Name of Claimant YAMAMOTO, Isamu T. Case 156

Custodian File 13385

REAL PROPERTY												Total
Greater Vancouver		Rural (except V.L.A.)			V.L.A. (except Mission Village)			V.L.A. Mission Village				
Sale Price	5% thereof & 12.50	Sale Price	10% there-of	Charges 12.50 & Comm.	Sale Price	Total Award 80% of all Sale Prices		Sale Price	Total Award 125% of all Sale Prices:			
						% of Total	Amount		% of Total	Amount		
					1382		627.73					627.73 66.00 1500.00

PERSONAL PROPERTY								
Motor Vehicles		Boats and Boat Gear						
Sale Price	25% thereof	Sale Price	Nelson Bros. 23.5% of Sale Price	Other Sales 28.5% of Sale Price	Equipment charges paid to purchasers in error. Repay to owners	Amount of Claims for Boat Gear Declared & Not Found & Recorded Now Missing	45% of amount in next preceding column	

NETS						
Total award for Nets plus Sale Price	Total Claim for Nets Sold, Declared Not Found and Recorded Now Missing	Percentage Total Award to Total Claim	Claim for Nets Sold Declared Not Found, & Recorded Now Missing	Apply % ratio to Claim	Deduct Custodian Sale Price	

MISCELLANEOUS CHATTELS								
Claim for goods Sold By Auction	Sale Price of Goods Sold By Auction	Rebates of charges 30% of Sale Price	Ratio in % of Sale Price to Claim	Claim for goods Declared Not Found, Recorded Now Missing, & Sold Not Paid	Application of % ratio to amount in next preceding column	Sale Price of goods Sold by Tender	12% of Sale Price	

TOTAL RECOMMENDATION	2193.73

CASE NO: 156.

JAPANESE PROPERTY CLAIMS COMMISSION.

Vernon, B. C.,

February 17th, 1948.

IN THE MATTER OF THE CLAIM OF

ISAMU T. YAMAMOTO.

PROCEEDINGS AT HEARING.

Original.

CASE NO. 156.

IN THE MATTER OF THE "INQUIRIES ACT"

PART 1, REVISED STATUTES OF CANADA 1927, CHAPTER 99.

JAPANESE PROPERTY CLAIMS COMMISSION.

B E F O R E

(THE HONOURABLE MR. JUSTICE H.I. BIRD, COMMISSIONER).

10 Vernon, B. C.,

February 17, 1948.

IN THE MATTER OF THE CLAIM OF

ISAMU T. YAMAMOTO.

PROCEEDINGS AT HEARING.

20 APPEARANCES:

J.W.G. HUNTER, Esq.,	appearing for the Dominion Government.
R.J. McMASTER, Esq.,	appearing for the Claimant.

A. WATSON, Esq.,	Secretary.
D.J. HANDFORD, Esq.,	Official Interpreter.
G. HAMBLETON, Esq.,	Official Reporter.

30

MR. McMASTER: No. 29 on the list, my lord, I.T. Yamamoto.

ISAMU T. YAMAMOTO, the claimant herein, being first duly sworn, testified through the Interpreter as follows:

MR. McMASTER: Might I have the claim form, please, Mr. Secretary?

(Handed to Mr. McMaster).

DIRECT EXAMINATION BY MR. McMASTER:

10 Q Mr. Yamamoto, is that your signature on the claim form and did you swear this declaration?

THE WITNESS: A: Yes.

MR. McMASTER: My lord, I would ask leave to amend the claim form by striking out the $5300.00 which appears opposite item "(e) (iii)" relating to goodwill and stock-in-trade and accounts receivable and various other things, leaving the claim with regard to the real estate, $5400.00.

Q Witness, did you instruct Mr. Leckie to draw this

20 statement with regard to your claim with respect to your real estate? A: Yes.

Q Would you be good enough to sign it, please?

A (Witness complies).

