

Metrolink Oral Hearing

Submission by Tom Corr in Relation to College Gate Apartments

Owner Clients

Capital Gains Tax on CPO Compensation for Apartment Owner Investors in College Gate

1. The main legislation dealing with the key principles of compulsory purchase is “The Acquisition of Land (Assessment of Compensation) Act, 1919”. This 1919 Act was brought in to update the compulsory purchase compensation entitlements of owners. The provisions of the 1919 Act evolved out of the findings of the Scott Committee which reviewed the basis of CPO compensation. The 1919 Act is at the core of our CPO compensation provisions. It gave effect to what was considered to be the appropriate balance between the interests of the common good and the entitlements of a property owner from whom property was to be acquired by compulsion.
2. At the time of the 1919 Act, Capital Gains Tax did not exist and therefore the Scott Committee did not have to take into account the implications of Capital Gains Tax. Capital Gains Tax was introduced in the early 1970’s in the UK and in 1975 in Ireland. So, before this time, Capital Gains Tax was not a problem in relation to CPO compensation.
3. Landowners and farmers negotiated CPO roll-over relief in relation to the compulsory acquisition of farm land and this was in existence up until 2002. In 2002, the Capital Gains Tax Rate was brought down to 20% and many of the reliefs available were abolished, including CPO roll-over relief.
4. CPO roll-over relief is the fairest method of dealing with the serious issues arising in relation to the application of Capital Gains Tax to CPO compensation. Only a property owner who reinvests the proceeds of compensation could avail of CPO roll-over relief. Therefore, owners who decide not to reinvest, for whatever reason, will have to pay their Capital Gains Tax in the normal manner.
5. A window of time was created in the CPO roll-over relief scenario whereby for a certain length of time, say one year prior to the disposal and for up to three years after the disposal, an owner could reinvest the proceeds of the CPO. Capital Gains Tax had to be paid in the normal manner unless a replacement property had been acquired within the defined window of time prior to the date of disposal. Owners had the ability to claim back the tax paid if and when they managed to acquire replacement property within the defined window of time.

- 6 I have heard arguments made that if CPO roll-over relief is introduced in compulsory purchase scenarios, that there will be other sectors of society also seeking roll-over relief. I do not believe that this is a valid argument. Compulsory purchase of property is a very serious matter and very distinct from anything else in the property market. Therefore, there should be no issue whatsoever in being able to ring fence roll-over relief to compulsory purchase scenarios only.
- 7 In relation to College Gate, the current rate of Capital Gains Tax is 33%. It is important to note that it could be many years before a Notice to Treat is served in relation to Metrolink and there is the distinct possibility that the Capital Gains Tax could be even higher than it currently is, at 33%. This would obviously create an even bigger problem.
- 8 An injustice is arising in relation to investors in College Gate and this has been well outlined in Martin Sheridan's submission. The TII have been well aware of this serious matter for a number of years at this stage. However, no change or no solution has been forthcoming to the problem.
- 9 We would respectfully request that An Bord Pleanála flags this serious matter as the only mitigation of the impact on apartment owners in College Gate is compensation. Due to Capital Gains Tax, the compensation payable will be an inadequate mitigation in the absence of CPO roll-over relief.



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