ACT Revenue Matters

STRYVER PTY LIMITED
CANBERRA

19 December 2005

Mr Graeme Dowell
Commissioner for ACT Revenue
PO Box 252
CIVIC SQUARE ACT 2608

Dear Mr Dowell

BLOCK 22 SECTION 22 KINGSTON – 84 GILES STREET, KINGSTON
NOTICE OF RE DETERMINATION OF UNIMPROVED VALUE

We refer to our letters of 15 November 2005 and 12 December 2005 concerning our objection to your notice of redetermination of land values of 25 October 2005 for the above property.

We advise that payments for the several land tax adjustments (ie Quarter 1 for 2005-06 and Quarter 3/4 for 2004-05) and the second instalment for rates and land tax for 2005-06, despite not receiving those notices, have been settled on a "without prejudice" basis, pending the outcome of our objection to your notice of redetermination of land values.

Please arrange for the second instalment notices for rates and land tax to be sent to this office.

Yours faithfully

Andrew Rudnicki
Managing Director

NATIONAL CAPITAL OFFICE
9 STORY PLACE
ISAACS ACT 2607
AUSTRALIA

POSTAL ADDRESS
9 STORY PLACE
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(61 2) 0418 434 967

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ACN: 080 142 534

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STRYVER PTY LIMITED
CANBERRA

Mr Ted Quinlan MLA
Treasurer of the ACT
GPO Box 1020
CANBERRA ACT 2601

12 December 2005

Dear Mr Quinlan

BLOCK 22 SECTION 22 KINGSTON – 84 GILES STREET, KINGSTON
NOTICE OF RE DETERMINATION OF UNIPROVED VALUE

We are writing to seek your intervention to resolve an objection with the Commissioner of ACT Revenue to a notice of redetermination of 25 October 2005 (correspondence attached) for the above property.

It is with grave disappointment that we write to you in noting that the ACT Revenue office has failed to make a reassessment (response of 7 December attached) of the notice of redetermination taking into account the grounds of our objection. This constitutes a refusal to fulfill a duty under the *Taxation Administration Act 1999,* despite the objection fee being paid when the objection was lodged.

In addition to that we have made several anecdotal requests, once the notice of redetermination was received, to the ACT Revenue office contact officer seeking an explanation as to the basis of the redetermination of land values. To this time those requests remain unanswered. We consider this not to be an unreasonable request and find the response by the ACT Revenue office to be unsatisfactory.

We have obtained legal advice from Counsel that confirmed there is no legal basis under the *Rates Act 2004* to redetermine land values in 2002 to 2004, as it is outside the period from when the change of circumstance (purpose clause use variation) took effect from 18 February 2005 and therefore the decision made to redetermine those land values is flawed. Notwithstanding this we have asked ACT Revenue office again (letter of 12 December attached) to follow due process and consider our objection in accordance with its duty under the *Taxation Administration Act 1999.*

We urge you to help us to direct the Commissioner of ACT Revenue to fully consider our valid letter of objection. Otherwise, we may be forced, as there is no other alternative, to commence legal proceedings to enforce our rights under the *Rates Act 2004.*

Yours sincerely

Andrew Rudnicki
Managing Director

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Mr Graeme Dowell
Commissioner for ACT Revenue
PO Box 252
CIVIC SQUARE ACT 2608

12 December 2005

Dear Mr Dowell

BLOCK 22 SECTION 22 KINGSTON – 84 GILES STREET, KINGSTON
NOTICE OF RE DETERMINATION OF UNIPROVED VALUE

We refer to a letter of 7 December 2005 (attached) from Mr Robert Lewis sending back our letter of objection of 15 November 2005 to your notice of redetermination of land values of 25 October 2005 for the above property.

It is with disappointment that we write to you again in noting that your officer has failed to make a reassessment of the notice of redetermination taking into account the grounds of our objection. This constitutes a refusal to fulfill a duty under the *Taxation Administration Act 1999,* despite the objection fee being paid when the objection was lodged. We would like to make it perfectly clear this is not a satisfactory response to the issues raised in our letter of objection.

We do have a right to object to your power to make a redetermination if that redetermination is not made in accordance with the *Rates Act 2004*. To this end your officer has dismissed the issues in our letter of objection, noting that from the response it is clear that the officer did not understand the basis of our objection in addition to the factual errors made.

In our letter we advised you that the notice of redetermination to revalue land values in 2002 to 2004 retrospectively is completely at odds with the *Rates Act 2004* and therefore invalid. The grounds of the objection are also clearly stated addressing the relevant legislative provisions. Accordingly, we again lodge our letter of 15 November 2005 objecting to the notice of redetermination under section 100 of the *Taxation Administration Act 1999* as it has not been assessed on a fair and reasonable basis. Please arrange for it to be considered under section 104 of the *Taxation Administration Act 1999*.