MR. McMASTER: I file that as Exhibit No. 1, my lord.

(STATEMENT MARKED EXHIBIT NO. 1)

MR. McMASTER: I am filing the Soldier Settlement appraisal as Exhibit No. 2 on behalf of my learned friend.

(APPRAISAL MARKED EXHIBIT NO. 2).

30 MR. McMASTER: My lord, from the appraisal report you

will notice that the property is situated about one and a half miles from Bradner, seven miles from Abbotsford. I draw attention to the statement on sheet 2, which is page 3 of the appraisal report, that"the soil is good and potentially it is a good place and reasonably located".

Referring to Exhibit No. 1, my lord, there are 39½ acres, purchased in 1935 for $671.50. It shows the acreage which the claimant claims to have had planted and the clearing that he had done, the buildings on the premises. He states that he disagrees with the appraiser's figure of 3.4 acres cleared--"this is wrong as I had approximately nine acres cleared as set out above" -- and gives some explanation with respect to that.

Then he draws attention, my lord, that the appraiser failed to mention, let alone place any value on, his 120,000 bulbs which are referred to above and which he says are valuable.

THE COMMISSIONER: Does he say what type of bulbs they are?

MR. McMASTER: Yes. Up above I think he shows, my lord, daffodil, narcissus, and tulip. My lord, in that connection I would ask my friend to produce a copy of a letter from the Custodian to Mr. Barnett dated in 1944 -- I haven't the exact date here -- and a letter from the legal firm of Crux & McMaster, dated October 20th, 1943, a copy of a letter of March 14th, 1944, purporting to be from Mr. Shears as director.

THE COMMISSIONER: March 14th, 1944.

MR. McMASTER: Correct, my lord -- to I.T. Barnett, district superintendent Soldier Settlement Board, and Veterans Land Act. "Dear Sir: We recently interviewed Colonel Chandler and yourself in regard to daffodil and tulip bulbs in certain properties included in the sale to the director, The Veterans Land Act. The four cases in question and the statements made in regard to the bulbs are as follows". Amongst those referred to, my lord, is this claimant, and it shows the assessed value of property, land, $790.00, improvements, one thousand, or a total of $1790.00; Veterans Land Act offer, $1360.00., Then underneath, "Approximately 250,000 to 285,000 daffodil, tulip and narcissus bulbs, according to Mr. F. Falkin". Then it refers to other property and ends with these two paragraphs, "We are informed that there may be a considerable market value for these bulbs and it is assumed that the value of the bulbs was not taken into account in the appraisal which formed the basis of the purchase of these properties.

"We are, therefore, asking whether you will arrange to give us permission to remove these bulbs at the proper time during the coming summer. We realize that in view of such an outstanding arrangement, you may need to give some consideration to any tenant you may secure for these properties and under these circumstances if you think that a nominal rental should be paid by us, we will be pleased to

consider the same".

I file that, my lord, as the next exhibit.

(LETTER MARKED EXHIBIT NO. 3).

MR. McMASTER: Then a letter, my lord, purporting to be from Crux & McMaster, barristers, dated October 20th, 1943, addressed to the Office of the Custodian, attention Mr. Shears. It is re this claimant.

"Dear Sir:

"The matter of this party having removed on his behalf certain bulbs has been taken up with the Legal Adviser for the Director, The Veterans' Land Act.

" He takes the position that he cannot accede to the bulbs being removed or being treated as chattels and therefore removable.

"His position is, if this were the case, the same rule would apply to raspberry canes or strawberry plants.

"Under the circumstances it would appear to me that you will have to refuse the request of Mr. Yamamoto as to accede to his request would open the door to a great number of applications which, in my opinion, would not be warranted from a legal aspect."

THE COMMISSIONER: The Crux firm writes on behalf of the Director of the V.L.A., do they?

MR. McMASTER: Yes, my lord, that is correct.

