Name of Claimant NISHIGUCHI, Asajiro
NISHIGUCHI, Magojiro
NISHIGUCHI, Kahei

Case 1400

Custodian File 10197, 10201, 10198

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% thereof	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		
		14,500			3753.							2234.00 746.50 3002.40

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	5982.90

JAPANESE PROPERTY CLAIMS COMMISSION

CASE NO. 1400

Vancouver, B.C.

June 17th, 1949.

IN THE MATTER OF THE CLAIMS OF

ASAJIRO NISHIGUCHI;

KAHEI NISHIGUCHI and

MAGOJIRO NISHIGUCHI.

PROCEEDINGS AT HEARING.

Original.

IN THE MATTER OF THE "INQUIRIES ACT"

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

JAPANESE PROPERTY CLAIMS COMMISSION

B E F O R E

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

Vancouver, B. C.

10 June 17th, 1949.

IN THE MATTER OF THE CLAIMS OF

ASAJIRO NISHIGUCHI;

KAHEI NISHIGUCHI and

MAGOJIRO NISHIGUCHI.

Case No. 1400

20

APPEARANCES:

D.T.B.BRAIDWOOD, Esq., appearing for the Dominion Government.

G.R.T.McQUARRIE, Esq., appearing for the Claimants.

A. W. WATSON, Esq., Secretary,

MRS. E. BLYGH, Official Reporter.

30

ASAJIRO NISHIGUCHI, one of the claimants herein, being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. McQUARRIE:

THE COMMISSIONER: What is this, a real estate claim?

MR. McQUARRIE: Yes, my lord. There are two pieces of property. First of all there is a farm in Surrey, and then there is a business block in New Westminster. The owners are the same, the three brothers.

THE COMMISSIONER: Well, you can deal with them independently. Deal first with whichever one you choose to start on. Which one do you want to go on with first?

MR. McQUARRIE: I think the city property -- the business block in New Westminster.

Q Now witness, you and your two brothers owned this business block in the City of New Westminster on Columbia Street, and it was on the corner -- what is the other corner?

A Corner of McNeely Street and Columbia Street.

Q And that McNeely Street is two blocks west of Eighth Street?

A Yes.

Q And would you explain to his lordship what that block consists of?

THE COMMISSIONER: Have you got an appraisal in this instance, Mr. Braidwood?

MR. BRAIDWOOD: Yes, my lord, we have Mr. Coultard's appraisal.

THE COMMISSIONER: Well why not have the appraisal identified by the witness? It saves us a lot of time and he can say whether it is acceptable to him or not.

MR. McQUARRIE: I thought you said the appraiser?

THE COMMISSIONER: No, the appraisal, and let him examine it and see if the dewcription is accurate.

MR. McQUARRIE: Q: Now there is the appraisal put in by the Custodian. Is the description of the property set out in that appraisal, correct?

A Y es, this is the property.

THE COMMISSIONER: That is the accurate description?

A I believe so.

THE COMMISSIONER: Th t can be marked as Exhibit 1.

(APPRAISAL MARKED EXHIBIT No. 1)

MR. McQUARRIE: Q; And what was that property used for, you might describe it?

A For business purposes, that is the store premises.

Q You were carrying on business -- the three brothers, as general merchants there, were you?

A Yes.

Q And you used this building as the location for this business?

20 A Yes.

Q And was it rented at all, any part of it?

A Yes, we had -- originally there were four stores, three of which we have made into one and the fourth one we had rented to a clothing store and upstairs we have rented it to a restaurant.

Q You were getting rent for the upstairs portion, were you? A. Yes.

Q What rent were you getting?

A $45.00.

30 THE COMMISSIONER: This report says, " The upper storey

is rented to a Chinese, Hip Loy for $40.00 a month, is that correct?

A Yes.

Q And a small portion of the main floor was used as a barber shop and rented at $25.00 a month?

A Yes.

Q Making a total rent of $65.00 per month. Is that correct?

A No, my lord, there is another store rented for $40.00 a month, known as Togo Clothing store.

Q That is in addition to these two? There is another one rented for $40.00 a month?

A Yes.

Q So your total rent was $105.00?

A Yes, plus mine, of course. We used a great deal of space.

Q Yes, I appreciate that, but you had outside rentals of $105.00 a month?

A Yes.

MR. McQUARRIE: Now I have the valuators here, and I think that is all I need from this witness.

THE COMMISSIONER: Very well.

CROSS EXAMINATION BY MR. BRAIDWOOD:

Q Mr. Nishiguchi, when did you purchase that building?

A We purchased that building property in 1928.

Q How much did you pay for it?

A We paid $21,000.00.

Q Did you know anything about the construction of the building yourself?

A. Oh yes, naturally

we do.

THE COMMISSIONER: Q: $21,000.00 in 1928, was it?

A Yes.

MR. BRAIDWOOD: I don't think there is anything else, my lord.

(Witness aside)

BERTRAM FRASER DAGLEISH, a witness called on behalf of the claimants, being first duly sworn, testified as follows:

10

DIRECT EXAMINATION BY MR. McQUARRIE:

Q Do you recognize the property described by the last witness? A. Yes.

Q And did you examine -- or perhaps I should say this: did you know that property in 1942?

A Yes.

Q And did you make a valuation for the Nishiguchi's?

THE COMMISSIONER: Just before you go on with that, what are Mr. Dagleish's qualifications to make valuations?

20 MR. McQUARRIE: I should have gone into that, my lord.

Q What is your occupation?

A Real estate, insurance and valuations.

Q How long have you been in that business?

A About thirty years.

Q And how long have you been in the City of New Westminster? A. Eleven years.

Q And what sort of property do you deal in?

A Farm lands and suburban -- in city.

Q General real estate business?

30 A General real estate, yes.

Q Haveyou had any particular experience in giving valuations? A. Yes, I have acted in that capacity quite a number of times.

Q As a matter of fact, I think you were asked by the Custodian to valuate in this case, weren't you?

A Yes, I was.

Q But you did not do that?

A No, I was offered the 600 properties to valuate in the district of New Westminster.

10 THE COMMISSIONER: Q: But you did not do the job?

A No, because I did not see how I could justifiably make a report on the fees that were offered me of $5.00 a piece.

MR. McQUARRIE: Q: But you did make a valuation of this property? A. Yes, at the request of Mr. Johnston.

Q When was that?

A September 9th, 1948.

Q And the valuation was for what period of time?

20 A For 1942.

Q I see that the property was sold by the Custodian on July 10th, 1944, so will you keep that in mind -- whether there was any difference in value between 1942 and 1944?

A Well, I must admit that this report is based on the 1942 values.

Q Well, perhaps you can give us that and tell us whether it has increased or decreased since 1944?

30 Can you tell his lordship what your estimation of the

value of this property in 1942 and how you arrived at it?

A Well dealing first with the lot, it is generally described in Mr. Coulthard's valuation -- that is the proper description -- I have seen his report and the only point I want to say is, it is a 66 foot frontage property on Columbia Street. It is on the corner of Columbia and McNeeley Street and the depth of the property is 132 feet on McNeeley -- which is the depth, and also there is the frontage on this street with a lane at the rear.

