor and purchaser (for some undisclosed reason) had "negotiated the added value of the improvements". Apparently, after receiving this information, which he said was broadly in accordance with his own opinion, after an inspection, Mr Whitfield adopted the "negotiated added value" of \$25,000. Mr Conroy challenged Mr Whitfield's approach and lack of detailed analysis of the sale. Apparently Mr Conroy had valued the same improvements at an earlier date in the amount of \$41,000, but again precise detail was not provided to the Court. As an example his "taped measurement" of a driveway said by him to be 210 metres in length, was challenged to the degree that, in my mind at least, an "area" (sq. metres) result may have been more realistic than a lineal result. While I accept that Mr Whitfield had applied a valuation of \$125,000 to this sale site and had been involved in consideration of the added value of the improvements in connection with that valuation - his analysis, when challenged as to detail, is not persuasive as a basis. Even so, the difficulty in comparison remains. There seems to be no doubt that the sale site has superior views. The subject land has considerably greater site area but then the location from which the views can be obtained, if not within the one-third of the steep land, would be at least close to it (even for a two-storeyed dwelling) and some significant distance from the street services connections.

The only other sales evidence produced in Mr Whitfield's schedule is of fully serviced nearby residential lots in the 700m² to 750m² range and in the price range of \$36,000 to \$47,000. Mr Whitfield said that these sales assisted him, as a valuer, but, from my perspective, do little other than to indicate a value below which that of the subject land could not fall.

Mr Conroy's evidence also shows a level of value under which that of the subject land could not fall, due to the inferiority of those sale lands.

Bearing in mind that any enhancement in value due to subdivisional potential must be disregarded, and that the evidence of market value is not persuasive, the question of relativity of valuations becomes of importance. This is not the only large rural residential site in this locality where the valuation has been the subject of appeal at these sittings.

First, I am confident that with good quality water views available, albeit primarily from the rear section and then the available size of the site with services connected, the subject property should not be valued at less than Mr Whitfield's Sale 1 land with its smaller size but superior views. I lean towards Mr Whitfield's opinion rather than that of Mr Conroy's, that the subject property (hypothetically restricted to single-unit residential use) would carry some premium in value over that sale land. It is a question of degree. Doing the best I can with the evidence overall, I will determine the unimproved value of the subject land in the amount of One Hundred and Thirty-five Thousand Dollars (\$135,000). The appeal is allowed and the chief executive's valuation set aside accordingly.

**RE WENCK
MEMBER OF THE LAND COURT**