MR. SHEARS: No, my lord, that would be on behalf of the Custodian. Messrs. Crux & McMaster were appointed for the special purpose of -- in regard

to the deals of the Veterans' Land Act.

THE COMMISSIONER: So they were then acting for the Custodian, were they?

MR. SHEARS: Yes.

THE COMMISSIONER: And were simply reporting to you?

MR. SHEARS: He was reporting, yes, sir.

(LETTER MARKED EXHIBIT NO. 4).

MR. McMASTER: Q: Now, witness, I produce to you four photographs or snapshots. Can you tell me approximately when those were taken?

10

THE INTERPRETER: A: 1942.

Q 1942, just before your evacuation?

A In March of '42.

Q I see. Are those pictures of the fields of the lands which we have been discussing?

A Yes, those were taken on his land as referred to.

Q And those are just pictures of the strawberry and raspberry portions or part of them?

A And loganberry.

20

Q Yes.

MR. McMASTER: My lord, I don't think I need to file those. If your Lordship would like to look at them? They just, I think, demonstrate the tidiness of the farm. Perhaps my friend would like to see it.

THE COMMISSIONER: Incidentally, relating to your Exhibit 3, are you proposing to lead evidence to establish the value of the bulbs or the enhanced value of the land by virtue of the bulbs being there.

30

MR. McMASTER: Yes, my lord.

THE COMMISSIONER: And that will be done later, I presume?

MR. McMASTER: Yes, my lord. Your witness, Mr. Hunter.

MR. HUNTER: It is submitted, my lord, that this property was sold for its fair market value.

CROSS-EXAMINATION BY MR. HUNTER:

Q Do you recognize that photograph, witness?

A That is his house and bunkhouse.

Q His house and the bunkhouse.

10 MR. HUNTER: I put that in as Exhibit 5.

MR. McMASTER: My lord, if my friend is going to put in the picture of the house, then I think perhaps the pictures of the fields should go in as an exhibit.

THE COMMISSIONER: Very well.

MR. McMASTER: Make them Exhibit 5 and this Exhibit 6, my lord.

THE COMMISSIONER: I must have missed something then. Exhibit 1 is the statement relating to real property; 2 is the Soldier Settlement appraisal.

20 THE SECRETARY: One is the copy of the letter from Mr. Shears, dated the 14th of March.

MR. McMASTER: That is 4.

THE SECRETARY: That is 3, and the letter Crux & McMaster is 4.

THE COMMISSIONER: I see. You made them two exhibits; I thought you were going to make them one. All right.

MR. McMASTER: And the pictures of the field will be 5 and the picture of the house 6.

30 MR. HUNTER: That will be Exhibit 6 then, if Mr.

McMaster's photographs go in.

(PHOTOGRAPHS MARKED EXHIBIT NO. 5).

(PHOTOGRAPH MARKED EXHIBIT NO. 6).

MR. HUNTER: Q: Witness, on page 4 of the Soldier Settlement Board appraisal, up where it is marked "daffodils", is that where your bulbs were planted?

A In front of the house.

Q In front of the house. All the bulbs were in front of the house as shown on this diagram on page 4?

10 A Yes, daffodils and the other bulbs as noted.

Q Now you were evacuated at what time?

A On the 1st of March, 1942.

Q And were the bulbs in the ground at that time?

A Yes, they were.

Q Now this property was leased by your wife, is that correct? A: Yes.

Q On the 16th of April, 1942? A: Yes, he is almost sure that it is so.

Q And the lease was for ten months and the terms

20 were $900.00, is that correct?

A He himself doesn't know in detail. His wife leased the land, but the crop -- sold the crop for $900.00.

Q And did that include the bulbs, the daffodils and tulips, etc.? A: No, the bulbs were not included in the price.

Q The tenant was instructed then not to touch the bulbs, is that correct?

A As he was evacuated before the crops were taken

30 off, he is not sure.