The point I am trying to bring out there is, a corner lot is worth more than an inside lot, because you have access to the side of it as well as to the front and also at the lane. The value that we placed upon this land at this particular time in 1942, was $13,200.00, based upon the basis of $200.00 a front foot on Columbia Street -- 66 foot-- plus $200.00 makes $13,200.00.

Q And how do you arrive at $200.00 a front foot?

A Well, that would be in my estimation the value of that property at that particular time.

Q Have you any comparisons to go by?

A Well, I cannot give you a comparison at the moment. For instance, to give you some idea of the value this property was directly west of the Mc. & Mc. store, which is a very extensive place and it helps to hold that value. And it was also, I would say, within a block of the center of New Westminster's

busiest section-- the B.C.Electric Railway bus tram depot and so on.

Q Well the B.C.Electric Depot, how far would it be from this place?

A Well, it would be a very short half block that McLennan and McFeely are in, and it could hardly be termed one-quarter of a block and the next block east of that to Eighth Street is still a very small block, and I would say it was not more than half a
10 block to Eighth Street if you take it in the average size of a block.

Q This was a very short block?

A Yes, they are very short blocks there.

Q So the value of the lot totalled how much, do you say? A. $13,200.00.

Q And how much for the building?

A The building we valued at $7500.00, making a total value on the land and the building of $20,700.00.

Q And how did you arrive at the value of the building?

20 A Well, there is the question of size and also we took into consideration the possible revenue at previous dates and also at the date of the time on which the valuation was made.

My understanding of the rentals in 1908 from the Cunningham estate is that at that particular time in '28 there were four stores on Columbia Street and a warehouse at the back and the upstairs all in the position of being rented.

30 Q Well, I think we have had that.

A Have you got the rentals for '28?

THE COMMISSIONER: '28?

A '28.

Q Well, that is of little value to me, I am concerned with the values at '42?

A Well, the only thing I was pointing out , there are two values: one is replacement cost and the other is revenue and in 1928 , the revenue at that particular time -- that was before Mr. Nishiguchi had the
10 property, the revenue was $320.00 a month from this property. Four stores were retned, the warehouse and the upstairs.

Q Well, how does that help me in determining the fair market value at 1942?

A The only point I would like to stress, as an individual valuator, and that is this: if you have revenue, even based at $25.00 a month you don't particular have to go and view the property to get some idea of its value.

20 Q I agree with you on that, but let us get down to 1942 instead of 1928.

A Yes, I realize that, but the point I was trying to stress is: the monthly value of the property is another way of yardsticking the total value of it, even though you don't go and see it. If you get $50.00 a month rental the property should be worth $5,000.00 and over a period of years, I have found that it has worked out as a pretty good rule.

Now in 1942, I am not altogether clear as to
30 the tenancy that existed in that property at that

particular time, but I think generally speaking there would not be great deal of difference from the 1928 basis.

MR. BRAIDWOOD: Well, we want facts and evidence and not presumptions.

THE COMMISSIONER: I will take it for what it is worth. We have direct evidence from the last witness that he has rented that pat of the building that he did not use himself at $105.00 a month?

A That is right.

Q Now you may know what the rental value of the premises was tht he occupied?

A Well, I would think the premises he occupied at that particular time for his own business was roughly $125.00 a month and that would make $305.00 a month for the rent.

MR. McQUARRIE: Q: And in taking that into consideration you say you value the building at $7500.00 and the land at $13,200, making a total of $20,700.00?

A That is right.

Q And that is in 1942. Now what about July of 1944, would the value be greater or less?

A I think it would be very simple in 1942 to realize that properties generally were coming back so as to be able to get a better market for the properties, both for rental and for sale.

Q Well, say in July 1944, what was the value of the property? A. In 1944 -- therefore I would increase the value in that property at that time from 10 to 20% over my value here.

THE COMMISSIONER: Yes, Mr. Braidwood.

CROSS EXAMINATION BY MR. BRAIDWOOD:

Q You told my friend, Mr. Dalgleish, you had been thirty years in the real estate and insurance business, is that correct?

A That is right.

Q In what places have y ou been engaged in those businesses?

10

A K amloops and New Westminster.

Q You have been in Westminster for eleven years?

A That is right.

Q When did you first start doing appraisals?

A Well generally off and on during all that time, both for individuals and for the Probate and Sucession Duties department in Victoria.

Q Have you any idea how many appraisal you did in New Westminster in those eleven years?

20

A Well, it is not quite accurate. I wouldn't know exactly the number, but there has been quite a number of them, but if you want me to give a general idea of who I have acted for, I will. I have done a great many for the Probate & Succession Duty Department in New Westminster.- Mr. Campbell.

MR. BRAIDWOOD: Q; You have done some insurance appraisals, too, have you? A. No, when you speak of insurance appraisals, we, as an agency, do not have anything to do with adjustments that enter into the values there. That is done by our

30

adjusters.

Q I mean the valuing of property for the purpose of placing insurance? A. Oh yes, oh yes.

Q Now you were instructed to go and value this property, is that correct?

A That is right.

Q And this property has developed considerably in the last few years, hasn't it? The area around this property has developed considerably in the last three or four years?

10 A I would say in the last two years there has been a great deal of development around there, but up to that time there has not been a great deal of change in that area for a good many years.

Q As a matter of fact things were pretty stagnant for a number of years, weren't they?

A In the lower area. When I speak that way, I mean speaking more of property -- that is on the basis of three to four blocks distinctly west of this property.

20 Q Well, I am speaking of property immediately adjacent to the property in question. Woudn't you say it was pretty dead for a few years?

A Yes, but I don't want to have my remarks misunderstood. There is an area in New Westminster which you might call an industrial area, and it is immediately east of this property we are dealing with, but immediately west of this property it is a very highly developed area -- on the east side, which in the last two or three years has developed immensely, and

30 I would just two million dollars has been put in

the last few years.

Q In 1942 would you consider that this property was in a high valued area or not?

A Yes, I certainly would and in 1942 I don't think it could be very easy -- although you might not have an immediate market for a person to realize on but they had a very valuable piece of property.

Q But that was looking into the future?

A Yes, but not very far.

10 Q But you said you were looking forward to the future?

A Yes, but in this value here we had no increase in value there. That is the rock-bottom value I consider.

Q As of when? A. 1942.

Q How long did you spend on the property when you examined it?

A We spent the better part of a day -- probably a day and a half.

Q Did you make any notes?

20 A Y es, I have my notes here -- rough notes.

Q Did you take any measurements?

A Yes.

Q Can you tell me anything about the construction, was it wood, concrete or what?

A The main building on the property was a two-storey concrete block construction with composition roof with store fronts --

Q How about the foundations?

30 A The foundations were in poor condition on account of

the age. Generally speaking the building in 1942 was suitable for conversion.

Q You remember this building in 1942?

A Yes, I do. I went to Westminster in 1938 and I had occasion to go by the building many times.

Q You know what the construction of the foundation of the building was made up of?

