



LCA/211/2006

**LANDS TRIBUNAL ACT 1949**

*COMPENSATION – dwellinghouse – claim for injurious affection caused by the effects of physical factors following construction of new road junction and road layout adjacent to the property – compensation awarded £13,200 – Land Compensation Act 1973 Part 1.*

**IN THE MATTER OF A NOTICE OF REFERENCE**

**BETWEEN**

**MRS SANTINA CHRISOSTOMOU**

**Claimant**

**and**

**THE COUNCIL OF THE  
CITY OF MANCHESTER**

**Compensating  
Authority**

**Re: 900 Wilmslow Road  
East Didsbury  
Manchester  
M20 5PG**

**Before: N J Rose FRICS**

**Sitting at Preston Combined Court, The Sessions House,  
Lancaster Road, Preston, PR1 2PD  
on 9 March 2007**

John Lawrence Stoker, with permission of the Tribunal, for the claimant  
*Matthew Copeland*, instructed by the City Solicitor, for the compensating authority

No cases are referred to in this decision

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## DECISION

1. This is a reference to determine the compensation payable to Mrs Santina Chrisostomou, pursuant to Part I of the Land Compensation Act 1973, for the depreciation in value of the freehold interest in a detached dwellinghouse known as 900 Wilmslow Road, East Didsbury, Manchester, M20 5PG, caused by the effects of physical factors following the construction of a new road junction and road layout adjacent to the reference property. The compensating authority, the Council of the City of Manchester, accepts that compensation is payable, but the amount of such compensation is not agreed. The difference between the parties is £2,000.

2. The reference was conducted in accordance with the Tribunal's simplified procedure. The claimant was represented, with permission of the Tribunal, by a friend, Mr John Lawrence Stoker. Mr Matthew Copeland of counsel appeared for the compensating authority.

3. The road improvements in respect of which compensation is sought were carried out to Wilmslow Road by the compensating authority – as highway authority – by way of enabling works for the “Parrs Wood development”, a public-private sector partnership development between the compensating authority and Thornfield Properties plc. It involved the rebuilding of Parrs Wood High School and the construction of an adjoining leisure complex. The new road junction provides the only vehicular access to the car park serving the complex. It is situated on the eastern side of Wilmslow Road, immediately opposite No.896, which lies two doors north of the reference property. The new road junction was first opened to public traffic on 7 September 2000 and compensation falls to be assessed by reference to values twelve months later (section 4(1) of the 1973 Act).

4. In 2001 the claimant instructed Mr C McCulloch FRICS of Peter Almond and Partners of Macclesfield to submit a claim for compensation on her behalf. Mr McCulloch also submitted claims in respect of Nos.892, 894, 896, 904 and 906 Wilmslow Road and, subsequently, in respect of Nos.888, 890 and 898. Mr McCulloch conducted negotiations with Mr R W Forshaw, MRICS, who has been employed by the compensating authority as a valuer since 1985. They resulted in agreement that in each case the depreciation in value should be based on a percentage of market value. The percentage varied in inverse proportion to the distance from the new junction. In the cases with which Mr McCulloch was concerned, the agreed percentages ranged from 7% for No.896 to 3% for Nos.888 and 890. Compensation for the reference property was agreed at £12,100, or 5.5% of an unblighted value of £220,000. Mr McCulloch recommended each of the claimants by whom he had been instructed to settle on the basis which he had agreed. His recommendation was accepted by all his clients, with the exception of the claimant.

5. The claimant was not happy with the compensation which had been agreed for her property and Mr McCulloch was not prepared to support more than £12,100 if the matter were referred to this Tribunal. He therefore withdrew from the case. The compensating authority was not willing to provide the claimant with details of the compensation which it had agreed with the other house owners, since it considered this information to be confidential under the Data Protection Act, 1998. The owner of No.896, however, told the claimant that she had been

paid £4,000 more than had been agreed for the reference property. At a meeting with Mr Stoker some days before the hearing, the compensating authority finally disclosed details of the percentage reductions which had been agreed for each of the other properties. During the hearing itself it also disclosed the unblighted values which had been agreed for those properties, in the light of my expressed surprise at its failure to provide full details of the settlements upon which it was relying to support its case.

