

**COMMONWEALTH OF MASSACHUSETTS**

**APPELLATE TAX BOARD**

**THOMAS & HEATHER BARRACLOUGH      v.      BOARD OF ASSESSORS OF  
THE TOWN OF BOLTON**

Docket No. F341601

Promulgated:  
October 7, 2021

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 Town of Bolton ("appellee" or "assessors") to abate a tax on certain real estate in Bolton, owned by and assessed to Thomas and Heather Barraclough ("appellants") under G.L. c. 59, §§ 11 and 38, for fiscal year 2020 ("fiscal year at issue").

Commissioner Metzger heard this appeal. Chairman Hammond and Commissioners Good, Elliott, and DeFrancisco joined her in the decision for the appellee.

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

*Thomas Barraclough, pro se, for the appellants.*

*David Manzello, assessor, for the appellee.*

## **FINDINGS OF FACT AND REPORTS**

Based on testimony and exhibits submitted during the hearing of this appeal, the Appellate Tax Board ("Board") made the following findings of fact.

This appeal pertains to an improved 1.18-acre parcel of land located in the town of Bolton with an address of 26 Cider Circle ("subject property"). Information relevant to the Board's jurisdiction is summarized in the following chart:

<b>Original assessed valuation</b>	<b>Abated valuation</b>	<b>Tax amount (as abated) Tax rate</b>	<b>Taxes timely paid?</b>	<b>Abatement application filed</b>	<b>Abatement decision date</b>	<b>Petition filed with Board</b>
\$973,400	\$963,900	\$19,653.92 \$20.39/\$1,000	Yes	01/27/2020	02/18/2020	04/28/2020

Based on the foregoing, the Board found and ruled that it had jurisdiction to hear and decide the instant appeal.

The subject property, located at the end of a cul-de-sac, is improved with a single-family, Colonial-style residence ("subject home"). The subject home was built in 2013 and contains 4,076 square feet of living area and is comprised of eleven rooms, including four bedrooms, as well as five full bathrooms. Other features of the subject home include 1,318 square feet of finished basement area, four fireplaces, a 208-square-foot enclosed porch, a 100-square-foot open porch, and an attached garage.

The appellants contended that the subject property was overvalued for the fiscal year at issue. The appellants' evidence included self-prepared charts with comparisons between the subject

property and purportedly comparable properties. Two charts graphed the relationship between the properties' gross living areas and their assessed values for fiscal year 2021: the first chart included thirty-one properties in the Century Mill Estates development, in which the subject property is located, and the second chart focused on the nine homes on Cider Circle, including the subject property. A third chart graphed the relationship between the gross living areas and the assessed value of these nine homes for the fiscal year at issue. According to the appellants, the subject property was overvalued by about \$144,000, as compared to the mean assessed value for other Cider Circle properties for the fiscal year at issue.

The appellants also provided a table comparing the subject property and the other eight Cider Circle properties. This table listed the grade of finish (luxury, modern, or typical), the gross living area in square feet, the finished basement area, and the assessed values for the fiscal year at issue as well as for the subsequent fiscal year. Their analysis noted that the subject property was valued higher than two other Cider Circle properties with luxury finishes - 11 Cider Circle and 5 Cider Circle, the latter with a larger gross living area.

The appellants' final chart plotted the values of taxes assessed on the nine Cider Circle properties from fiscal year 2014 through fiscal year 2021. The appellants indicated that the

previous owners had purchased the subject property in November 2014 for \$1,233,000, a sale that the appellants characterized as a "large overmarket" sale. The appellants subsequently purchased the subject property in March 2016 for \$950,000. The appellants contended that the subject property's assessed value never went back down to an appropriate amount in keeping with the assessed values of other similarly sized properties on Cider Circle.

Next, the appellee presented its case in defense of the subject property's assessment. Assessor David Manzello testified on behalf of the appellee. He explained that the subject property has many features that several of the appellants' comparison properties do not, including more full bathrooms and more fireplaces. He explained that using a simple price-per-square-foot methodology based only on a comparison between building size and building value does not account for important differences between properties that affect their fair cash values.

Mr. Manzello presented a comparable-sales analysis comparing the subject property's assessed value with the adjusted sale prices of six purportedly comparable properties, five of which were in the subject property's Century Mill Estates development. These properties sold between January and June of 2018. Mr. Manzello provided adjustments for differences between these properties and the subject property, including: land area; construction grade; gross living area; number of bedrooms and number of bathrooms;

finished basement area; and additional features like fireplaces, garage/carport, deck/patio, porch, and pool. Mr. Manzello corrected the analysis at the hearing to eliminate the construction-grade adjustment for four of the comparable properties and to change the deck/patio adjustment for one of the comparable properties. The corrected analysis yielded adjusted sale prices between \$895,220 and \$1,058,170, with an average of \$982,583. The subject property's assessment of \$963,900, as abated, fell within this range.

Mr. Barraclough questioned some of the adjustments Mr. Manzello had employed in his comparable-sales analysis, particularly the construction-grade and patio/deck adjustments, which Mr. Manzello corrected at the hearing. Then, based on the appellee's comparable-sales analysis, Mr. Barraclough performed a hasty computation, and determined a lower fair cash value for the subject property.

Based on its review of the evidence, the Board found that the appellants failed to meet their burden of proving a value for the subject property that was lower than its assessed value for the fiscal year at issue. The appellants' evidence included analyses comparing the relationship between the assessed value and gross living area of the subject property with those of purportedly comparable properties. The appellants also provided a list of lower assessed values for purportedly comparable properties on Cider

Circle. These comparisons, including the charts graphing the relationship between the properties' assessments and square feet of gross living area, did not consider key differences between the subject property and the purportedly comparable properties that affect fair cash value, including but not limited to number of bathrooms and coveted features like additional fireplaces.