A At that particular time -- just a moment, I am not exactly sure on that particular point you speak of there, but we admit in the report here the foundation was not in good condition in 1942. The point is this, when we saw it -- I have to admit this -- when we saw the building in 1942, we were viewing it after it had a new concrete foundation beneath it, and just how it was at the time of the report -- well pardon me, at the time we were valuating this block, was in 1948, at which time the building had all been renovated and they had a new concrete foundation in at that time and what the foundation was in 1942 I am not sure of.

20 Q If you don't know what the foundation was in 1942, how can you come to an estimate of what the building was worth in 1942?

A Well, generally speaking --

Q I just want to know the facts.

THE COMMISSIONER: All right, let the witness answer.

THE WITNESS: I beg your pardon?

Q Go ahead and answer the question you have been asked.

A Willyou repeat that question please.

(Question read by reporter)

30 A In the report we admit that in 1942 the building was

in need of conversion and repairs in 1942, but this particular building was no different than many others existing in Westminster at that particular time. If the building had a sufficient important position in the business section, there was no question of what would happen regarding the revenue and the worth of the property. That is my statement there.

Q Now you have been asked to give an appraisal and
10 give a valuation on some buildings -- the physical buildings; and if you don't know what was in them in 1942, how can you say they were worth $6,000 in 1942? A. Well, if I understand you correctly -- in 1942 at the date of this valuation that we are dealing with here, the present Mr. Nishiguchi here in court had a general store in one part-- there was a grocery store and a barber shop next to it, which was rented.

Now is that the point you want me to answer?

20 THE COMMISSIONER: I think your question is rather enigmatical, Mr. Braidwood.

MR. BRAIDWOOD: Well, I want to get at how this witness brings in his appraisal of $6,000.00 that he brings into court.

THE COMMISSIONER: He did not value it at $6,000.00.

MR. BRAIDWOOD: Well, he increased it 25%.

THE WITNESS: No, the value of the buildings was $7500.00.

THE COMMISSIONER: Q: Well, how do you arrive at that valuation?

30 MR. BRAIDWOOD: Q; How do you arrive at the valuation of

$7500.00? A. Well,you can take it from two angles, either from revenue or the replacement cost.

Q Well take it from revenue?

A Well, taking it on the basis of revenue that had been secured for this property in 1928,and also the stated well-known value of the rental in 1942, --

Q That is your estimated value?

A That is the estimated value.

10 Q Well then, if you take it from a revenue basis, you have arrived at your figure by hearing Mr. Nishiguchi saying he rented it at so much?

A Not only that, we have the Cunningham property --

Q Now just a moment. If we take it from the revenue basis we can take it you arrived at your figure of $7500.00 by being told by Mr. Nighiguchi a portion was rented at so much, and by estimating the revenue for the rest of it, it would be so much

20 if the rent was paid.

THE COMMISSIONER: The witness is placing a value of $305.00 monthly rental on the property.

MR. BRAIDWOOD: That is an estimate.

THE COMMISSIONER: That is right.

MR. BRAIDWOOD: So if we take it from a rental basis, we are takingit as of 1942?

A An estimated rental in 1942, of $305.00 a month.

Q And that is how you figure the $7500.00?

A Yes, and taking into consideration the general condition of the building.

30 THE COMMISSIONER: I would like to have that explained.

Why do you say a building is worth $7500.00 because its gross rental return is $305.00 a month?

A The point I would like to make on any building that you can get a high revenue for, even though it has such poor foundations and is a poor building, is because of its wonderful location.

Q I am just asking you the question, how do you make the calculation?

A It is based on the value of what we believe the building was worth at that time.

Q No, I want you to start with your rental value of $305.00 a month. That was $3,660.00 annually, isn't it? A. Yes.

Q Now how do you from that foundation reach a conclusion that the building is worth $7500.00?

A Well, I think the foundation is a very small part.

Q Listen to my question, will you please, witness?

A All right.

Q How do you base your calculation so as to arrive at a total of $7500.00?

A Well, I am basing it on the overall value of $7500.00 its total work at that time, but I don't know exactly what is the point in the question. If you want me to give a foot value, a square foot?

MR. Mr. Dagleish, you have said you can appreach the question of value in two ways: (one) on a revanue basis, and (two) on replacement cost?

A Right.

Q We are now dealing with revenue. Now having ascertained that the rental value is $3,660.00 annually,

how does that bring you to the point you have reached that the value is $7500.00?

A If you will just let me explain myself.

Q I am endeavoring to have you do so.

A When you take the monthly value of a property you must take the overall picture of the land and building. You cannot just say, " We get $305.00 a month for this property", and how much is the foundation worth? That is a foolish way of valuaing this property.

Q You are confusing the point?

A I don't think so.

Q You have said you based your valuation on a revenue footing and we know the revenue is$ 3660.00 a year.

A Yes.

Q Well, how do you determine $7500.00 is the selling price or the market price from that revenue?

A Well, one yardstick of value if your honour, wishes to follow this, is the city assessed value at the time in 1942.

Q Yes, what was that?

A The city assessed value on this property in 1942 of the buildings alone, by the City Assessor, was valued at $6,000.00.

Q And the land what?

A $12,100.00., making a total value of $18,100.

Q All right. Now that is the assessed value?

A Yes.

Q Now let us get back to what we were discussing. How do you arrive on a rental basis that your valuation of $7500.00? A. Well, the point

that I would stress there would simply be this-- that the value of the rental -- he is milling it back to the value of the land and the property -- and a great deal of the value of the rental was being paid by reason of the location of the property and on account of the possibilities -- more than the accommodation from a business angle, and that is the thing I want to stress.

THE COMMISSIONER: All right, I will leave that to you, Mr. Braidwood, to deal with.

10

MR. BRAIDWOOD: Q; Would I be correct in saying $7500.00 was a mere guess on your part?

A No, it is the replacement value of the building.

Q Well I am coming to the replacement value in a moment, in the last ten or fifteen minutes we have been talking about the revenue aspect, and I want to know in what manner you derive that $7500.00 is the value?

A The size of the building has a lot to do with it and the general conditions.

20

MR. BRAIDWOOD: Well my lord, I see I cannot get anywhere either on that.

Q Now let us take it from the other aspect -- the replacement aspect, Mr. Dagleish. In estimating your value of $7500.00 on the building, using a replacement method, how did you arrive at the figure of $7500.00? Perhaps I will put it this way to you to try to make it more simple?

A Well I think your question is confusing. Do you want me to breakit down into the foot cost of the land.

30

Q I am not talking of the land.

A You are talking about replacement -- the value of the block. Do you want me to break that down into foot value?

Q Can you tell me how much lumber was in the building?

A The front part was a cement block .

Q Would it surprise you to know it was cement facing over brick?

A I understood it was a cement block construction
10 when we made our inspection of it and in 1942 there was a great deal of difference. After all is aid and done I have to be fair to this extent, that in 1942, we did not look at that value for the purpose of making a valuation of the buildings, but we looked at the building in 1948 in September.

THE COMMISSIONER: Well witness, do not quarrel with counsel. I am here to preside in this matter and you must listen to my directions. Do not quarrel with counsel, just answer his questions.

20 A I am.

MR.BRAIDWOOD: Q; Would it surprise you to know today, in 1949, the building is still a brick construction with cement facing?

