



THE COMMONWEALTH OF MASSACHUSETTS

Appellate Tax Board

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Docket No. X308676

**NORMA B. GEORGE, TRUSTEE
Appellant.**

v.

**BOARD OF ASSESSORS OF THE
CITY OF PITTSFIELD
Appellee.**

DECISION WITH FINDINGS

This is an appeal from the appellant's overvaluation claim for fiscal year 2019 ("fiscal year at issue") concerning residential property located in the City of Pittsfield. On January 1, 2018, the relevant valuation and assessment date for the fiscal year at issue, the appellant was the assessed owner of an improved 11.705-acre parcel of real estate located at 946 West Street in Pittsfield ("subject property"). The following chart summarizes the relevant jurisdictional information:

Original assessment	Tax rate Tax amount	Taxes paid timely?	Abatement application filed with assessors	Partial abatement granted Abated assessment	Petition filed with Appellate Tax Board ("Board")
\$1,304,200	\$19.42 per \$1000 \$25,327.56	Y	12/31/2018	03/12/2019 \$1,237,400	05/01/2019

Based on these facts, the Board found and ruled that it had jurisdiction over this appeal.

Located in the City's Neighborhood 415, the subject property consists of a waterfront parcel with direct access to Onota Lake ("subject parcel") that is improved with a single-family, one-and-a-half-story contemporary home with 3,401 square feet of living area ("subject home"). The subject home is comprised of seven rooms, including four bedrooms, as well as two full bathrooms and one half bathroom.

The property record card for the subject property indicated that the assessors originally valued the subject home at \$424,900. Upon the appellant's filing of an

abatement application, the appellee inspected the subject property and determined that a change in condition and grade of the subject home was warranted. The appellee reduced the subject property's building valuation by \$66,800 to reflect those changes. The subject property's land valuation remained at \$879,300.

As with other waterfront parcels in Neighborhood 415, the assessors valued the subject parcel by valuing the two-acre primary house site at \$365,680 per acre and the remaining secondary site at \$15,246 per acre. Applying these values to the subject parcel, the assessors valued the primary house site at \$731,360 and the remaining 9.705-acre secondary site at a rounded value of \$147,960, to arrive at a total value for the subject parcel of \$879,300.

The appellant contests only the land portion of the assessment, claiming that the subject parcel was overvalued as compared with certain neighboring parcels. To support her claim, the appellant points to the land assessments for two nearby parcels and compares the land assessments for two other parcels in an attempt to point out the assessors' inconsistent land valuations in the neighborhood of the subject property.

The appellant's first comparable property is located at 854 West Street, an irregularly shaped 41.26-acre parcel, which was assessed at \$104,100. Approximately half of this vacant parcel is swamp land with minimal value. In addition, the parcel has insufficient frontage on West Street and is therefore undevelopable. The non-swamp land on the parcel is assessed at \$5,000 per acre. The parcel is owned by a trust for the benefit of owners of other West Street parcels who utilize a long narrow strip of this parcel located between the water and their parcels to gain access to the lake.

The appellant's second comparable property abuts the subject property and has an address of 936 West Street. This three-acre parcel, however, has no direct access to the lake; the parcel is bounded on the north and west by the subject property, on the south by West Street, and on the east by a neighboring waterfront parcel. The appellant points to the \$5,000 per-acre assessed value of the secondary site of this parcel, together with the \$5,000 per-acre value of the non-swamp land in her first comparable property, to argue that the subject parcel should have been similarly valued.

In addition, the appellant questioned what she considered to be the inconsistent land assessments of two other West Street parcels further away from the subject property. The first property, 790 West Street, is a 2.5-acre waterfront parcel with an assessed value of \$1,245,200, \$796,700 of which comprised the land portion. The second property, 774 West Street, is a vacant 3.3-acre, non-waterfront parcel assessed at \$116,800. The appellant maintained that the disparity in the land valuations of these two parcels further supports her argument that the assessors' land valuation methodology is flawed and that the subject property is therefore overvalued.

The assessors presented their case in chief through the testimony of, and documentation offered by, assessors Paula King and Laura Catalano. The assessors offered a thorough and convincing analysis demonstrating that the assessed value of the

subject property was consistent with sales and assessment data for comparable waterfront properties.