By contrast, the appellee offered a comparable-sales analysis that compared the subject property's assessed value with the sale prices of six properties that had sold between January and June of 2018. The appellee adjusted these sale prices for attributes that affect fair cash value. The Board found the adjustments appropriate, and further found that the subject property's assessed value as abated fell comfortably within the range of the adjusted sale prices for the comparable properties.

The Board further found that the appellants' impromptu determination of the value of the subject property based on the appellee's comparable-sales analysis was not probative of the subject property's fair cash value.

In sum, for reasons stated above and further in the Opinion, the Board found and ruled that the appellants failed to meet their burden of proving a fair cash value for the subject property that was lower than its assessed value as abated for the fiscal year at issue.

Accordingly, the Board issued a decision for the appellee in the instant appeal.

### OPINION

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 are fully informed and under no compulsion. ***Boston Gas Co. v. Assessors of Boston***, 334 Mass. 549, 566 (1956).

Taxpayers have the burden of proving that the property has a lower value than that assessed. "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 taxpayers . . . prov[e] 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, taxpayers "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 (quoting **Donlon v. Assessors of Holliston**, 389 Mass. 848, 855 (1983)).

In this appeal, in support of their overvaluation claim, the appellants presented analyses comparing the assessed values of the subject property to other purportedly comparable properties using charts plotting gross living area against assessed value. They also pointed to the lower assessed values of purportedly comparable properties located on the same circle as the subject property. However, the appellants did not provide any adjustments for differences between the subject property and their purportedly comparable properties that typically affect fair cash value. By contrast, the assessors provided a comparable-sales analysis comparing the subject property's assessment with the adjusted sale prices of properties that had sold proximately to the relevant assessment date. The assessors accounted for key differences between the subject property and these properties by making appropriate adjustments to the sale prices. The subject property's assessed value fell comfortably within the range of the adjusted sale prices of the comparable properties.

Sales of comparable realty in the same geographic area and within a reasonable time of the assessment date contain credible data and information for determining the value of the property at issue. See **McCabe v. Chelsea**, 265 Mass. 494, 496 (1929). "A major premise of the sales comparison approach is that an opinion of the



market value of a property can be supported by studying the market's reaction to comparable and competitive properties." APPRAISAL INSTITUTE, THE APPRAISAL OF REAL ESTATE 351 (15<sup>th</sup> ed., 2020).

When comparable sales are used, allowance must be made for various factors that would otherwise cause disparities in the comparable prices. See **Pembroke Industrial Park Co., Inc. v. Assessors of Pembroke**, Mass. ATB Findings of Fact and Reports 1998-1072, 1082. "Adjustments for differences in the elements of comparison are made to the price of each comparable property . . . . The magnitude of the adjustment made for each element of comparison depends on how much that characteristic of the comparable property differs from the subject property." THE APPRAISAL OF REAL ESTATE at 377-78.

The appellants did not provide an analysis with comparable sales, but they did provide analyses with purportedly comparable assessments. General Laws c. 58A, § 12B provides that "[a]t any hearing relative to the assessed fair cash valuation or classification of property, evidence as to fair cash valuation or classification of property at which assessors have assessed other property of a comparable nature or class shall be admissible." The introduction of such evidence may provide adequate support for the granting of an abatement. **Chouinard v. Assessors of Natick**, Mass. ATB Findings of Fact and Reports 1998-299, 307-308 (citing **Garvey v. Assessors of West Newbury**, Mass. ATB Findings of Fact

and Reports 1995-129, 135-36, and **Swartz v. Assessors of Tisbury**, Mass. ATB Findings of Fact and Reports 1993-271, 279-80); see also **Turner v. Assessors of Natick**, Mass. ATB Findings of Fact and Reports 1998-309, 317-18. However, purportedly comparable properties used in a comparable-assessment analysis must be adjusted, just like those used in a comparable-sales analysis, for differences with the subject property. See **Graham v. Assessors of West Tisbury**, Mass. ATB Findings of Fact and Reports 2007-321, 402 ("The assessments in a comparable assessment analysis, like the sale prices in a comparable sales analysis, must also be adjusted to account for differences with the subject."), *aff'd*, 73 Mass. App. Ct. 1107 (2008) (Rule 1:28 Decision); **Lupacchino v. Assessors of Southborough**, Mass. ATB Findings of Fact and Reports 2008-1253, 1269 ("[W]ithout appropriate adjustments, . . . the assessed values of [comparable] properties did not provide reliable indicator[s] of the subject's fair cash value.").

In the instant appeal, the appellants submitted evidence of purportedly comparable assessments but failed to provide any adjustments for differences between those properties and the subject property that affect fair cash value. The Board found that this evidence failed to provide a reliable indication of fair cash value and thus ruled that the appellants failed to meet their burden of proving that the subject property was overvalued.

By contrast, the appellee presented a comparable-sales analysis using six timely sales of property, five of them from the subject property's housing development, with appropriate adjustments for features that affect fair cash value. The Board found the appellants' impromptu determination of the value of the subject property based on the appellee's comparable-sales analysis not to be probative of the subject property's fair cash value.

Based on the evidence of record, the Board found and ruled that the appellants failed to meet their burden of proving a fair cash value for the subject property that was lower than its assessed value for the fiscal year at issue.

Accordingly, the Board issued a decision for the appellee in the instant appeal.

**THE APPELLATE TAX BOARD**

By: /s/ Thomas W. Hammond  
Thomas W. Hammond, Jr., Chairman

A true copy,

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