THE COMMISSIONER: Well Mr. Colthardt is probably wrong, he calls it cement too, but we are not concerned with that.

MR. BRAIDWOOD: I am just trying to find out the way he found the replacement value. Do you know how glass was in the building, Mr. Dagleish?

30 A Well, there is the store front for the three stores

in glass.

Q Did you measure the glass?

A No, I didn't.

Q You didn't measure the glass or value how much the glass cost in 1942?

A No.

Q And you made no measurements of the studding or flooring?

A I made a measurement of the size of the building and
10 it is roughly 66 foot frontage.

Q And did you ascertain the cost of the material in 1942? A. No.

Q Well then how on a replacement method can you estimate the building was worth $7500.00 in 1942?

A Well, you can do it on a cubic foot basis or on the commercial value at a given time.

Q Well, what yardstick did you use?

A Well, at that particular time I don't think we got this broke down to a square foot basis, but we
20 did reach a value between us of $7500.00 as a fair value. It was not a high value and I don't think there is a great deal of argument between us on your own valuation and ours.

Q I suggest your estimate of $7500.00 was just a guess?

A No, it was a fair value at that time.

Q Well now, let us go to the value of the real property. You say you gave $200.00 a foot on Columbia?

A Yes.

Q And how many feet were there?

30 A Sixty-six feet.

Q And where did you get your value of $11,200 in 1942?

A It would be the value of this in this location and places near there would be a gr at deal higher than $200.00 a foot.

Q What location was that?

A Within a block -- about $500.00 a foot.

Q How did you ascertain it was $500.00 a foot -- was it be checking the prices of other properties?

10 A As of 1942 and also other sales that were made in that area at that time.

Q I thought you told my learned friend there were not any sales or comparative sales?

A When did I say that? When did I say that?

THE COMMISSIONER: Now, now, Mr. Dalgleish.

THE WITNESS: I never said that.

THE COMMISSIONER: All right, just tell him you did not say it.

A I never said it.

20 MR.BRAIDWOOD: Q; Were there any sales within the immediate area at that time?

A I haven't got the exact sales here, but I have one in mind that was sold not so far from this property for $60,000, which is just east from the Westminster Trust Company.

Q That is for the land the building?

A Yes.

Q Now can you tell us how you obtained your figure of $200.00 a foot on Columbia Street as of 1942?

30 A It would be the market value at that time.- the

considered market value.

Q That is your estimate of the considered market value? A. That is right.

THE COMMISSIONER: Do you wish to re-examine, Mr. McQuarrie?

MR. McQUARRIE: No, I don't think so.

(Witness aside)

WALTER ROSS DEY, a witness called on behalf of the claimants, being first duly sworn, testified as follows:

10

DIRECT EXAMINATION BY MR. McQUARRIE:

Q Now, Mr. Dey, you are in what business?

A Real estate and insurance.

Q And how long have you been in that business?

A About ten years.

Q And where have you carried on that business?

A New Westminster.

Q Exclusively? A. Yes.

20 Q In what kind of properties?

A All commercial types of property and farms and dwellings -- houses -- and I havehad quite a lot of experience in appraising for estates and one thing and another.

Q Now have you any one in particular that you can think of for the moment?

A The Official Administator's office asks me to go and make valuations at times.

Q Now you know the property we have been dealing with here? A. Yes.

30

Q That is the Nishiguchi property, at the corner of McNeely and Columbia Streets?

A Yes.

Q Did you examine that property?

A I did.

Q When was that? A. In the fall of 48.

Q Did you know that property at all in 1942?

A I just knew it. I don't suppose I was in it more than once in my life.

Q And in 1948 you tried to arrive at the value as it was in 1942? A . In 1948 Mr. Johnston asked me if I would go over and put a valuation on that piece of property as of 1942 .

Q Yes. A. Now you can quite realize it is almost impossible for any man to go over in 1948 and try to value a piece of property as it was in 1942 when the whole structure has been remodelled and all done over, so I made that report. Now what have I to go on? I am not a mind reader, but to the best of my ability I used my own good judgment and I went over and tried to value what the land value would be in 1942 and I had to make enquiries in the district -- of what was there before and find how far did this go back and also what kind of floors were in it and the structure of the building and material. I had to get secondhand information.

THE COMMISSIONER: Yes, we appreciate your difficulties in that regard, but just tell us how you did arrive

at it? A Well, I made inquiries about its cement block construction and to the best of my knowledge I would still say it is cement block construction and I made inquiries what it would cost in 1942, and it was rather hard to get some factors to remember what they had charged in 1942, and therefore I had to do the best I could, and I said to myself, these buildings had the back part corrugated -- there was a shed at the back and all that would be worth in the neighborhood of $7550.00 and then I go to the City Hall and I got the assessed value and to my surprise their assessed value was very close to mine. For instance their assessed value on the land was $12,100, and on the building $6,000.00. making a total of $18,1000.

THE COMMISSIONER: $18,000.00

A Pardon me, $18,100.00, and my total valuation for the land and buildings was $20,700.00 and I must say I did not know until an hour ago what the Nishiguchi had paid for that property in 1928, so we are only $300.00 out, so I still consider I used very good judgment for what I had to go on, and it would be almostly inhumanly impossible for anyone to do any better.

CROSS EXAMINATION BY MR. BRAIDWOOD:

Q Now this figure of $200.00 a foot for the land is merely your judgment?

A No, not exactly. That is what I consider as being the market value in 1942.

Q And looking back at it, in view of the development that has occurred from 1949 backward, is that not correct? A. Would you mind repeating that.

THE COMMISSIONER: That is his opinion of the land value at that time.

THE WITNESS: Today it would be five or six hundred dollars probably, but I did not take into consideration today's value at all. That was the 1942 value.

10 MR. BRAIDWOOD: That is all.

THE COMMISSIONER: Q: Were you in business as a real estate man in New Westminster, as of 1942?

A Yes, your honour.

Q Can you tell me how the New Westminster assessments were related to the market value?

A In what way?

Q At that time were they higher than the market value or equivilent to the market value?

A I would say, your honour, they fluctuated. During
20 the depression the selling price was less than the assessed value, and as things got better the selling price was much greater than the assessed value; and going back to 1942 I would say the assessed value was slightly below the selling value.

THE COMMISSIONER: Do either counsel desire to pursue that subject from the witness.

MR. BRAIDWOOD: Yes, I would like to ask one question on that.

Q Mr. Dey, have you any information as to the city's
30 policy of selling tax sale lands at that time?

A I believe at that time it was 50%. Or it was possibly 75%. I just forget when they changed it, but to the best of my knowledge it was 50%. It did change to 75% two years after that.

MR. McQUARRIE: And where were these tax sale properties situated? Were there any situated at Columbia Street in this locality?

A Oh no, no. They were scattered all over,

10 THE COMMISSIONER: Thank you.

(Witness aside)

MR. McQUARRIE: That is all the evidence I have to offer.

MR. BRAIDWOOD: I will call now, Mr. Coulthard.

THE COMMISSIONER: Is that on the farm property as well?

