

**COMMONWEALTH OF MASSACHUSETTS**

**APPELLATE TAX BOARD**

**GERALD P. BOULEY**

**v.**

**BOARD OF ASSESSORS OF  
THE TOWN OF IPSWICH**

Docket No. F349126

Promulgated:  
June 24, 2025

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 Ipswich ("appellee" or "assessors") to abate a tax on real estate owned by and assessed to Gerald P. Bouley ("appellant") for fiscal year 2023 ("fiscal year at issue").

Commissioner Elliott heard this appeal. Chairman DeFrancisco and Commissioners Good, Metzger, and Bernier joined him in the 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 1.34.

*Brian T. Akashian, Esq., for the appellant.*

*Ellen M. Hutchinson, Esq., for the appellee.*

## **FINDINGS OF FACT AND REPORT**

Based on testimony and documents admitted into evidence during the hearing of this appeal, the Appellate Tax Board ("Board") made the following findings of fact.

On January 1, 2022, the relevant valuation and assessment date for the fiscal year at issue, the appellant was the owner of a single-family condominium unit situated on a 4,301-square-foot parcel of which the appellant has exclusive use, located at 25 Plum Sound Road in Ipswich ("subject property").

For the fiscal year at issue, the appellee valued the subject property at \$1,454,000 and assessed tax thereon, at the rate of \$12.23 per \$1,000, in the amount of \$17,782.42. The appellant timely paid the tax due without incurring interest. On January 23, 2023, the appellant timely filed an abatement application with the appellee, which the appellee denied on March 27, 2023. On June 26, 2023, the appellant seasonably filed an appeal with the Board.<sup>1</sup> Based on these facts, the Board found and ruled that it had jurisdiction to hear and decide the instant appeal.

The subject property is part of a condominium complex on the peninsula of Little Neck in Ipswich that consists of 167 units.

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<sup>1</sup> While the petition was date stamped as having been received by the Board on June 30, 2023, the envelope containing the petition bore a United States Postal Service postmark of June 26, 2023. For purposes of determining jurisdiction, if a petition is received after the due date, the date of mailing is deemed to be the date of delivery. See G.L. c. 58, § 7 and G.L. c. 59, §§ 64 and 65. The Board thus found and ruled that the petition was mailed, and thus filed, timely.

These units are of varying sizes and conditions, many of which were originally designed as fishing cabins and then seasonal cottages. The Little Neck condominium complex is served by a common tight-tank waste treatment plant that requires pumping several times a week during the off-season and usually twice a day during the peak season, from May to August. Common amenities for the condominium complex include a basketball court, soccer field, baseball field, pickleball court, clubhouse with postal boxes, a children's playground, and a dock with moorings that are owned by the town and leased to the condominium residents.

The subject property is a one-story, wood-frame, contemporary-style ranch dwelling with a fully finished basement that was constructed in 2005 and contains a total finished area of 2,358 square feet, with 1,241 square feet on the first floor and the remaining finished area in the basement. The living area is comprised of six rooms, including three bedrooms, as well as one full bathroom and one half bathroom on the main floor and a three-quarter bathroom in the basement. The subject property also includes a covered front entrance and a 320-square-foot deck overlooking the water at the rear. The subject property is fully heated and air conditioned and has one fireplace. The subject property's condition is stated as average-good.

The Little Neck peninsula extends from the Great Neck neighborhood and is bound by the Ipswich River, Neck Creek, and

Ipswich Bay. Each house on Little Neck has a water view, but there are varying ranges of view obstruction. The subject property does not have water frontage but features excellent unobstructed views of Ipswich Bay.

The appellant first offered the testimony and appraisal report of Danielle Ouellette, whom the Board qualified as an expert witness in the field of real estate valuation. Ms. Ouellette completed a comparable-sales analysis using five purportedly comparable properties that had sold from April 2021 to October 2021, with four properties located in the Great Neck neighborhood and one located in the neighboring town of Rockport. After applying adjustments to her purportedly comparable properties for features including view, design, condition, gross living area, and below-grade living area, Ms. Ouellette derived adjusted sale prices ranging from \$814,400 to \$1,064,400. Placing the most weight on her second comparable property for its similar views and bedroom count, and for warranting the fewest adjustments, Ms. Ouellette arrived at a fair cash value of \$1,000,000 for the subject property for the fiscal year at issue. On cross examination, Ms. Ouellette admitted that she did not rely upon any sales of properties that were located on Little Neck.

