

**IN THE HIGH COURT OF THE COOK ISLANDS
HELD AT RAROTONGA
(LAND DIVISION)**

APPLICATION NO. 21/2012

IN THE MATTER of Section 409B of the Cook Islands Act
1915 (as inserted by section 2 of the
Cook Islands Amendment Act 1978-79)

AND

IN THE MATTER of an Application by THE LESSORS to
Determine Capital Value of land pursuant
to a Deed of Lease dated 14th December
1978 of the land ARERENGA Section 14
Arorangi now vested in Yellowbird
Lagoon Villas Limited

Applicants

Hearing: On the papers

Decision: 7th August 2019 (NZ)

DECISION OF THE HONOURABLE JUSTICE W W ISAAC

[1] This is an application to determine the capital value of land pursuant to a Deed of Lease dated 14th December 1978 in respect to Arerenga section 14, Arorangi.

[2] The application was scheduled to be heard on 7th May 2019 but because I became ill the Court did not proceed as planned.

[3] I subsequently directed that any matter listed for Court which did not proceed, and which could be settled by consent could be referred to me in chambers.

[4] By way of a joint memorandum dated 1st July 2019, Mr T Moore as agent for the lessors and Mrs T Browne have advised the court that agreement has been reached as to the current market rentals as follows:



- a) As at 1/1/2019 \$7,300 p.a
- b) As at 1/1/2014 \$6000 p.a
- c) As at 1/1/2009 \$4890 p.a

[5] The Court is advised that the parties will pay their own costs but seek a further order that the lessors' actual legal costs and costs of the expert valuation assessment be paid from the back rents prior to the back rents paid to the Land Trust Commission of Ministry of Justice together with 5% commission.

[6] Having regard to the agreement reached between the Lessors and the Lessee as evidenced by the joint memorandum I make the following orders:

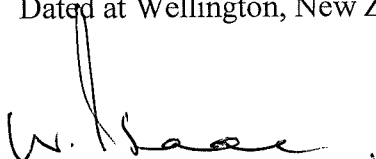
(a) That pursuant to S409B C.I Act 1915 (as inserted by section 2 C.I Amendment Act 1978-79) the current market rentals are as follows:

- i) As at 1/1/2019 \$7,300 p.a
- ii) As at 1/1/2014 \$6000 p.a
- iii) As at 1/1/2009 \$4890 p.a

(b) That pursuant to section 492 (1) C.I Act 1915 the Lessors actual legal costs, including the costs of the expert valuation assessment be paid from the back rents due prior to the balance of that back-rent being paid to the Land Trust Commission of the Ministry of Justice together with the 5% statutory commission.

A copy of this decision is to be sent to all parties.

Dated at Wellington, New Zealand this 7th day of August 2019.



W W Isaac
JUSTICE