MR. BRAIDWOOD: No, that will be Mr. Ramsay.

FREDERICK HILL COULTHARD, a witness called on behalf of the Crown, being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. BRAIDWOOD:

20 Q What is your occupation, Mr. Coulthard?

A A real estate broker.

Q How long have you been engaged in the real estate business?

A Fourteen years.

Q Where? A. In New Westminster.

Q How many years did you say?

A Fourteen years.

Q And haveyou had any experience in appraising property?

A Yes , a little.

30 Q You have done some appraising, have you?

A Yes.

Q For who? A. Well, for the Government, and on this Japanese property I did about 150 claims and for the B.C.Electric and the B.C.Forest Products.

Q You have appraised for these various companies, have you? A. Yes.

Q Do you operate your own business in New Westminster?

10 A Yes, I do.

Q And are still doing appraisal work?

A Yes.

Q And you did some appraisals for the Custodian, did you? A. Yes.

Q And did you appraise the Nishiguchi property that is the matter of discussion here this afternoon?

A Yes, I did.

Q And is Exhibit No. 1, a copy of your appraisal?

A Yes.

20 THE COMMISSIONER: If you have your own copy there you might use it.

A I have it here.

MR. BRAIDWOOD: Q: Is that a copy of the appraisal you made on the Nishiguchi city property?

A That is it.

Q Can you tell his lordship how you came to arrive at the value you placed on that property?

A Your lordship, the valuation of the land was made first and the valuation of the building after. The valuation of the land was taken at ~~a slightly higher~~ 55% of

30 ~~figure than~~ the assessed value that was put on by

the City Assessor.

Q Why did you take it at that figure?

A Because at that time there was a glut of vacant property in the city. Not on Columbia Street, but close to that the land was goin vacant and it could not go at any price and it was the policy of the city to sell it at half the assessed value.

Q And this property was appraised at more than half its value?

10 A Yes.

Q And what do you say about the figure of $200.00 that has been quoted today as being a fair value for the footage in that area?

A I don't think it could possibly have been obtained at that time.

Q Haveyou anything else to say about the value of the land? A. No, I don't think so.

THE COMMISSIONER: Mr. Braidwood, you might pursue that from the point of view of ascertaining whether there

20 were tax sales lands in the immeidate vicinity that were being sold by the city.

MR.BRAIDWOOD: Q: Were there any tax lands in the immediate vicinity that the city would sell?

A There were within two blocks, but they were not saleable.

Q Had they been offered for sale for some time?

A They had been on the market for many years.

Q But they had not been picked up?

A No, but since then they have been.

30 Q But in 1942 had they been sold?

A No.

Q Was the city finding it difficult to dispose of its property in 1942?

A Very difficult.

Q What about private sales in 1942?

Have you any knowledge of property in this area in 1942 being sold in private sales?

A The only knowledge I have of any sale o n Columbia Street was our own building owned by Coulthard & Sutherland, which we sold.

10

MR. BRAIDWOOD: Does your lordship wish that pursued any further?

THE COMMISSIONER: Nop Now, are you going to leave this last subject, or what was your purpose in asking about another sale, because we have not had the price that was obtained.

MR. BRAIDWOOD: Oh, I am sorry,-- very sorry.

Q What was the price of the sale that you do know about?

20 A We sold our block for $33,000.00. However it was in an entirely different location. It was within 50 yards of the Post Office, which is in the heart of New Westminster, and it was entirely in a different district.

MR. McQUARRIE: I didn't get that. How many feet from the Post Office was it?

A Oh, about 50 yards.

MR. BRAIDWOOD: Q: Haveyou any idea what the land would be valued at in that sale?

30 A The sale of our building?

Q Yes. A. No we never broke it down.

Q Would that be a sale which would be comparable to the sale of the Nishiguchi property?

A No, there would be no comparison whatever.

Q Why not?

A Because it was in an entirely different location and a different type of building.

Q Do you know the assessed value of your own property?

A No, I don't recall it.

10 Q Were there any other sales that you know of in that area that might be used for the purpose of comparison?

A No, none that I know of.

Q Now you have made a valuation on the improvements. Will you tell his lordship how you arrived at that valuation?

A Yes, on this particular property the improvements were broken down into two parts. There was a

20 building on the front of the property, which to all appearances appeared to be concrete blocks, 66 by 66, and on the rear of that building there was a frame structure with a tin roof, which was 30 by 60 .

Now for reasons set up in my appraisal here, we did not put any value on this rear structure, so my appraisal of $7734.00 applies to the front structure. That building was built sometime prior to 1911. The City Engineer's records go back that

30 far and it was constructed prior to that.

Working this thing out on a square foot basis we arrived at 3,456 square feet, that comes to $34,092.00. Now any building of that type is written off between 30 and 35 years. However, at that time the valuation -- all that is left on it is 25% of its original value, which brings this down to exactly $7600.00.

Now there is a slight discrepancy between my figure here, and the only reason I can explain that, is the fact I have no notes now. I have destroyed them, and I had to reconstruct them the best way I could between four o'clock last night and the present time.

Q In your opinion the value of $7734.00 was a fair value of the improvements on this land in 1942?

A Yes.

Q By the way, have you examined the property lately, so far as the cement bricks are concerned?

A Y es, I looked at it this morning.

Q And what is the situation there?

A There are two little chips on the top of it and it is a very good imitation of a cement building.

Q Now you heard in evidence today, I think, Mr. Coulthard, by one of the witnesses, as to the rental which you felt this property would bring on a rental basis in 1942, and that rental was fixed at $305.00 a month. What have you to say as to that? A. I would not attempt to give an opinion on what rental would be available from that building in 1942.

Q Were you not familiar with the rentals in that area in 1942? A. No, not particularly. It is a long way back.

Q That is all, thank you.

CROSS EXAMINATION BY MR. McQUARRIE:

Q Now, Mr. Coulthard, you have referred to a business block that was owned by yourself and was sold. What was the front footage of that?

A 33 feet.

10 Q And you sold that for $33,000.00?

A That is right.

Q Now is this so; in New Westminster, particularly in 1942, there was only one business street and that was Columbia Street, which was the main business Street? A. That is right.

Q Now particularly further down, just east of Eighth Street -- except for Columbia Street, there were no business blocks there at all, at that time, were there, there were not stores--except for the

20 stores fronting on Columbia Street?

A That is right.

Q For instance, take one block north of Columbia Street there would be no stores there at all?

A That is right.

Q Now the property that you referred to as being up for Tax Sale in the City of New Westminster, was any of it on Columbia Street?

A Oh, yes.

Q And where was that?

30 A In the vicinity of the present market at the Bank

of Montreal.

Q And how far would that be from the property under consideration?

A Oh, a block or a block and a half east -- no a block and a half west.

Q A block and a half west. Were there any properties at all that were up for tax sale that was east of the property that is up for the subject matter here?

A No, none that I am aware of.

Q As a matter of fact, Columbia Street, east of this corner was solidly built up at that time?

A Yes.

Q But east of that very property is what is propertly known as Old Chinatown.

A West of it, you mean?

Q Yes, I beg your pardon, I mean west of it, that is right.

A That is right.