Q I see. Well now, supposing the tenant goes in there for ten months and did not touch these bulbs, what happens to them? A: Even if they were not tended, they would last for several years and the roots would extend.

Q And was the land clear of grass, was it just bare soil with the bulbs planted in it?

A At the time he left it was. There was no grass and it was all clean and neat.

10 Q Well now, if the tenant was not to touch these bulbs, isn't it logical to suppose that the ground would quickly be overgrown with grass and weeds?

A Yes, if it was not taken care of, they would, weeds and grass would grow.

Q And isn't that going to make it very difficult to ever recover the bulbs?

A It would be much more difficult than if the land were clear and clean.

Q Yes. After you left did you endeavour to see that

20 the bulbs would be taken care of by anyone? Did you ask the tenant or anyone else?

A After he was evacuated, he requested that bulbs be sent to him.

Q Well that was later on. When was that, witness?

A He doesn't remember.

Q But before you had requested that the bulbs be sent to you, had any effort been made by you-- that is perhaps an unfair way of saying it -- had you tried in any way to get someone to look after

30 them? A: He did not.

Q Regarding these acreages, witness, how accurately did you measure your acreage?

A Each year he put additional acreage into strawberries and he measured off when he put the land into strawberries.

Q Well now you say, witness, that you had four acres of strawberries and your tenant who took the lease on that basis, measured it, as he said, accurately in a statutory declaration, and he finds that

10 there is less than that. How would you account for that? A: The witness says he believes that the lease contained the information that there was four acres under strawberries.

Q Well that is not the answer to my question. I am quite in agreement with that. The tenant claims when he measured it he only found 3½.

A The witness repeats that at the time he left there were four acres under strawberries that were leased.

20 Q Well, let's take raspberries. He stated there was two acres of raspberries -- or there were two acres, whichever is correct -- and the tenant again states that after very careful measurement he found there was only one acre in raspberries. How do you account for that?

THE COMMISSIONER: The Soldier Settlement Board, did it have a surveyor at the time of the appraisal?

MR. HUNTER: No, my lord. There is just an estimate, the same as this man. After all there isn't much

30 in it -- just half an acre.

THE COMMISSIONER: I interrupted before you had the answer. Go ahead.

A The witness states that he computed the area by means of 8-foot rows 3 feet apart and that is how he arrived at his figure on the acreage.

MR. HUNTER: Q: He never measured it off with a tape and calculated the exact acreage. Is that true, witness? Did you ever measure it off with a tape and calculate accurately the acreage?

10 A At the time of planting he posted stakes and was very careful to measure the plants off.

Q What with, a tape?

(Question Interpreted).

Q Just a minute. I don't want those answers at all. What I want to know is to get the areas of these bits of land. Did you actually measure the area, the circumference or the sides, and calculate the acreage, or did you just guess from rows of strawberries or something like that? Did you ever

20 measure it accurately?

A The witness states that he used a tape measure.

Q I am not interested in whether he used a tape measure.

THE COMMISSIONER: Do you think there is any purpose in pursuing this?

MR. HUNTER: I don't think so, my lord. That is all, my lord.

THE COMMISSIONER: Any re-examination?

MR. McMASTER: Yes, my lord.

30

RE-DIRECT EXAMINATION BY MR. McMASTER:

Q Witness, you have had a fair amount of farming experience, have you?

A Yes.

Q When were you evacuated from these premises?

A February 28th, 1942.

THE COMMISSIONER: Are you re-examining now on the question of acreage and crop?

MR. McMASTER: No, my lord, I am on this question of bulbs, and so on.

10

THE COMMISSIONER: Oh yes.

MR. McMASTER: Q: Now, from your experience -- before I come to that -- when did your wife leave the premises? A: In the middle of September, 1942.

Q Do you know whether she continued to look after the place during that time?

A Yes, she looked after the place.

Q Between September, 1942, and the 1st day of January, 1943, from your experience as a farmer, would you expect that a large quantity of grass would have grown over your bulbs?

