

LAND COURT OF QUEENSLAND

CITATION: *Copley & Anor v Valuer-General* [2020] QLC 7

PARTIES: **Denise Copley**
(appellant)

Gregory Copley
(appellant)

v

Valuer-General
(respondent)

FILE NO: LVA675-19

DIVISION: General Division

PROCEEDING: Appeal against objection decision on a valuation under the
Land Valuation Act 2010

DELIVERED ON: Orders delivered 5 November 2019
Reasons delivered 6 February 2020

DELIVERED AT: Brisbane

HEARD ON: On the papers

HEARD AT: Heard on the papers

JUDICIAL
REGISTRAR: GJ Smith

ORDER: **The Court has jurisdiction to hear and determine the
appeal.**

CATCHWORDS: PRACTICE AND PROCEDURE – CIVIL PROCEEDINGS
IN STATE AND TERRITORY COURTS –
COMMENCING PROCEEDINGS – TIME FOR SERVICE
OF ORIGINATING PROCESS OR RENEWAL – where
the appellant failed to appeal to the Land Court in time –
where the Notice of Appeal was lost or delayed in the post–
whether there was a reasonable excuse for the failure to
lodge the appeal in time – where the Court found there was
a reasonable excuse, and that it therefore had jurisdiction to
hear the appeal

APPEARANCES: Not applicable

- [1] In this matter, the Court must determine if it has jurisdiction pursuant to s 157 of the *Land Valuation Act 2010* (the LVA) to hear and determine an appeal against an annual valuation as at 1 October 2018 of land located at North Maclean within the Logan City Council local government area.
- [2] The respondent issued an objection decision notice in respect of the subject property 3 July 2019. A Notice of Appeal¹ in respect of this decision was filed in the Land Court registry on Tuesday 3 September 2019, 1 day after the expiry of the appeal period.² Accordingly, the Court will only have jurisdiction to hear and determine the appeal if a “reasonable excuse”— as required by s 158 of the LVA — is established.
- [3] On 10 September 2019, a Deputy Registrar wrote to the applicants to advise that the Court could not hear the proposed appeal unless a reasonable excuse was established for not filing the Notice of Appeal within the appeal period.
- [4] By email correspondence dated 3 October 2019,³ Mr Gregory Copley provided tracking information from Australia Post which indicates that the Notice of Appeal would ordinarily have been received in the Land Court registry on Monday 2 September 2019.
- [5] On 25 October 2019, the registry received email correspondence from In- House Legal, Department of Natural Resources, Mines and Energy indicating that the Department did not oppose the Court finding that jurisdiction was established. Notwithstanding this advice, the existence of a reasonable excuse must still be established on the balance of probabilities in respect of the failure to lodge the Notice of Appeal within the prescribed period.⁴

¹ Ex 1.

² *Acts Interpretation Act 1954* s 38.

³ Ex 2.

⁴ *ISPT Pty Ltd v Valuer General* [2012] QLC 48 [5].

[6] On 5 November 2019, after considering the evidence, I determined the issue of jurisdiction without formal reasons in order to allow a Preliminary Conference to be scheduled immediately. These reasons concern this initial finding and order in respect of jurisdiction.

Legislation

[7] Section 157 (2) of the LVA provides:

“(2) Subject to section 158, an appeal cannot be started after 60 days after the day of issue stated in the objection decision notice (the *appeal period*).”

[8] Section 158 of the LVA provides:

“158 - Late filing

(1) This section applies if a valuation appeal notice is filed after the appeal period has ended.

(2) The Land Court can hear the appeal only if—

(a) the valuation appeal notice was filed 1 year or less after the objection decision notice was issued; and

(b) the appellant satisfies the court there was a reasonable excuse for not filing the notice within the appeal period.

Example of reasonable excuse—

The notice of the valuer-general’s decision or the valuation appeal notice was lost or delayed in the ordinary course of post.”

Evidence

[9] The main evidence provided to the Court by the applicants comprises the email correspondence referred to in paragraph [4] and admitted as Exhibit 2. No evidence was called by or on behalf of the respondent.

Submissions

[10] Neither party made any formal submissions to the Court, although a legal representative on behalf of the respondent advised that a finding of jurisdiction was not opposed.

Conclusion

[11] An example of reasonable excuse set out in 158 of the LVA provides: “The notice of the Valuer-General’s decision or the valuation appeal notice was lost or delayed in the ordinary course of post.”

[12] On the basis of the information provided by Mr Copley in Exhibit 2, I am satisfied that the proposed Notice of Appeal was delayed in the ordinary course of post and am therefore satisfied that reasonable excuse is established in the circumstances.

Order:

The Court has jurisdiction to hear and determine the appeal.