Q And immediately north of the building we are discussing in 1942 it had no use at all as a business property? A. Immediately north?

Q Y es. A. Right directly behind this building, you mean?

Q Yes. A. Oh yes, it had.

Q Now what property are you referring to?

A I. W. Walker, Machine Shop and the Royal City Motors and the Fire Hall.

Q Well, were there any tax sale lots in that locality you are describing where the fire hall and R.W. Walker's place and these other industrial places were?

A I think possibly the lot between the present Royal City Motors Building was up for tax sale, but I am not positive.

Q And you say you based your value of this property at a little over half of the assessed value, is that so? A. That is right.

Q Why do you say you did that? Was it because the City was actually offering tax sale lots at that value? A. Yes.

10 THE COMMISSIONER: At 50% of the assessed value is what he said.

MR. McQUARRIE: Q: At 50% was it?

A Yes.

Q Now those tax sale lots that the city was actually offering for sale at half of the assessed value, would you say that they were all in isolated places as far as business was concerned?

A Oh, no.

Q Can you give me one lot that they did offer at one-
20 half the assessed value anywhere near the location of this present property?

A Yes, I believe the one between the Royal City Motors and the Trapp Building.

Q And did you know that that lot was offered for sale there at half the assessed value?

A I believe so, but I am not positive. If it was a tax sale it was offered at one-half of its assessed value.

Q And that was a city lot?

30 A Yes.

Q And I think you have already said this property we are discussing was built previous to 1911 --

A Yes, previous to 1911 it was built.

Q Now how far is this lot we are considering here from the B.C.Electric Depot on Columbia Street? How many yards would you say?

A About 375 feet.

THE COMMISSIONER: Q: It is diagonally west from the B.C. Electric on the other side of the street?

10 A Yes.

MR. McQUARRIE: Q: Now you know the Mc. & Mc. building that was built immediately across from this building?

A Yes.

Q When was that built, was it previous to 1942?

A Apparently it was, I see it mentioned there in my report.

Q Now as you proceed east from this building you get increasingly into the busiest part of New Westminster?

A Proceeding east -- that is right.

20 Q And the first building that is east is the Mc. & Mc. building? A. That is right.

Q And then you come to Eighth Street?

A No.

Q Well, what is the next street?

A You come to that little street that runs up in front of C.C.Brown's -- whatever name it is called -- Alexander.

Q And what building is immediately east of the Mc. & Mc. building? A. The Safeway Stores.

30 Q And was the Safeway Stores there in 1942?

A I believe it was.

Q And then what building is immediately east of that?

A The Local Holdings Building.

Q Local Holdings? A. Yes.

Q What do they do? A. They are a holding company.

Q And then do you come to Eighth Street?

A Oh no, we have crossed over Eighth Street now.

Q Yes, that is what I thought. Yes, I see. Now what building was immediately to the west of this Nishiguchi building?

A A building known as the Nishiguchi building.

Q Do you know for what purpose it is used?

A Yes, Gilley Bros. had their drugstore in it and it was a concrete building rented at $65.00 a month.

Q What sort of a building was it?

A A reinforced concrete building.

Q What was it built for?

A It was built for a garage.

Q That is all.

THE COMMISSIONER: Any re-examination?

MR.BRAIDWOOD: No, my lord.

THE COMMISSIONER: Thank you, Mr. Coulthard.

(Witness aside)

MR. BRAIDWOOD: My lord, I have no further witnesses to call, but I don't know whether it has actually come out in the record the cross-claim here is $35,000 in this case and the sale was $14,500.00.

THE COMMISSIONER: Yes.

MR.BRAIDWOOD: My friend and I are agreed on that. We did sell to Mc. & Mc. for $14,500.00 on the 10th of July, 1944.

THE COMMISSIONER: Incidentally when was this property first offered for sale by the Custodian?

MR. BRAIDWOOD: The first intimation Ihave of that is in April 1944. Your lordship will recall Mr. Coulthard's appraisal is in May 1944, and apparently the offer was made in April 1944 and we have three

10 tenders On April 28th we received a tender from Stanley Wright of $7500.00.

THE COMMISSIONER: Yes.

MR. BRAIDWOOD: And on April 29th, 1944, we received a tender from McLennan & McFeely ' Co. for $14,000.00.

THE COMMISSIONER: Yes.

MR. BRAIDWOOD: And this was raised on June 7th of the same year to $14,500.00, presumably in mind, my lord, that the fact the first offer was below the appraised price.

20 THE COMMISSIONER: When was this last offer of McLennan & McFeely?

MR. BRAIDWOOD: The 7th of June, and the effective date of sale was July 10th, 1944 for $14,500.00.

THE COMMISSIONER: Mr. Coulthard's was the only appraisal required by the Custodian, was it?

MR. BRAIDWOOD: Yes, my lord.

THE COMMISSIONER: Since you have not been before the Commission earlier, Mr. McQuarrie, I do not know whether you are aware that all of these sales

30 made by the Custodian, were passed upon by the Rural

Advisory Committee before the sale was consummated. In other words, in every instance the appraisal was made.

MR. McQUARRIE: Yes, Mr. Johnston told me that.

THE COMMISSIONER: And it was laid before the Rural Advisory Committee.

MR. McQUARRIE: Yes, I understand that.

THE COMMISSIONER: And that Mr. Whiteside and Mayor Mott and Harold Lindsay of Port Haney were members, and who were the other members, Mr. Braidwood?

10

MR. BRAIDWOOD: There was Mc. McKenzie, my lord.

THE COMMISSIONER: Yes, there w s Mr. McKenzie, but he did not remain very long and a Mr. McLennan or MacLennan.

MR. McQUARRIE: And did that apply to city property as well?

THE COMMISSIONER: Yes.

MR. BRAIDWOOD: And there was a Japanese member on for a while too-- Mr. Yamaga, and he resigned.

20

THE COMMISSIONER: Now, is there anything further.

MR. McQUARRIE: Nothing further.

THE COMMISSIONER. I will take this into consideration. There is no further evidence to be adduced in this matter?

MR. McQUARRIE: No.

THE COMMISSIONER: I will let you know my views, Mr. McQuarrie by the time we get on with the other claims.

MR. McQUARRIE: I might say as to the other claim, I do not know that we are going to press that .I had a

30

talk with these people last night.

THE COMMISSIONER: That is the farm claim?

MR. McQUARRIE: Yes, and I do not know whether it was finally decided not to press it.

THE COMMISSIONER: Was this sold to the Veterans Land Act.

MR. BRAIDWOOD: This is coming within the 80%. It is a D.V.A. sale.

THE COMMISSIONER: You might take that under consideration. That is a recommendation I propose to make except in special cases. Now it is open to either counsel to come before me, if they cannot agree, with a view to having it determined whether the case is one that falls outside the terms of the reference or not, so it is open to you if you are not content at that overall recommendation, to have it treated as a especial case.

MR. McQUARRIE: Thank you.

THE COMMISSIONER: And you might let government counsel know if you are not going on with it.

MR. BRAIDWOOD: Well, my thought was this: Ramsay having given general evidence here, I was wondering if my friend wanted to call his people who are here today. They are busy people and they might not want to come back.

