



THE COMMONWEALTH OF MASSACHUSETTS

Appellate Tax Board

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Docket No. F341531

SUSAN L. ALESTOCK,
Appellant.

v.

BOARD OF ASSESSORS OF THE CITY OF HAVERHILL,
Appellee.

DECISION WITH FINDINGS

The decision is for the appellee. Based on the evidence entered at the hearing of this appeal, the Presiding Commissioner makes the following findings of fact and rulings of law.

This appeal concerns the fiscal year 2020 ("fiscal year at issue") assessed value of a 0.547-acre parcel of undeveloped land located at 128 Fountain Street, Rear, in Haverhill ("subject property"). On January 1, 2019, the relevant date of valuation for the fiscal year at issue, the assessors valued the subject property at \$28,600. The appellant timely filed an Application for Abatement with the assessors, resulting in a partial abatement of value down to \$14,300, upon which was assessed a total tax, at the rate of \$13.60 per thousand, in the amount of \$194.49. Not satisfied with this abatement, the appellant seasonably filed a Petition Under the Formal Procedure with the Appellate Tax Board ("Board").

At the hearing, the appellant presented her own testimony, along with a written statement, property record cards, maps, and assessment history for not only the subject property but also several other undeveloped parcels of land in Haverhill. The record showed that the appellant has owned both the subject property and the adjacent parcel, on which sits her primary residence, since at least 2006. For many years, the subject property was considered to be a buildable lot by the assessors, and it was valued as such. According to the appellant, in 2006, she approached both the assessors and the City's building department to ensure that the subject parcel was in fact buildable, and she stated that they assured her that it was.

According to the appellant, in 2019, she came into financial hardship and wished to sell the subject property. It was at that time that she again contacted the City's building department, and was informed that the subject property was no longer considered a buildable lot, due to its lack of adequate frontage. The subject property's value was decreased from \$124,600 for fiscal year 2019 to \$14,300, as partially abated, for the fiscal year at issue.

The appellant's contention in the present appeal was that she overpaid taxes on the subject property since 2006 because it was improperly valued as a buildable lot. In this appeal, she sought recompense for the overpayment of taxes for a nearly fifteen-year period. In support of her claim for abatement, she produced property record cards and assessment histories for several other undeveloped parcels of land in Haverhill. The record showed that some of these parcels were valued approximately the same as the subject property, while some were valued for less. Assessor Christine Webb, who represented the assessors at the hearing of this appeal, explained that some of the appellant's comparison parcels had other factors affecting their valuation, such as topography and/or wetlands, and that was the reason for the variations in total taxable value among the parcels.

On the basis of all the evidence, the Presiding Commissioner finds and rules that the appellant failed to sustain her burden of demonstrating that the assessed value of the subject property exceeded its fair cash value for the fiscal year at issue. The assessors are required to assess real estate at its fair cash value. G.L. c. 59, § 38. Fair cash value is defined as the price on which a willing seller and a willing buyer in a free and open market will agree if both of them are fully informed and under no compulsion. ***Boston Gas Co. v. Assessors of Boston***, 334 Mass. 549, 566 (1956).

A taxpayer has the burden of proving that the taxpayer's property has a lower value than that assessed. The burden of proof is upon the taxpayer to make out a right as a matter of law to an abatement of the tax. ***Schlaiker v. Assessors of Great Barrington***, 365 Mass. 243, 245 (1974). The Board is entitled to presume that the valuation made by the assessors is valid unless the taxpayer proves to the contrary. ***General Electric Co. v. Assessors of Lynn***, 393 Mass. 591, 598 (1984).

In appeals before this Board, a taxpayer "may present persuasive evidence of overvaluation either by exposing flaws or errors in the assessors' method of valuation, or by introducing affirmative evidence of value which undermines the assessors' valuation." ***General Electric***, 393 Mass. at 600. Here, the appellant's arguments were focused on the historical assessment of the subject property, rather than its actual assessed value for the fiscal year at issue. However, appeals for prior fiscal years were not before the Board in this appeal, and the Board did not have jurisdiction to act on the subject property's assessed value for any of those years. The Board has only that jurisdiction conferred on it by statute. ***Stilson v. Assessors of Gloucester***, 385 Mass. 724, 732 (1982). Adherence to statutory prerequisites is essential "to prosecution of appeals from refusals to abate taxes." ***New Bedford Gas & Edison Light Co. v. Assessors of Dartmouth***, 368 Mass. 745, 747 (1975). The Board cannot waive jurisdictional

requirements, nor remedy a grievance involving prior fiscal years by granting an abatement for the fiscal year at issue.

Accordingly, based on the evidence presented, the Presiding Commissioner found and ruled that the appellant failed to meet her burden of proof and issued a decision for the assessors in this matter.

THE APPELLATE TAX BOARD

By: */s/ Patricia M. Good*
Patricia M. Good, Commissioner

Attest: */s/ William J. Doherty*
Clerk of the Board

Property Address: 128 Fountain Street, Rear

Date: July 20, 2021

NOTICE: Either party to these proceedings may appeal this decision to the Massachusetts Appeals Court by filing a Notice of Appeal with this Board in accordance with the Massachusetts Rules of Appellate Procedure. Pursuant to G.L. c. 58A, § 13, no further findings of fact or report will be issued by the Board.