

**COMMONWEALTH OF MASSACHUSETTS
APPELLATE TAX BOARD**

MORTEZA ASGARZADEH

v.

**BOARD OF ASSESSORS OF
THE CITY OF FRAMINGHAM**

Docket No. F345205

Promulgated:
August 25, 2023

This is an appeal filed under the formal procedure pursuant to G.L. c. 58A, § 7 and G.L. c. 59, §§ 64 and 65, from the refusal of the Board of Assessors of the City of Framingham ("assessors" or "appellee") to abate a tax on real estate located in Framingham, owned by and assessed to Morteza Asgarzadeh ("appellant"), under G.L. c. 59, §§ 11 and 38, for fiscal year 2022 ("fiscal year at issue").

Commissioner Good ("Presiding Commissioner") heard this appeal under G.L. c. 58A, § 1A and 831 CMR 1.20 and issued a single-member decision for the appellee.

These findings of fact and report are made pursuant to a request by the appellant under G.L. c. 58A, § 13 and 831 CMR 1.32.

Morteza Asgarzadeh, pro se, for the appellant.

James Sullivan, Esq., for the appellee.

FINDINGS OF FACT AND REPORT

Based on testimony and exhibits offered into evidence at the hearing of this appeal, the Presiding Commissioner made the following findings of fact.

On January 1, 2021, the relevant date of valuation and assessment for the fiscal year at issue, the appellant was the assessed owner of real property located at 38 Gordon Street in Framingham ("subject property"). The subject property is a 0.122-acre parcel of land improved with a multi-family building, constructed circa 1890 and consisting of four two-bedroom apartments that total 2,966 square feet of living area.

The assessors valued the subject property at \$476,400 for the fiscal year at issue and assessed a tax thereon at a rate of \$13.74 per \$1,000 in the total amount of \$6,597.46, inclusive of the Community Preservation Act surcharge. The appellant timely paid the tax due and incurred no interest. The appellant filed an abatement application with the assessors on January 25, 2022, which the assessors denied on March 9, 2022. The appellant timely filed a petition with the Appellate Tax Board ("Board") on May 10, 2022. Based on this information, the Presiding Commissioner found and ruled that the Board had jurisdiction to hear and decide this appeal.

The Appellant's Case

The appellant presented his case through his own testimony and documentary evidence, including property record cards for seven multi-family properties in Framingham listing their assessed values for fiscal years 2021 and 2022. The appellant based this appeal solely on his contention that for the fiscal year at issue, the subject property's assessed value increased at a higher percentage rate over the prior fiscal year than the rates of increase experienced by other multi-family properties in Framingham.

According to the appellant's analysis, the assessed value of the subject property increased by approximately 24 percent for the fiscal year at issue over the prior fiscal year, while the purportedly comparable properties increased in assessed value by 5 percent to 10 percent for the fiscal year at issue over the prior fiscal year. The appellant offered his opinion of value for the fiscal year at issue as \$397,900, which represented an increase of approximately 3.4 percent over the assessed value of \$384,800 for the prior fiscal year. He asserted that there had been no improvements made to the subject property in recent years that, in his opinion, would justify the increased rate of assessment of the subject property as compared to the rates of increases applied to the purportedly comparable properties.

The Assessors' Case

In addition to providing relevant jurisdictional documents, the assessors presented their case through the testimony of James St. Andre, Assistant Assessor. They submitted property record cards for five purportedly comparable multi-family properties located in Framingham that sold in arm's length transactions in 2020 and 2021 for between \$670,000 and \$900,000, which significantly exceeded the assessed value of the subject property for the fiscal year at issue. The assessors also introduced a sales map showing the locations of the properties in relation to the subject property.

The assessors maintained that the subject property was appropriately assessed at \$476,400.

The Presiding Commissioner's Findings

The appellant's case was based entirely on what he presented as the relatively large increase in the assessed value of the subject property for the fiscal year at issue over the prior fiscal year when compared to other multi-family properties in Framingham for the same time period. The Presiding Commissioner found and ruled that evidence of relative increases in assessed values was insufficient to establish the subject property's fair cash value for the fiscal year at issue.

Furthermore, although evidence of purportedly comparable assessments was submitted by the appellant for the purpose of

establishing the rate of increase in assessed values, the values themselves were not inconsistent with the assessed value of the subject property for the fiscal year at issue. Likewise, the Presiding Commissioner found and ruled that the introduction by the assessors of sales information and property record cards generally supported the assessed value of the subject property.

Based on the record in its entirety, the Presiding Commissioner found and ruled that the appellant failed to meet his burden of establishing that the fair cash value of the subject property was lower than its assessed value for the fiscal year at issue. Accordingly, the Presiding Commissioner issued a decision for the appellee in this appeal.

OPINION

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 upon which a willing seller and a willing buyer will agree where both 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 property at issue has a lower value than its assessed value. "The burden of proof is upon the petitioner to make out its right as [a] matter of law to [an] abatement of the tax." ***Schlaiker v. Assessors of Great Barrington***, 365 Mass. 243, 245 (1974) (quoting ***Judson Freight Forwarding Co. v. Commonwealth***, 242 Mass. 47, 55 (1922)). "[T]he

board is entitled to 'presume that the valuation made by the assessors [is] valid unless the taxpayer[] sustain[s] the burden of proving the contrary.'" **General Electric Co. v. Assessors of Lynn**, 393 Mass. 591, 598 (1984) (quoting **Schlaiker**, 365 Mass. at 245).

In appeals before the 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 Co.**, 393 Mass. at 600 (citing **Donlon v. Assessors of Holliston**, 389 Mass. 848, 855 (1983)).

In the present appeal, the appellant failed to meet his burden of proving that the subject property had a lower fair cash value than its assessed value for the fiscal year at issue. The appellant's case was based solely on his claim that the assessed value of the subject property increased by a higher percentage than those of other multi-family properties located in Framingham. The appellant did not demonstrate that any such difference in the rate of increased assessment resulted in a valuation above the subject property's fair cash value for the fiscal year at issue. "The fact that appellant's assessment may have increased at a percentage greater than the percentage increase in the assessments of other houses is not determinative of the issue. It could be that prior assessments and the institution of revaluation

procedures revealed that his former assessment was unduly low. The test is fair cash value or market value." *Loomis v. Assessors of Boston*, Mass. ATB Findings of Fact and Reports 2023-18, 24-25 (quoting *Burke et al. v. Assessors of Peru*, Mass. ATB Findings of Fact and Reports 1983-1, 6).

The Presiding Commissioner therefore ruled that the appellant failed to expose flaws or errors in the assessors' method of valuation or introduce affirmative evidence of value which undermined the assessors' valuation. See *General Electric Co.*, 393 Mass. at 600.

Based upon the above and the record in its entirety, the Presiding Commissioner found and ruled that the appellant failed to meet his burden of proving that the fair cash value of the subject property for the fiscal year at issue was lower than its assessed value. The Presiding Commissioner accordingly issued a decision for the appellee.

THE APPELLATE TAX BOARD

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

A true copy,

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