THE COMMISSIONER: Well, supposing I recess for a few minutes and Mr. Braidwood will let you know what this proposed recommendation means. We shall recess for a short time.

(PROCEEDINGS RESUMED AFTER SHORT RECESS)

MR. McQUARRIE: My lord, I have discussed this with my clients and with the valuators, and we feel there are no special circumstances in this case, and more over we feel that suggestion is quite satisfactory.

THE COMMISSIONER: Has Mr. Braidwood made it clear to you. There may be some graduation up and down from the 80% -- in the terms -- and in the difference of values between municipalities. Now I do not know where this property is.

MR. McQUARRIE: In Surrey, my lord.

THE COMMISSIONER: My recollection is that Surrey was likely to fall below the 80%. Is that not the case.

MR.BRAIDWOOD: I haven't that with me. I am not clear about it.

THE COMMISSIONER: Mr. Watson, could you get me the envelope that is on my table which is marked "V.L.A." and bring it in to me. You see this overall 80%, Mr. McQ uarrie, was arrived at in this way: a comparison was made between private sales in the period of 1943, was it not, Mr. Braidwood.

MR. BRAIDWOOD: Yes, my lord.

THE COMMISSIONER: And in every municipality as many private sales were considered as could be extracted from the Land Registry records, that could be made in a period of three months either way from the V.L.A. date of June 1943 and in some municipalities it appeared that the Custodian's selling price was as much as 100% below the average market value on

private sales and in other municipalities the Custodian's selling price was say, 60%. Now I will just see if I can give you that information in regard to Surrey.

MR. McQUARRIE: My lord, I do not know of any other fairer way it could be arrived at and I think we should be satisfied with that.

THE COMMISSIONER: This was a difficult problem in view of the very large number of claims, and after consulting with counsel I came to the conclusion this overall basis was the fairest approach one could make to it, as long as special cases were excluded from the overall basis. If it were established a case had peculiar characteristics to classify it as a especial case, we governed ourselves accordingly.

Now let me see here: we find that the V.L.A. price in the municipality of Surrey would have to be increased by 118.3% to bring it to fair market value. I was wrong. Surrey was not one of the municipalities that there was likely to be anything less than 80%.- unless I have misread this, now that will be the basis of recommendation in this claim, and I take it you are satisfied.

MR. McQUARRIE: Yes.

THE COMMISSIONER: You will govern yourself accordingly, Mr. Braidwood.

MR. BRAIDWOOD: Well, I won't call Mr. Ramsey then now, on the matter of the cars.

MR. McQUARRIE: There wasn't very much he could get in

the way of a report -- only on the 1937 coupe and Mr. Ennis has obtained the information that was $1232.00.

THE COMMISSIONER: That is the cost?

MR. McQUARRIE: Yes, $1232.00 cost.

THE COMMISSIONER: Well perhaps Mr. Braidwood will get these other figures.

MR. McQUARRIE: I believe Mr. Arthur Nishiguchi gave evidence that the two Nash taxis he paid $2,032.00 for each of them. I think that was his evidence.

THE COMMISSIONER: $2,032.00. Well, you can check that if you wish. I do not think you will have any trouble with Fords.

MR. BRAIDWOOD: Well, there is some trouble. The local Ford people referred Mr. Ennis to Windsor, so it may take a few days.

MR. McQUARRIE: Well, with reference to an adjournment -- I do not think it will be necessary for us to argue this matter.

THE COMMISSIONER: No, there is no need for an adjournment now, but I would like to get the information I asked for on the corporate claims from Mr. Johnston.

MR. McQUARRIE: Yes, I have a note of that, my lord.

THE COMMISSIONER: And if you will get it for me as soon as possible I will appreciate it.

MR. McQUARRIE: Well, I am leaving the City for a few days, but I will pass the information on to him.

MR. BRAIDWOOD: I think all it needs is a letter.

MR. McQUARRIE: Confirming it.

THE COMMISSIONER: Yes, if Mr. Johnston will write to the Secretary confirming the settlement as he understands it, that will be satisfactory.

MR. McQUARRIE: He has been quite ill lately, and I think that has been the reason.

THE COMMISSIONER: I do not want any misunderstanding and that was why I asked Mr. Johnston to confirm the terms of settlement as to the information given me by Government counsel.

10

MR. McQUARRIE: I will pass that on to him.

(PROCEEDINGS CONCLUDED)

(DISCUSSION AS TO LIST)

THE COMMISSIONER: I will adjourn now until Monday, the 20th of June, at 10. a.m.

(PROCEEDINGS ADJOURNED UNTIL MONDAY, JUNE 20th, 1949.)

20

I hereby certify the foregoing to be a true and accurate report of the said proceedings.

E Bligh

Deputy Official Stenographer

30

Case ~~1399~~ 1400.

ACKNOWLEDGED

NOTIFIED

C A N A D A

DEPARTMENT OF SECRETARY OF STATE

TO:

THE HONOURABLE MR. JUSTICE HENRY IRVINE BIRD, A JUSTICE OF THE COURT OF APPEAL FOR THE PROVINCE OF BRITISH COLUMBIA,

A Commissioner appointed by His Excellency the Governor General in Council of the Dominion of Canada pursuant to Order-In-Council, P. C. 1810, dated the 18th. day of July, A.D. 1947, as amended by Order-In-Council, P. C. 3737 dated the 17th. day of September, A.D. 1947, under the Inquiries Act, R. R. C. 1927, to inquire into and report upon the claim of persons of the Japanese Race, who were evacuated from the protected area of the Province of British Columbia and resident in Canada as at the 18th. of July, A.D. 1947.

$37514

THE PETITION AND CLAIM OF ASAJIRO NISHIGUCHI, (Registration No. 01920), of Ashcroft, Province of British Columbia, formerly of 837 Columbia Street, New Westminster, Province of British Columbia, KAHEI NISHIGUCHI, (Registration No. 08685), of Coalhurst, Alberta, formerly of 837 Columbia Street, New Westminster, Province of British Columbia, and MAGOJIRO NISHIGUCHI, (Registration No. 08682), of Ashcroft, Province of British Columbia, formerly of 837 Columbia Street, New Westminster, Province of British Columbia.

HUMBLY SHEWETH:-

1. That we are all of the Japanese Race who were evacuated from the protected area of the Province of British Columbia and resided in Canada as at the 18th. day of July, A.D. 1947.

2. Your Petitioners and Claimants were on all days and dates material to this petition and claim were owners of Real property which was vested in the Custodian and which was disposed of by the Custodian for less than the fair market value thereof at the time of sale resulting in loss to the claimant equal to the difference between the amount received from the sale and the fair market value, namely $37,514.50 particulars of which are as follows;

1. Farm known as the East 3/8 of the North West Quarter

Section 24, Township 2, Title No. 61190E in the Municipality of Surrey, in the District of New Westminster.

A. Sold as of January 1st. 1943 by the Custodian for $3753.00 which netted to your petitioners and claimants the sum of $3732.00.