Subject to the adequacy of your response, it may be necessary for us to commence legal proceedings, to enforce our rights under the *Rates Act 2004.*

Yours faithfully

Andrew Rudnicki
Managing Director

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DEPARTMENT OF TREASURY

PO BOX 293, CIVIC SQUARE ACT 2608

ACT REVENUE OFFICE

ACT Government Homepage: http//www.act.gov.au

ACT Revenue Homepage: http://www.revenue.act.gov.au

Telephone: 62070008
Facsimile: 62070108
Reference: Block 22 /S22/ Kingston

Stryver Pty. Limited
9 Story Place
Isaacs ACT 2607

Attention Mr Andrew Rudnicki

Dear Mr Rudnicki

I refer to your letter of 15 November 2005. You advise that the Commissioner has no power to determine land values for 1 January 2002, 2003, and 2005. You enclosed a cheque for $20. Under the Rates Act 2004 you have the right to object to determined value. It is set out in the extract of that Act which follows.

71 Objections relating to valuations—general

(1) This section applies to an objection to an assessment if the objection relates to the valuation on which the assessment is based.

(2) The objection must be made within 60 days after the day the commissioner gives notice under section 12 (2) of the amount determined as the unimproved value of the parcel. ---- "

You do not have a right to object to the Commissioners power to make determinations. The Commissioner has no power to deal with that claim. Your letter and the cheque you sent with it are enclosed.

Yours sincerely

Robert Lewis

Robert Lewis
Objections and Appeals

7TH December 2005

STRYVER PTY LIMITED

CANBERRA

Mr Graeme Dowell
Commissioner for ACT Revenue
PO Box 252
CIVIC SQUARE ACT 2608

15 November 2005

Dear Mr Dowell

BLOCK 22 SECTION 22 KINGSTON
NOTICE OF RE DETERMINATION OF UNIPROVED VALUE

We are writing to advise you that the attached the notice of redermination to unimproved land value deemed at 18 February 2005 for the above property is flawed under Section 11 of the *Rates Act 2004* and accordingly an objection to that notice of redetermination is made under section 100 of the *Taxation Administration Act 1999.*

It is with disappointment that we write this letter noting that:

1. despite the Crown Lease being varied from 18 February 2005, retrospective valuations were made for each 1 January redetermination to the previous unimproved land values from 2002 till 2004 outside the statutory objection period and accordingly is *ultra vires*.

We have been advised by Counsel, Richard Arthur, that this is not a notion known to *Rates Act 2004* ('the Act).

Under Section 11 of the Act clearly provides:

(a) until a change of circumstances occurs to a parcel of land and that change was not taken into account in the most recent determination of the unimproved value of the parcel of land then the Commissioner may redetermine the unimproved land value as at the date of the most recent determination.
(b) time is of the essence in regard to the Commissioner to make a redetermination and notify the owner of the parcel of land.
(c) the redetermination can only be applied on the day the change of circumstance happened and ending on the day before the 1 July when the next annual redetermination applies to rates for the parcel.

By virtue of section 11(1)(b) of the Act the Commissioner may consider a change of circumstances being in this instance the executed 'Instrument of Variation' to vary the Crown Lease covenants and only redetermine the unimproved value of the land parcel in the most recent determination taking place at 1 January 2005.

In accordance with section 11(4) of the Act the only period within which the Commissioner was entitled to make a redetermination begins on the day the instrument of variation to vary the Crown Lease was executed on 18 February 2005 and expired on 30 June 2005 noting that it is subject to a review at the next annual determination falling due on 1 January 2006. As the redetermination decision for land value as at 1 January 2002, 2003 and 2004 made by the Commissioner is outside the period from when the change of circumstances took effect on 18 February 2005 and therefore invalid.

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Notwithstanding that a decision made by the Commissioner for the purposes of determining the land value at 1 January 2002, 2003, and 2004 was in accordance with section 10 of the Act, the valuation notice was served upon the land owner at that time in accordance with Section 12 of the Act and no objections were made under section 100 of the *Taxation Administration Act 1999,* the land valuations are in effect by virtue of the Act. The Commissioner's actions to redetermine those previous land values for the reasons outlined in the notice of redetermination is *ultra vires.*

For those reasons the notice of redetermination is rejected. The land values as previously determined on 1 January 2002, 2003 and 2004 stand in accordance with the Act.

