

**COMMONWEALTH OF MASSACHUSETTS**

**APPELLATE TAX BOARD**

**IRFAN CINEL**

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

Docket No. F342485

Promulgated:  
October 17, 2023

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 Boston ("assessors" or "appellee") to abate a tax on certain real estate located in the City of Boston owned by and assessed to Irfan Cinel ("appellant") for fiscal year 2021 ("fiscal year at issue").

Commissioner Metzger heard this appeal and was joined in a decision for the appellee by Chairman DeFrancisco and Commissioners Good and Elliott.

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

*Irfan Cinel, pro se*, for the appellant.

*Laura Caltenco, Esq.*, for the appellee.

## **FINDINGS OF FACT AND REPORT**

Based on the testimony and exhibits offered into evidence at the hearing of this appeal, the Appellate Tax Board ("Board") made the following findings of fact.

On January 1, 2020, the relevant date of valuation and assessment for the fiscal year at issue, the appellant was the assessed owner of a 3,796-square-foot parcel of real estate located at 32 Arden Street in the City of Boston ("subject property"). The subject property is improved with a two-family dwelling that was built in 2008 ("subject dwelling"). The subject dwelling has a total finished living area of 4,272 square feet. According to the property record card, the subject dwelling is in good condition.

For the fiscal year at issue, the assessors valued the subject property at \$1,486,000 and assessed a tax thereon, at the rate of \$10.67 per \$1,000, in the total amount of \$16,003.51, inclusive of the Community Preservation Act surcharge. The appellant timely paid the tax due without incurring interest. On January 20, 2021, the appellant timely filed an application for abatement with the assessors, which the assessors denied on April 20, 2021. On May 18, 2021, the appellant seasonably filed a petition with the Board. Based on these facts, the Board found and ruled that it had jurisdiction to hear and decide this appeal.

The appellant testified at the hearing of this appeal and offered into evidence a written statement purporting to demonstrate that the subject property's assessment increased at a higher percentage than neighboring properties. Specifically, the appellant focused on three properties - 26 Arden Street, 37 Arden Street and 30 Coolidge Road - which are located adjacent to and directly across from the subject property. The appellant noted that the assessments for these properties increased from the prior year by 11.30 percent, 15.69 percent, and 3.59 percent, respectively, with a median increase of 10.19 percent. In contrast, the subject property's assessment increased by almost 21 percent.

For their part, the assessors offered into evidence the relevant jurisdictional documents and the property record card for the subject property. The assessors also cross-examined the appellant and then rested on the presumed validity of the assessment.

Based on the record, the Board found and ruled that the appellant failed to meet his burden of proving that the subject property's fair cash value was less than its assessed value for the fiscal year at issue. The appellant's sole argument was that the subject property's assessment increased at a higher percentage than neighboring properties. The appellant did not, however, offer any evidence to establish the subject property's fair cash value for the fiscal year at issue. The Board found and ruled that the

appellant's comparison of relative increases in assessments from year to year, standing alone, was not probative of the fair cash value of the subject property.

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

### 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 its assessed value. "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 Board found that the appellant failed to meet his burden of proving that the subject property had a lower fair cash value than its assessed value for the fiscal year at issue. The appellant's case was based solely on his claim that the assessed value of the subject property increased by a higher percentage than those of neighboring properties. However, the appellant did not demonstrate that any such deviation resulted in an assessed value for the subject property greater than its fair cash value for the fiscal year at issue. "The fact that appellant's assessment may have increased at a percentage greater than the percentage increase in the assessments of other houses is not determinative of the issue. It could be that prior assessments and the institution of revaluation procedures revealed that his former assessment was unduly low. The test is fair cash value or market value." **Loomis v. Assessors of Boston**, Mass. ATB Findings of Fact and Reports 2023-18, 24-25 (quoting **Burke et al. v. Assessors of Peru**, Mass. ATB Findings of Fact and Reports 1983-1, 6).

Based on the foregoing, the Board issued a decision for the appellee in this appeal.

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