



THE COMMONWEALTH OF MASSACHUSETTS

Appellate Tax Board

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Docket No. F338134

MATTHEW AND MELISSA FAIR

Appellants.

v.

**BOARD OF ASSESSORS OF
THE TOWN OF HOLLISTON**

Appellee.

DECISION WITH FINDINGS

This appeal concerns the appellants' overvaluation claim for fiscal year 2019 ("fiscal year at issue") concerning residential property located in the Town of Holliston. On January 1, 2018, the relevant valuation and assessment date, the appellants were the assessed owners of a 0.42-acre parcel of real estate ("subject parcel") improved with a single-family, ranch-style residence ("subject home") located at 57 Pinecrest Road (together, "subject property"). For the fiscal year at issue, the assessors valued the subject property at \$368,600, including a land assessment of \$206,000.

The appellants did not dispute the assessed value of the subject home. Rather, they maintained that the subject parcel had been assessed at a per-acre value far in excess of the market value of land in the Town of Holliston, for both fiscal year 2019 and fiscal year 2020. Although fiscal year 2020 is not at issue, the appellants proposed a fiscal year 2020 value for the subject property of \$326,000, consisting of the assessed value of the subject home plus a land value of \$159,600. For fiscal year 2019, the appellants argued a total value for the subject property of \$325,000, the value indicated in their abatement application, or of \$322,200, the value indicated in their attorney's written brief, consisting of the assessed value of the subject home for fiscal year 2019 plus their proposed fiscal year 2020 land value of \$159,600.

The appellants asserted the value of the subject parcel to be \$380,000 per-acre, which they maintained was \$130,000 above the current per-acre market value of land in Holliston. The appellants' attorney argued that the Town's fiscal year 2019 and 2020 per-acre land values for the subject property were approximately \$240,000 and \$313,000, respectively, over market.

In support of the appellants' asserted land value, appellant Matthew Fair, who testified to being a contractor in the Holliston area, gave his opinion that one-acre lots in Holliston were worth \$250,000 per acre and that he had never heard of lots selling for

\$563,000 per acre — which the appellant's attorney indicated was the per-acre assessed value of the subject parcel for fiscal year 2020. In addition, the appellants also introduced information from the Multiple Listing Service, indicating that in June of 2019, a 1.39-acre parcel of vacant land at 1014 Highland Street, Holliston, with building plans, order of conditions, and approved septic plan, was listed for \$180,000 (or \$129,496 per acre) and re-listed in November of 2019 and again in February of 2020 for \$160,000 (or \$115,108 per acre).

Appellant Matthew Fair also testified to negative features of the subject property affecting its value. The back of the subject property faces a multiple-story brick apartment building serviced by a large septic system with a fan, which emits pungent odors — mainly in the spring and fall. From their back porch, and front and back yards, the appellants can see the apartment building's open-air parking lot. Appellant Matthew Fair testified that other neighboring properties, not right next to the subject property, were blocked from a view of the parking lot by trees.

In their cross-examination of appellant Matthew Fair, the assessors introduced property record cards for the following two properties on Pinecrest Road located next to one another, and one house down from the subject property, both of which sold in 2017:

Property	FY2019 Assessed Land Value	Land Size	Total FY 2019 Assessed Value of Property
31 Pinecrest Road	\$208,600	0.46 acres	\$392,100
39 Pinecrest Road	\$206,000	0.42 acres	\$410,300

The property nearest to the subject property (a ranch at 39 Pinecrest Road) sold twice in 2017 — first, according to the assessors, in a foreclosure sale for \$272,000 and then for \$474,000 as shown on the deed of sale introduced into evidence. The other property sold for \$441,000 as shown on the deed of sale also introduced into evidence. Appellant Matthew Fair commented that both houses were larger than his house, and that a lot of work had been done on the house at 39 Pinecrest Road, which unlike his house had a garage.

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 in a free and open market 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 taxpayer's property has a lower value than that assessed. The burden of proof is upon the taxpayer to make out a right as a matter of law to an abatement of the tax. ***Schlaiker v. Assessors of Great Barrington***, 365 Mass. 243, 245 (1974). The Board is entitled to presume that the valuation made by the assessors is valid unless the taxpayer proves to the contrary. ***General Electric Co. v. Assessors of Lynn***, 393 Mass. 591, 598 (1984).

The appellants introduced no probative, credible evidence to establish that their property was assessed for more than its fair cash value. The appellants sought to single out one element of the assessed value of the subject property — the value of the land, which they asserted to be assessed at significantly more per acre than the per-acre value of land in Holliston. However, the land at 39 Pinecrest Road, located one house down from the appellants', was assessed at the same per-acre value as the appellants' land, and no probative evidence was introduced to establish that the multi-story brick apartment building and parking lot seen from the appellants' back porch reduced the value of their land below that of their neighbor.

The appellants did offer into evidence Multiple Listing Service information relating to 1.39 acres of vacant land at 1014 High Street, which was first offered for sale in June of 2019. 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, but an appellant bears the burden of establishing that properties share "fundamental similarities" with the subject property, including location and size. **Lattuca v. Robsham**, 442 Mass. 205, 216 (2004); **Silvestri v. Assessors of Lowell**, Mass. ATB Findings of Fact and Reports 2012-926, 934-935.

In the instant case, even assuming the 2019 offering price of land was relevant to the value of the subject property on the January 1, 2018 assessment date, the location of the High Street property in relation to that of the appellants' was not indicated and, being unimproved and larger than the appellants' lot, the property was not comparable.

Further, assuming arguendo that the Board concluded that the subject parcel was overvalued, a taxpayer does not establish a right to an abatement merely by showing that either the land or a building is overvalued; a taxpayer must show that the assessment including both components is excessive. See, e.g., **Assessors of Brookline v. Prudential Insurance Co.**, 310 Mass. 300, 316-17 (1941); **Lang v. Assessors of Marblehead**, Mass. ATB Findings of Fact and Reports 2019-385, 396-97. Here, the appellants did not demonstrate either that the subject parcel was overvalued or that the assessed value of the subject property as a whole exceeded its fair cash value.

Based on the evidence presented, the Presiding Commissioner found and ruled that the appellants failed to meet their burden of proving that the subject property was overvalued for the fiscal year at issue. Accordingly, the Presiding Commissioner decided this appeal for the appellee.

APPELLATE TAX BOARD

By: *Is/ Patricia Ann Metzger*
Patricia Ann Metzger, Commissioner

A true copy,

Attest: *Is/ William J. Doherty*
Clerk of the Board

Date: **May 12, 2020**

NOTICE: Either party to these proceedings may appeal this decision to the Massachusetts Appeals Court by filing a Notice of Appeal with this Board in accordance with the Massachusetts Rules of Appellate Procedure. Pursuant to G.L. c. 58A, § 13, no further findings of fact or report will be issued by the Board.