Yours faithfully

Andrew Rudnicki
Managing Director

DEPARTMENT OF TREASURY

PO BOX 293, CIVIC SQUARE ACT 2608

ACT REVENUE OFFICE

ACT Government Homepage: http://www.act.gov.au

ABN: 45 096 207 205

Telephone:
Facsimile:
Our Reference:
Your Reference:

Stryver Pty Ltd
9 Story Place
ISAACS ACT 2607

Dear Sir/Madam

I am writing to you about the rates and land tax for your property located at block 22, section 22 Kingston.

This property had a recent change in purpose clause allowing for use of the land only for any of the following purposes: child care center; community activity center; cultural facility; health facility; non retail commercial uses; restaurant and shop. This has led to an increase in the unimproved value as at, 1 January 2002, 1 January 2003, 1 January 2004 and 1 January 2005. Pursuant to section 11(1)(b) of the *Rates Act 2004,* the following unimproved land values have been amended:

1 January 2002 unimproved land value increased from	$363 000 to $400 000
1 January 2003 unimproved land value increased from	$363 000 to $400 000
1 January 2004 unimproved land value increased from	$363 000 to $400 000
1 January 2005 unimproved land value increased from	$508 000 to $540 000

The 2004 Average Unimproved Value (AUV) has increased from $363 000 to $400 000 with effect from 18 February 2005 (the date of purpose change). And also, the 2005 Average Unimproved Value (AUV) has increased from $411 333 to $446 666. As a result, the assessment on rates for the year 2004-2005 has increased by $164.24 and 2005-2006 has increased by $407.28, therefore your new rates instalment amounts are the following:

Instalment 2	$1437.52 due 15/12/2005
Instalment 3	$1436.00 due 15/03/2006
Instalment 4	$1436.00 due 15/06/2006

In addition please find enclosed a land tax adjustment notice dated 25 October 2005 requesting payment of the amended charges by 15 December 2005.

The enclosed Notice of Re-determination of Unimproved Values shows the change and outlines your right of objection to these values.

Should you have any further enquiries regarding this matter please contact me on telephone 6207 0115.

Yours faithfully

Loan Nguyen
Revenue Accounts
25 October 2005

DEPARTMENT OF TREASURY

PO BOX 293, CIVIC SQUARE ACT 2608

ACT REVENUE OFFICE

ACT Government Homepage: http://www.act.gov.au

Telephone:
Facsimile:
Our Reference:
Your Reference:

25 October 2005
ABN: 45 096 207 205

Stryver Pty Ltd
9 Story Place
ISAACS ACT 2607

NOTICE OF RE DETERMINATION OF UNIMPROVED VALUE

The unimproved land values of your property have been redetermined under section 11(1)(b) of the *Rates Act 2004* as specified below:

District/Division: KINGSTON Section: 022 Block: 0022

Redetermined Unimproved Value: **$400 000 as at 1 January 2002**
Redetermined Unimproved Value: **$400 000 as at 1 January 2003**
Redetermined Unimproved Value: **$400 000 as at 1 January 2004**
Redetermined Unimproved Value: **$540 000 as at 1 January 2005**

Date of Redetermination of Unimproved Value: 11 October 2005

Date as from which this value is applied for rating purposes: 18 February 2005 (Rates)
18 February 2005 (Land Tax, if applicable)

OBJECTION TO UNIMPROVED VALUE

If you are dissatisfied with any of the redetermined unimproved land values of your property, you may have this value reviewed by lodging **a written objection with the Commissioner for ACT Revenue** to the assessment of rates pursuant to Section 100(1) of the *Taxation Administration Act 1999*. **An objection fee of $20.00 applies** to each objection that relates to the valuation on which an assessment of rates is based (fee is refundable if successful). Section 71 of the *Rates Act 2004* provides that an objection to an assessment of rates that relates to the valuation on which the assessment is based **must be made within 60 days of the date of the valuation notice**. An objection relating to a valuation received after the 60 days period cannot be accepted.

An objection to the redetermined unimproved land values of your property should state fully and in detail the grounds on which you rely. An alternative unimproved land value may also be included in your objection.

Objection can be lodged with the Commissioner for ACT Revenue at:

PO Box 252
CIVIC SQUARE ACT 2608

An objection to the redetermined value does not exempt a ratepayer from paying general rates and if applicable, land tax, by the due date. Failure to pay by the due date will incur penalty interest. Should the value be reduced on objection, appropriate credit adjustment (including interest) will be made to your account and the objection lodgement fee will also be refunded to you.

FURTHER INFORMATION

If you require further information regarding this notice, or on lodging an objection to your unimproved land values, please contact the ACT Revenue Office by telephone on 6207 0115, 6207 0075 or 62070043.