The appellant next offered a self-prepared comparable-sales analysis using three properties located on Little Neck. The unadjusted sale prices ranged from \$649,000 to \$1,275,000, with

the highest-priced sale being the outlier. The appellant did not make adjustments to the sale prices of these properties for any differences with the subject property. The appellant calculated a price-per-square-foot value that considered only the above-grade living area of the subject property and thus extrapolated a fair cash value for the subject property of \$805,409 for the fiscal year at issue.

Aside from cross-examining both witnesses, the appellee did not present a case in chief and instead rested on the presumed validity of the assessment.

Based on the evidence of record, as well as the Board's view of the subject property and of Little Neck, the Board found that the appellant failed to prove a fair cash value for the subject property that was less than its assessed value for the fiscal year at issue. The Board found that Ms. Ouellette's focus on Great Neck properties was misplaced, as that was a different neighborhood from Little Neck with different attributes contributing to property values.

On the other hand, when the appellant did employ Little Neck sale properties for comparison, he failed to demonstrate their basic similarity with the subject property and further failed to adjust their sale prices for differences between those properties and the subject property for features that affect fair cash value, including but not limited to size, location, and condition of the

property. The subject property enjoys unobstructed water views, superior to many of the properties on Little Neck, which the Board found increased its overall fair cash value. Moreover, in his analysis, the appellant failed to include in his calculation of living area that part of the subject property that was designated below grade, which further skewed his opinion of the subject property's fair cash value.

Accordingly, as will be explained more fully in the following Opinion, the Board issued a decision for the appellee for the fiscal year at issue.

#### OPINION

Assessors are required to assess real estate at its fair cash value as of the first day of January preceding the fiscal year at issue. G.L. c. 59, § 38. Fair cash value is defined as the price upon which a willing buyer and a willing seller will agree if both are fully informed and under no compulsion. ***Boston Gas Co. v. Assessors of Boston***, 334 Mass. 549, 566 (1956).

The appellant has the burden of proving that their property has a lower fair cash 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, 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)).

Sales of comparable realty in the same geographic area and within a reasonable time of the assessment date generally contain probative evidence for determining the value of the property at issue. **Graham v. Assessors of West Tisbury**, Mass. ATB Findings of Fact and Reports 2007-321, 399-400 (citing **McCabe v. Chelsea**, 265 Mass. 494, 496 (1929)), *aff'd*, 73 Mass. App. Ct. 1107 (2008)).

Properties are "comparable" to the subject property when they share "fundamental similarities" with the subject property. See **Lattuca v. Robsham**, 442 Mass. 205, 216 (2004). The appellant bears the burden of "establishing the comparability of . . . properties [used for comparison] to the subject property." **Silvestri v. Assessors of Lowell**, Mass. ATB Findings of Fact and Reports 2012-926, 935. Accord **New Boston Garden Corp. v. Assessors of Boston**, 383 Mass. 456, 470 (1981). In the present appeals, the Board found

that Ms. Ouellette's comparable-sale analysis relied on comparison properties that were too dissimilar to the subject property to furnish reliable evidence of its fair cash value. None of the comparison properties was located on Little Neck, and in fact, one property was from a different town altogether. The Board thus found and ruled that the appraisal report offered by the appellant was not persuasive evidence of the fair cash value of the subject property.

The appellant offered his own comparable-sales analysis using three properties located on Little Neck. However, he failed to apply adjustments to those properties' sale values to account for differences between those properties and the subject property for features that affect fair cash value. "Adjustments must be made to . . . sales data to account for differences between the subject property and the properties offered for comparison." ***Doherty v. Assessors of Lee***, Mass. ATB Findings of Fact and Reports 2013-174, 181 (citing ***Lareau v. Assessors of Norwell***, Mass. ATB Findings of Fact and Reports 2010-879, 889-90).

One key feature that was crucial to valuing the subject property was its unobstructed water view. The Board has historically determined that properties with notable harbor views command higher prices. See, e.g., ***Harbor Dreams, LLC v. Assessors of Hingham***, 2004-56, 60 (noting that "[p]rices paid for homes in the [...] area vary widely depending on the views" of the harbor and



bay). The Board thus found that the lack of adjustments for the subject property's unobstructed harbor view substantially undermined the validity of the appellant's comparable-sales analysis, thus rendering that analysis unpersuasive.

Moreover, the appellant failed to include in his calculation of living area that part of the subject property that was designated below grade, which further skewed his opinion of the subject property's fair cash value.

Based on the foregoing, the Board found and ruled that the appellant failed to meet his burden of proving a fair cash value for the subject property that was less than its assessed value for the fiscal year at issue.

Accordingly, the Board issued a decision for the appellee upholding the subject property's assessment for the fiscal year at issue.

**THE APPELLATE TAX BOARD**

By:   
Mark J. DeFrancisco, Chairman

A true copy,

Attest:   
Clerk of the Board