B. This property consists of 60 acres highly cultivated, 100 fruit trees annually pruned and sprayed, about 3 acres in Filberts nuts, 12 years old, with abundant bearings, water system installed, buildings including packing houses and barnes. This property was purchased by your petitioners on March 1st. 1927 for a price of $3000.00 and was then uncleared and unimproved.

C. At the time of your petitioners evacuation the above-mentioned property was producing annually 80 tons of strawberries, about 1 ton of Filberts nuts, raspberries, fruits and vegetables.

Your petitioners and claimants claim that the said land was sold and disposed of by the Department of the Secretary of State on the days and dates hereinbefore mentioned at a loss to your petitioner and claimants of the sum of $16,268.00 as your petitioners and claimants are of the opinion that the price of the said farm and the true market value thereof is $20,000.00.

And your Petitioners and claimants further claim in respect to the store premises known as 837, 839, 841 and 843 Columbia Street, in the City of New Westminster, in the Province of British Columbia and the legal description of which is Lot 16, Block 11, situate in the City of New Westminster, the district of New Westminster, in the Province of British Columbia, Map 2620 and registered under Title No. 65674E in the Land Registry Office in the City of New Westminster, aforesaid.

A. The above-mentioned property was sold by the Custodian on July 10th. 1944 for the sum of $14,500 less $746.50 for

commission which netted to your petitioners and claimants $13,753.50.

B. Your petitioners and claimants claim that the fair market value as of the above-mentioned date of this property was $35,000.00.

C. The building was in a commercial district constructed of cement block building producing revenue of $115.00 exclusive of the largest portion occupied by and used by your petitioners and claimants as a general merchant store premises.

D. Therefore your petitioners and claimants claim the sum of $21,246.50.

WHEREFORE YOUR PETITIONERS PRAY:

1. That your Petitioners claim for the said sum of $37,514.50 be allowed and paid.

2. And for such further and other relief as the nature of the claim may require.

AND YOUR PETITIONERS, as in duty bound will ever pray etc.,

DATED at the City of New Westminster, in the Province of British Columbia this 15th day of November, A.D. 1947.

T. Nishiguchi
M. Nishiguchi
Nishiguchi
PETITIONERS AND CLAIMANTS

THIS PETITION is fyled on behalf of the Petitioners, by Harry Garvin Johnston, K.C. Solicitor for the Petitioners, whose place of business and address for service is 35 Sixth Street, New Westminster, Province of British Columbia.

DOMINION OF CANADA PROVINCE OF BRITISH COLUMBIA TO WIT:	IN THE MATTER OF THE CLAIMS OF ASAJIRO NISHIGUCHI, KAHEI NISHIGUCHI and MAGOJIRO NISHIGUCHI filed with the Honourable Mr. Justice Henry Irvine Bird, pursuant to notice directed to persons of the Japanese Race who were evacuated from the protected area of British Columbia, and resided in Canada as at July 18th. A.D. 1947.

We, Asajiro Nishiguchi, of the City of Ashcroft, Province of British Columbia, Kahei Nishiguchi, of Coalhurst, Province of Alberta and Magojiro Nishiguchi, of the City of Ashcroft, Province of British Columbia, DO SOLEMNLY DECLARE THAT:

1. We are the Petitioners named in the annexed Petition and that the various facts, matters and things in the annexed Petition contained and set forth are true in substance and in fact to the best of our knowledge, information and belief, and so far as we have been able to ascertain them.

2. We are persons of the Japanese Race.

AND we make this solemn Declaration conscientiously believing it to be true, and knowing that it is of the same force and effect as if made under oath, and by virtue of the Canada Evidence Act.

fill in

DECLARED before me at Ashcroft Province of British Columbia, this 18th day of November, A.D. 1947.

A Notary Public in and for the Province of British Columbia.

A. Nishiguchi

fill in

DECLARED before me at Ashcroft Province of British Columbia, this 18 day of November, A.D. 1947

A Notary Public in and for the Province of British Columbia.

M. Nishiguchi

fill in

DECLARED BEFORE me at Lethbridge Province of Alberta, this 19 day of November, A.D. 1947.

A Notary Public in and for the Province of Alberta.

x K. Nishiguchi

DATED November 12th. A.D. 1947

IN THE MATTER OF ORDER-IN-COUNCIL P. C. 1810, DATED THE 18th. DAY OF JULY, A.D. 1947

AND

IN THE MATTER OF ASAJIRO NISHIGUCHI, and KAHEI NISHIGUCHI and MAGOJIRO NISHIGUCHI

PETITION AND CLAIM

HARRY G. JOHNSTON, K.C.,
Barrister and Solicitor,
35 Sixth Street,
New Westminster, B. C.

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TELEPHONE 106

COULTHARD, SUTHERLAND & CO., LTD.
ESTATE AND INSURANCE AGENTS
CAR FINANCING

609 COLUMBIA STREET,
NEW WESTMINSTER, B. C.

File #11519.

May 12, 1944.

Catalogue #649
File #1097/10198/10201

EXHIBIT No. 1400-1
DATE 17 June 1949
FILED BY G. McNaughton

The Office of the Custodian,
Vancouver, B.C.

Dear Sir:-

RE: Lot 16, Blk.11, Map 2620,
City of New Westminster

Improvements on this property consist of a two storey building constructed of concrete blocks 66 x 66'. The lower storey was used by the Japanese as a wholesale store, barber shop etc. The upper storey is rented to a Chinese, Yip Loy for $40. per month. He operates a Chop Suey House. A small portion of the main floor is used as a Barber Shop by Mr.Halladay, who pays $25. per month, making a total revenue of $65. per month.

This building is very old and according to the City Engineering Dept. the foundation is probably cedar sills, on which the stringers and floor joists have been laid. These are apparently rotten, allowing not only the floor to settle but the whole building. The age and construction of this structure does not warrant the expenditure necessary in order to make it modern.

The warehouse at the rear is 30 x 60' of timber construction sheathed with corrugated iron. It is very old, however, is in fair state of repair, with the exception of the foundation, which is not in good condition. As it is in the No. 1 fire zone the City refuse to allow any repairs which will prolong its life. It therefore is of very little value.

The lot is on the corner of Columbia and McNeely Streets, having a frontage of 66' on the former and 132' on the latter. Directly to the East is situated McLennan, McFeely & Prior's new building, which was recently erected at an approximate cost of $55,200. This replaced a nondescript block of wooden buildings, which were not only an eyesore but a fire hazard, and to the West is a re-inforced concrete building, at present used as a garage by Gilley Bros. The property is unfortunately 33' out of line with the rest of Columbia Street and this detracts greatly

from its value, however the fact that it fronts on the City's main street must be kept in mind, and also the fact that it is situated in a developing areapf garages, machine shops and retail stores. The City's assessment is this locality, we believe, was appealed not so long ago, and it was the applicant's intention, after having failed to substantiate his claim before the appeal board, to go to a higher court, On his Solicitor's advise he eventually withdrew before the case came to trial.

We value this at $100. a front foot, which is slightly higher than ½ the assessed value at which the City sell their property.

VALUATION-

Improvements	7734.
Land	6600
	$14,334

Yours very truly,

Coulthard, Sutherland & Co.Ltd.

F.H.Coulthard.