COMMONWEALTH OF MASSACHUSETTS

APPELLATE TAX BOARD

E.V. REALTY LLC	**v.**	**BOARD OF ASSESSORS OF THE TOWN OF NEEDHAM**
Docket No. F351260		Promulgated: June 9, 2026

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 Needham ("appellee" or "assessors") to abate a real estate tax assessed against E.V. Realty LLC ("appellant") for fiscal year 2024 ("fiscal year at issue").

Commissioner Bernier heard this appeal. Chairman DeFrancisco and Commissioners Good, Elliott, and Metzer joined him in the decision for the appellee.

These findings of fact and report are made at the request of the appellant pursuant to 831 CMR 1.34.

John Washek, Manager, for the appellant.

David Davison, Town Manager, and *Michael Niden*, Member of Board of Assessors, 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, 2023, the valuation and assessment date for the fiscal year at issue, the appellant was the owner of a 0.323-acre improved parcel of land located at 147 Maple Street in Needham ("subject property"). For the fiscal year at issue, the appellee valued the subject property at $773,800 and assessed a tax thereon, at the rate of $12.52 per $1,000, in the total amount of $9,687.98, plus a $168.72 Community Preservation Act ("CPA") surcharge. The appellant timely paid the tax due without incurring interest. On January 25, 2024, the appellant timely filed an abatement application with the appellee. On April 8, 2024, the appellee denied the appellant's abatement request. On May 30, 2024, 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 subject property is improved with a two-family house built in 1960 with an effective year built of 1999, containing a total of 2,040 square feet of living area ("subject home"). The two units comprising the subject home each contain five rooms, including two bedrooms, as well as a full bathroom. The appellant rents both units to tenants.

The appellant presented its case through the testimony of its manager, John Washek, and the submission of documents. Mr. Washek testified that the subject property sustained damage from flooding during a rainstorm in August 2023 that caused the town's drainage systems to overflow. He testified that the damage was not covered by insurance and thus his out-of-pocket costs for repairs to the subject home amounted to between $15,000 to $20,000. In response to the presiding Board member's question regarding the condition of the subject property as of January 1, 2023, Mr. Washek testified that flooding at the subject property had been an issue for years. Mr. Washek contended that, because of its tendency to flood, the subject property's land was worthless, and the subject property's assessment should thus reflect a $0 value for the land portion until the town resolves the water drainage problems that lead to its recurrent flooding. The property record card for the fiscal year at issue indicated an assessed value of $532,800 for the land component of the subject property and an assessed value of $241,000 for the building component of the subject property.

The appellant did not submit evidence of sales of comparable properties. Upon being questioned by the presiding Board member as to whether he had an idea of the selling price that the subject property could earn based on sales of similarly situated properties, Mr. Washek replied that he did not, that he did not believe a selling price to be relevant information, and he further declared that he had no intention of selling the subject property because he continued to receive income from renting its two units. Mr. Washek testified that he received monthly rentals of about $2,200 per unit. He did not offer any evidence to suggest that he was unable to rent the subject property because of flooding.

The appellee presented its case through the testimony of David Davison, Town Manager, and of Michael Niden, member of the appellee, and the submission of documents, including the requisite jurisdictional documents. Mr. Niden testified that the subject property was in a documented flood zone and had a stream running through its backyard. He further testified that flooding was an issue for all of Maple Street.

Based on the information of record, the Board found that the appellant failed to meet its burden of proving a fair cash value for the subject property that was less than its assessed value for the fiscal year at issue. The appellant's argument consisted solely of assertions of flood damage to support its argument that the subject property's land was worthless. However, as will be explained in the following Opinion, the appellant provided no evidence to undermine the total assessed value of the subject property, which consisted of both land and building components. The appellant also failed to support the assertion that the overall value of the subject property was excessive because of flooding.

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

OPINION

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 are fully informed and under no compulsion. ***Boston Gas Co. v. Assessors of Boston***, 334 Mass. 549, 566 (1956). "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. v. Assessors of Lynn, 393 Mass. 591, 600 (1984) (quoting ***Donlon v. Assessors of Holliston***, 389 Mass. 848, 855 (1983)).

In the present appeal, the appellant complained that the subject property was overvalued because its land was "worthless" due to intermittent flooding and should be assessed at zero value. As a threshold matter, the appellant's assertion that the land component of the subject property was worthless was without support in fact or enunciated legal principles. *See, e.g.,* ***SLT Realty Limited Partnership v. Assessors of Barnstable***, Mass. ATB Findings of Fact and Reports 2009-684, 721. Moreover, the appellant's singular focus on the land component of the subject property was unpersuasive, because taxpayers do not establish a right to an abatement merely by showing that their land is overvalued. While the component parts of an assessment are each open to inquiry by the Board (*see* ***Massachusetts General Hospital v. Belmont***, 238 Mass. 396, 403 (1921)), a singular focus on one of the components misses the mark, because "the question is whether the assessment for the parcel of real estate, including both the land and the structures thereon, is excessive." *See also* **Buckley v. Assessors *of Duxbury***, Mass. ATB Findings of Fact and Reports 1990-110, 119; ***Jernegan v. Assessors of Duxbury***, Mass. ATB Findings of Fact and Reports 1990-39, 48-49. "Various factors inform an analysis of a property's fair cash value, including the quality, age, size, and style of a property's improvements." ***Grace v. Assessors of Duxbury***, Mass. ATB Findings of Fact and Reports 2026-138, 145-46 (citing ***English v. Assessors of Winthrop***, Mass. ATB Findings of Fact and Reports 2009-1302, 1309).

Here, the appellant offered no evidence of the fair cash value for the subject property as a whole, including both the property and its improvements. Indeed, Mr.

Washek argued against the relevance of the pivotal fact in this appeal -- the subject property's fair cash value as of the relevant assessment date. Moreover, the appellant offered no evidence beyond Mr. Washek's opinion to support the assertion that flooding impacted the overall value of the subject property such that its assessed value was excessive. In fact, Mr. Washek admitted that the appellant continued to use the subject property as intended as a rental property that earned income.

In sum, the appellant failed to sustain its burden of proof because it did not expose flaws or errors in the assessors' method of valuation or introduce affirmative evidence of value of the subject property as a whole.

Accordingly, the Board issued a decision for the appellee.

THE APPELLATE TAX BOARD

By: ______________________________

Mark J. DeFrancisco, Chairman

A true copy,

Attest: ______________________________

Clerk of the Board