



THE COMMONWEALTH OF MASSACHUSETTS

Appellate Tax Board

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Docket No. X308651

JOSEPH BELLIA AND CLAUDETTE BELLIA
Appellants.

BOARD OF ASSESSORS OF
THE TOWN OF NORTH ANDOVER
Appellee.

DECISION WITH FINDINGS

The Decision is for the appellee. The appeal is dismissed for appellants' failure to comply with the September 17, 2019 Order of the Board ordering an inspection of the subject property ("Order").

The assessors contacted the appellants on numerous occasions requesting an interior inspection of the subject property. The appellants have refused these requests. The Board advised the appellants, both in its September 17, 2019 Order and at the hearing of the assessors' Motion to Dismiss ("Motion"), that failure to allow the inspection could result in the dismissal of this appeal. Notwithstanding this notice, the appellants indicated at the hearing of the Motion that they will not allow the assessors to inspect the subject property.

The assessors' right to an interior inspection of property that is the subject of an appeal to this Board is granted by G.L. c. 58A, § 8A, which provides in pertinent part that:

Before the hearing of a petition for the abatement of a tax upon real estate . . . the appellant shall permit the appellee . . . to enter upon such real estate . . . and inspect such real estate . . . In the event the appellant refuses to permit the appellee to inspect said property, the board may dismiss the appeal.

The Board's authority to dismiss an appeal based on an appellant's failure to comply with an Order requiring an interior inspection is clear. See, e.g., **Giurleo v. Assessors of Raynham**, 69 Mass. App. Ct. 1102 (2007) (upholding the Board's dismissal of the appeal for the appellant's refusal to comply with an order requiring an interior inspection of the subject property), **John P. & Barbara MacKay Ligor, Trustees v. Assessors of Wellesley**, Mass. ATB Findings of Fact and Reports 2008-547 (dismissing the appeal for the appellant's refusal to comply with a Board order requiring an interior inspection of the subject property). An interior inspection is warranted even

where an appellant does not challenge the interior condition of the subject property because:

A taxpayer does not conclusively establish a right to abatement merely by showing that one component of the subject property is overvalued. "The tax on a parcel of **land and the building** thereon is one tax . . . although for statistical purposes they may be valued separately." **Assessors of Brookline v. Prudential Insurance Co.**, 310 Mass. 300, 317 (1941) (emphasis added). "[T]he question is whether the assessment for the parcel of real estate, including both the land and the structures thereon, is excessive." **Massachusetts General Hospital v. Belmont**, 238 Mass. 396, 403 (1921). See also **Lareau v. Assessors of Norwell**, Mass. ATB Findings of Fact and Reports 2010-879, 888.

Robinson, et al v. Assessors of Wayland, Mass. ATB Findings of Fact and Reports, 2012-99, 109-10.

The Board finds and rules that the appellants have failed to comply with the unambiguous Order of the Board without good reason. Accordingly, the assessors' Motion to Dismiss is allowed and the decision is for the appellee.

This is a single-member Decision promulgated in accordance with G.L. c. 58A, § 1A and 831 CMR 1.20.

ORDERED ACCORDINGLY

APPELLATE TAX BOARD

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

Attest: Wm. J. Kelly
Clerk of the Board

Date: NOV - 8 2019
(Seal)

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.