

COMMONWEALTH OF MASSACHUSETTS

APPELLATE TAX BOARD

**BOSTON TT INVESTMENT LLC AND
GAIL HUANG**

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

Docket No. F342532

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 64 Washington Avenue, #4, in the City of Chelsea ("subject property"). The subject property consists of a 973-square-foot, second-floor condominium unit with two bedrooms and two bathrooms.

The assessors valued the subject property at \$279,000 for the fiscal year at issue and assessed a tax thereon at the rate of \$13.62 per \$1,000 in the amount of \$3,799.98, exclusive of the Community Preservation Act surcharge. The appellants paid the tax due and 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 documentary evidence, including a letter summarizing their case and various photos of damage to property located at 64 Washington Avenue, #5.

The appellants contended that each of the six units located at 64 Washington Avenue experienced an approximately 40 percent increase in real property taxes from fiscal year 2020 to fiscal year 2021, and that other allegedly similar properties in the vicinity of 64 Washington Avenue only experienced an approximately 8.4 percent increase in real property taxes from fiscal year 2020 to fiscal year 2021. They requested that the assessed value for the fiscal year at issue be reduced to \$202,700, which was its assessed value for fiscal year 2020.

The appellants placed significant reliance on two units at 64 Washington Avenue, #5 and #6. According to the appellants, #5 sold in June 2021 through foreclosure because the owner could not keep up with the property due to continuous sewer backups into the unit on rainy days. The appellants attributed blame for these backups to the City of Chelsea and construction of the MBTA Silver Line. The appellants alleged that these backups tapped into the association fund for cleanups and caused insurance premium increases.

The property at #6 - a 658-square-foot basement unit with one bedroom and one bathroom - sold for \$252,000 in March 2019, and the appellants claim that the assessors informed them this sale was the basis for the increases in value of all the units at 64 Washington Avenue for fiscal year at issue. The appellants also claim that the owner of #6 received a partial abatement of \$544.80 in May 2021, and they reasoned that if #6 was the basis of the increases for fiscal year 2021, then all the other units were entitled to abatements.

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.

The assessors noted that two units at 64 Washington Avenue - #5 and #6 - suffered water infiltration due to water runoff, not sewage, and that #6 received an abatement for this condition.

IV. The Presiding Commissioner's findings

The Presiding Commissioner found that the allegedly comparable properties offered by both parties provided no useful basis for comparison in the absence of any adjustments. While he found the evidence credible as to damage sustained by #5, the

Presiding Commissioner found that the appellants failed to demonstrate how damage to another unit was indicative of overvaluation to the subject property, regardless of whether the damage was solely the fault of nature or whether the City of Chelsea and/or the MBTA were culpable. He was not persuaded by the reasoning that an abatement granted to #6 - which also received damage according to the assessors - justified an abatement to all other units in the building. The sale of #6 - with fewer bedrooms and bathrooms than the subject property, and a less desirable basement location than the subject property's location on the second floor - for \$252,000 in March 2019 further weakened the appellants' request to reduce the subject property's assessed value for the fiscal year at issue down to \$202,700, its assessed value for fiscal year 2020.

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.

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 neither party made any adjustments for differences between allegedly comparable properties and the subject property. See *Lang v. Assessors of Marblehead*, Mass. ATB Findings of Fact and Reports 2022-16, 24 ("The appellant's witness failed to make any adjustments for differences between the subject property and purportedly comparable properties.").

While the Presiding Commissioner found the appellants' evidence as to damage suffered by #5 to be credible, this evidence did not correlate to a reduction of the fair cash value of the subject property for the fiscal year at issue. See *Fox v. Assessors of Longmeadow*, Mass. ATB Findings of Fact and Reports 2021-479, 483 ("While the Presiding Commissioner found that the appellants' testimony and evidence were credible as to the condition of the neighboring property, the lack of any quantifiable impact on the subject property's fair cash value was critically lacking."). Similarly, the granting of an abatement by the assessors to #6 - which also suffered damage according to the assessors - did not correspondingly justify an abatement for all other units in the building. *Id.* The Presiding Commissioner found that the sale of #6 - with fewer rooms and a less desirable location in the building than the subject

property - in March 2019 for \$252,000 served to weaken the appellants' request to reduce the subject property's assessed value for the fiscal year at issue down to its assessed value for fiscal year 2020. See **Cumington School of Arts, Inc. v. Assessors of Cumington**, 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