6. In the event, Mr Stoker did not suggest that the appropriate value of the reference property was other than £220,000. His suggested compensation figure of £14,100, therefore, was equivalent to approximately 6.4% of the unblighted value.

7. Mr Forshaw gave expert evidence on behalf of the compensating authority. He said that the range of percentages which he had agreed with Mr McCulloch had been based on the approach which had been previously established for compensation payments in respect of similar works carried out for the Manchester Ring Road scheme in the 1990s, and for works to the A34 Wilmslow and Handforth by-pass in the late 1990s. In each case the percentage varied according to the proximity of individual dwellings to the works, and was a fair reflection of the effect of the works on the properties. At the commencement of their negotiations, the respective views of Mr Forshaw and Mr McCulloch on the extent of the diminution in value were between 1% and 2% apart. The percentages eventually agreed – including that of 5.5% for the reference property – represented a compromise. Mr Forshaw said that he had been given no reasoned justification for departing from the agreed figure, which he considered to be correct.

8. Following the completion of the hearing, I inspected the reference property and the immediately surrounding area, accompanied by the claimant and a representative of the compensating authority.

9. Mr Forshaw accepted that the physical factors referred to in section 1(2) of the Act – and in particular noise, vibration, smell, fumes and artificial lighting – should be taken into account in assessing the effect of the use of the new road junction. Mr Stoker relied in addition on difficulties of vehicular access to and egress from the reference property, caused by traffic waiting outside it when the new traffic lights showed red, and on inconvenience due to cars parked outside the property on the widened pavement area. He also claimed compensation for ecological impact, pedestrian safety and the stress suffered by the claimant, the latter allegedly caused by the manner in which the claim had been dealt with by the compensating authority. Mr Copeland submitted that if and to the extent that these additional complaints were justified, they did not entitle the claimant to compensation, because they were not matters referred to in section 1(2) of the Act. I accept that submission.

10. I questioned Mr Forshaw closely on the basis on which he had agreed the various percentages. In the light of his answers and my subsequent site inspection I am entirely satisfied that, considered overall, the range of percentages that was agreed with Mr McCulloch fairly and fully reflected the extent to which the properties had been depreciated in value by the relevant physical factors resulting from the use of the new road junction. I have, however,

come to the conclusion that, within that range, the figure of 5.5% which has been applied to the reference property slightly underestimates the extent of its depreciation, when compared to the 6% which was agreed for the immediately adjoining property, No.898. By comparison with the reference property, No.898 suffers to a greater extent from the headlights of cars leaving the new leisure complex, and from the traffic lights at the new junction, which are situated immediately outside No.898. On the other hand, throughout the year there are far more stationary cars waiting outside the reference property than outside No.898, because there is a pedestrian crossing and a cycle crossing in front of No.898. Thus, when the traffic lights show red, the leading vehicles usually stop outside the reference property, which suffers to a greater extent from the resultant noise, fumes and vibration. In my judgment, when all the physical factors are taken into account, the overall effect on the value of the two properties is the same. There was no suggestion that the agreed deduction of 6% for No.898 was excessive. I therefore find that the depreciation in value of the reference property was £13,200 (6% of £220,000). The compensating authority will pay £13,200 to the claimant, together with a surveyor's fee which the compensating authority suggested – and the claimant did not demur – should be based on the last edition of Ryde's scale prior to its abolition.

11. In proceedings determined in accordance with the Tribunal's simplified procedure, no award is to be made in relation to costs, save in cases where an offer of settlement has been made by a party and the Tribunal considers it appropriate to have regard to the fact that such an offer has been made; or in cases in which the Tribunal regards the circumstances as exceptional. I do not propose to make an order for costs, unless within 14 days of the date of this decision either party makes a formal reasoned request for costs. A copy of any such request must be sent simultaneously to the other party, who must submit its representations on such an application to the Tribunal and to the other side within a further seven days. In the absence of a formal application for costs, this decision will become final on 12 April 2007.

Dated 29 March 2007

N J Rose FRICS