20

A A little would have grown.

MR. McMASTER: I would ask my learned friend to produce a letter dated October 20, 1943, to the claimant with respect to a request by the claimant to have his bulbs shipped to him. Perhaps my friend will admit to this correspondence that the claimant requested by letter of October 5th, 1943, to have his daffodil bulbs shipped to him.

30

MR. HUNTER: Yes, that is correct.

MR. McMASTER: And that by letter dated October 23rd, 1943, the Custodian's office advised him that his request could not be complied with because they had been sold with the land and premises.

THE COMMISSIONER: You don't propose to file the letters?

MR. McMASTER: I don't think it is necessary, my lord.

THE COMMISSIONER: By the way, when was the actual transaction to the V.L.A., quite apart from the advanced date?

MR. SHEARS: End of May or the beginning of June, 1943.

THE COMMISSIONER: So that this request will have been made subsequent to the actual transaction with the V.L.A., in any event?

MR. SHEARS: Yes.

MR. HUNTER: You mean the actual time when the negotiations were carried on, my lord.

THE COMMISSIONER: When the deal was concluded. You see, they fixed an arbitrary date for transfer, namely, January. What I was inquiring was when was negotiation concluded?

MR. HUNTER: Negotiations between the Secretary of State and the Minister for Veterans Affairs were concluded around the beginning of June, I think.

THE COMMISSIONER: In any case, before October of '43.

MR. HUNTER: Yes, my lord.

THE COMMISSIONER: Is that all on this one, Mr. McMaster?

MR. McMASTER: Just one other question, my lord.

Q Witness, was there any system of Government inspection with regard to the acreage under berry

crop? A: No, there is not.

MR. McMASTER: Thank you. Perhaps my friend will admit that the deduction was made -- an adjustment was made in the rental of these premises with respect to the alleged discrepancy between the lease and what the tenant said he found planted.

MR. HUNTER: I believe there was, my lord. I will just have to check that.

THE COMMISSIONER: An adjustment on what?

10 MR. McMASTER: On the rental, my lord.

THE COMMISSIONER: By reason of --?

MR. McMASTER: By reason of the fact that the tenant alleged there was less planted in strawberries and raspberries than had been set forth in the lease.

MR. HUNTER: That is correct, my lord, the tenant was allowed 30%. In other words, he paid 70% of the previously arranged rental on the basis that the acregge was not as stated in the lease.

THE COMMISSIONER: I see.

20 MR. McMASTER: That is all in this case, my lord.

THE COMMISSIONER: Thank you, Yamamoto.

(Witness aside)

(PROCEEDINGS ADJOURNED SINE DIE)

I hereby certify the foregoing to be a true and accurate transcript of the proceedings herein.

Gordon Hambleton

"G. HAMBLETON"
Official Reporter.

30

Vernon, B. C.,

February 20th, 1948.

(PROCEEDINGS RESUMED PURSUANT TO ADJOURNMENT)

MR. McMASTER: Case No. 156, my lord, I would like to speak to it; that is I.T. Yamamoto. The claimant has asked me to draw to your Lordship's attention the fact that he understands that the property has not been re-sold by the Soldier Settlement Board. He is not a veteran of either the first war or

10= the last war, but I will include in the memorandum, which I am preparing for your Lordship, mention of this case.

THE COMMISSIONER: He desires to have his property returned if that can be done, is that correct?

MRM McMASTER: That is correct, my lord, and not to have any right or opportunity to have it returned prejudiced by the making of this claim.

THE COMMISSIONER: Yes. This is a V.L.A. transaction, is it?

20 MR. McMASTER: Yes, my lord.

(PROCEEDINGS ADJOURNED SINE DIE)

I hereby certify the foregoing to be a true and accurate transcript of the proceedings herein.

T.P. Horrobin

"T.P. HORROBIN"
Official Reporter.

30