

COMMONWEALTH OF MASSACHUSETTS

APPELLATE TAX BOARD

**BOSTON TT INVESTMENT LLC AND
GAIL HUANG**

**v. BOARD OF ASSESSORS OF THE
CITY OF CHELSEA**

Docket No. F342533

Promulgated:
November 9, 2022

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 Chelsea ("assessors" or "appellee") to abate a tax on certain real estate located in the City of Chelsea owned by and assessed to Gail Huang and Boston TT Investment LLC ("appellants")¹ for fiscal year 2021 ("fiscal year at issue").

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

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

Gail Huang, pro se, for the appellants.

Jim Sullivan, assessor, for the appellee.

¹ The abatement application lists Boston TT Investment LLC as the owner and Gail Huang as the applicant and the "sole LLC owner."

FINDINGS OF FACT AND REPORT

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

I. Introduction and jurisdiction

On January 1, 2020, the relevant valuation date for the fiscal year at issue, the appellants were the assessed owners of real property located at 150 Maverick Street, #6, in the City of Chelsea ("subject property"). The subject property consists of a 761-square-foot condominium unit with three bedrooms and one bathroom.

The assessors valued the subject property at \$234,500 for the fiscal year at issue and assessed a tax thereon at the rate of \$13.62 per \$1,000 in the amount of \$3,193.89, exclusive of the Community Preservation Act surcharge. The appellants incurred interest, but G.L. c. 59, § 64 does not preclude jurisdiction on the basis of interest if the tax due is \$5,000 or less. The appellants filed an abatement application with the assessors on January 20, 2021. The assessors denied the abatement application on April 1, 2021. The appellants timely filed a petition with the Appellate Tax Board ("Board") on May 25, 2021. On the basis of this information, the Presiding Commissioner found that the Board had jurisdiction to hear and decide this appeal.

II. The appellants' case

The appellants presented their case through the testimony of Gail Huang and a letter summarizing their case.

The appellants contended that the tax for the fiscal year at issue increased by 22.1 percent over the tax for fiscal year 2020, and that the assessed value of the subject property for the fiscal year at issue should be \$214,940, not \$234,500.

III. The appellee's case

Apart from providing the relevant jurisdictional documents and the property record card for the subject property, the appellee presented its case through the testimony of Jim Sullivan, the assessor, as well as an analysis of the subject property and allegedly comparable properties that sold in 2019 and 2020, including two 727-square-foot, three-bedroom, one-bathroom units in the same building as the subject property. One unit sold for \$255,000 in 2019 and the other sold for \$242,000 in 2020.

IV. The Presiding Commissioner's findings

The Presiding Commissioner found that the appellants failed to present any credible evidence of overvaluation, merely relying on an assertion that the tax increased by 22.1 percent over the prior fiscal year. While the allegedly comparable properties offered by the appellee lacked any adjustments, they

were identical in quantity of bedrooms and bathroom to the subject property, only slightly smaller in square footage compared to the subject property, and located in the same building. Thus, the Presiding Commissioner found the sale prices of these properties - both in excess of the subject property's assessed value for the fiscal year at issue - further weakened the appellants' bare contention to reduce the subject property's assessed value to \$214,940 due to a 22.1 percent increase in tax over the prior fiscal year.

Based upon all the evidence of record, the Presiding Commissioner found and ruled that the appellants failed to meet their burden of establishing that the fair cash value of the subject property was lower than the assessed value for the fiscal year at issue. Accordingly, he issued a decision for the appellee.

[This space intentionally left blank.]

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 on which a willing seller and a willing buyer 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 property at issue 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 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 (quoting *Donlon v. Assessors of Holliston*, 389 Mass. 848, 855 (1983)).

In the present appeal, the Presiding Commissioner found that the appellants offered the unsubstantiated assertion that the subject property's assessed value should be reduced because the tax for the fiscal year at issue had increased by 22.1 percent over the prior fiscal year. See *Surowiec v. Assessors of Chicopee*, Mass. ATB Findings of Fact and Reports 2011-618, 624 ("In their attempt to prove that the subject property was overvalued for the fiscal year at issue, the appellants offered no documentary evidence, and the Presiding Commissioner found that they essentially relied on the near bare assertion that the property was overvalued. Unsubstantiated assertions do not carry the day."). Further weakening the appellants' case were the sales of two properties located in the same building as the subject property, both of which sold for more than the assessed value of the subject property for the fiscal year at issue. See *Cummington School of Arts, Inc. v. Assessors of Cummington*, 373 Mass. 597, 605 (1977) ("The credibility of witnesses, the weight of the evidence, and inferences to be drawn from the evidence are matters for the board.").

Based upon the above and the evidence of record, the Presiding Commissioner found and ruled that the appellants failed to meet their burden of proving that the fair cash value

of the subject property for the fiscal year at issue was lower than its assessed value. He accordingly issued a decision for the appellee.

THE APPELLATE TAX BOARD

By: /s/ Mark J. DeFrancisco
Mark J. DeFrancisco, Chairman

A true copy:

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