At the outset of their comparable sales analysis, the assessors noted the familiar principle that the issue for decision in this appeal is whether the total assessment of the subject property, land and building, exceeds its fair cash value for the fiscal year at issue. The assessors selected four sales of waterfront properties in Neighborhood 415, three of which were located on West Street. These sales occurred between August 1, 2016 and September 20, 2018, for prices that ranged from \$1,100,000 to \$1,800,000. The assessed value of the subject property, at \$1,237,400, fell toward the lower end of the range despite the fact that, as the assessors testified, the subject property is the largest waterfront developable parcel in the City of Pittsfield.

The parcel sizes of these comparable sale properties ranged from 2.0 acres to 9.48 acres, and were assessed for the fiscal year at issue using the same two-acre primary site and remaining secondary site values that the assessors applied to the subject parcel. In addition, the assessors offered a chart showing that they applied this same methodology to all waterfront developed parcels on West Street.

In sum, the Board finds that the assessors offered credible and persuasive affirmative evidence that the subject property was not overvalued and that the appellant failed to establish that she was entitled to an abatement.

First, the appellant fails to address the overall assessment of the subject property. A taxpayer does not conclusively establish a right to abatement merely by showing that her land is overvalued. “The tax on a parcel of land and the building thereon is one tax . . . although for statistical purposes they may be valued separately.” **Assessors of Brookline v. Prudential Insurance Co.**, 310 Mass. 300, 316-17 (1941). In abatement proceedings, “the question is whether the assessment for the parcel of real estate, including both the land and the structures thereon, is excessive. The component parts, on which that single assessment is laid, are each open to inquiry and revision by the appellate tribunal in reaching the conclusion whether that single assessment is excessive.” **Massachusetts General Hospital v. Belmont**, 238 Mass. 396, 403 (1921); see also **Buckley v. Assessors of Duxbury**, Mass ATB Findings of Fact and Reports 1990-110, 119.

Moreover, the properties that the appellant selected for her analysis were not comparable to the subject property because they were not improved or developable waterfront properties. See, e.g., **Ward Bros. Realty Trust v. Assessors of Hingham**, Mass. ATB Findings of Fact and Reports 2012-515, 529-30 (recognizing an increase in value is warranted for waterfront, as opposed to water-view, property). Because the appellant’s analysis failed to include property sufficiently comparable to the subject property, her analysis was not probative of the subject property’s valuation. **Grant C. Buchanan, Trustee v. Assessors of Attleboro**, Mass. ATB Findings of Fact and Reports 2012-236, 252-53 (citing **Tsissa**, Mass. ATB Findings of Fact and Reports at

2011-220 and ***Diamond Ledge Properties Corp. v. Assessors of Swansea***, Mass. ATB Findings of Fact and Reports 2009-1185, 1192).

In contrast, the assessors' evidence supports the subject property's overall assessment. The Board found that the appellee's Neighborhood 415 waterfront comparable-sales properties were comparable to the subject property, and that these sales supported the subject property's overall assessment. See ***Foye v. Assessors of Plympton***, Mass. ATB Findings of Fact and Reports 2020-292, 302 (finding that sales of comparable properties "provide persuasive evidence of its fair market value").

Even when focusing solely on the land portion of the subject assessment, as the appellant has advocated, the assessors' evidence demonstrates that they applied a consistent valuation methodology for waterfront properties in Neighborhood 415. Accordingly, the Board finds that the appellant failed to establish that the subject parcel was assessed at a value higher than other comparable waterfront parcels.

On the basis of the evidence, the Board finds and rules that the appellant failed to meet her burden of proving that the subject property was overvalued for the fiscal year at issue. Accordingly, the decision is for the appellee.

APPELLATE TAX BOARD

/s/ Thomas W. Hammond, Jr. Chairman

/s/ Patricia M. Good Commissioner

/s/ Steven G. Elliot Commissioner

/s/ Patricia Ann Metzger Commissioner

/s/ Mark J. DeFrancisco Commissioner

Attest: /s/ William J. Doherty
Clerk of the Board

Property Address: 946 West Street

Fiscal Year: 2019

Date: January 6, 2021

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.