COMMONWEALTH OF MASSACHUSETTS

APPELLATE TAX BOARD

ARNE & GLORIA GERICKE **v.** **BOARD OF ASSESSORS OF THE TOWN OF SHREWSBURY**

Docket No. F351242

Promulgated:
June 5, 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 Shrewsbury ("assessors" or "appellee") to abate a tax on real estate owned by and assessed to Arne and Gloria Gericke ("appellants") for fiscal year 2024 ("fiscal year at issue").

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

These findings of fact and report are made pursuant to a request by the appellee under G.L. c. 58A, § 13 and 831 CMR 1.34.

Arne and *Gloria Gericke, pro se*, for the appellants.

Ruth Anderson, Assessor, for the appellee.

FINDINGS OF FACT AND REPORT

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

I. Introduction and jurisdiction

On January 1, 2023, the appellants were the owners of a 3,483-square-foot, Colonial-style home ("subject home") situated on a 22,646-square-foot parcel at 7 Morningside Drive in Shrewsbury (together, "subject property"). The subject home was built in 2012 and has ten rooms, including four bedrooms, three bathrooms, and two half bathrooms. It also features a finished basement, a fireplace, a covered front entrance, a patio, a two-car attached garage, and central air conditioning. Additionally, there is a shed on the subject property. The grade was listed as Aa on the subject property's property record card for the fiscal year at issue. The appellants acquired the subject property for $875,910 in July 2012.

For the fiscal year at issue, the assessors valued the subject property at $1,291,300 and assessed a tax thereon at the rate of $12.38 per thousand, in the amount of $15,986.29, exclusive of the Community Preservation Act surcharge. The tax due was timely paid without incurring interest. On January 30, 2024, the appellants timely filed an abatement application with the assessors, which was denied by the assessors on March 1, 2024. The appellants timely filed this appeal with the Board on May 23, 2024. Based on these facts, the Board found and ruled that it had jurisdiction to hear and decide this appeal.

II. The appellants' case

In addition to their own testimony, the appellants introduced several documents to illustrate their claim that the assessors overvalued the subject property.

The appellants testified that except for three other properties on the same street that were all built at the same time, the subject home has the highest value per square foot at $372 versus an average of $358 for the other properties that they offered. The appellants also noted that the subject property's assessment increase from fiscal year 2023 to the fiscal year at issue seemed to be high compared to these other properties.

The appellants further testified that they were the first to contract and commit to building in the neighborhood, and the developers allowed them options for lower-cost amenities. They alleged that the subject home is of inferior quality and condition to other properties built in the neighborhood, noting features such as cathedral ceilings, hot tubs, and hardwood floors that the subject property lacks.

The appellants provided links to Zillow listings for various Shrewsbury properties that they considered to be comparable sales. They also provided tax assessment information for the subject property from fiscal year 2012 through the fiscal year at issue, with percentage increases, and tax assessments for other properties on Morningside Drive. The appellants made no adjustments to account for differences between the subject property and their comparable sales and assessments properties.

The appellants also noted the condition of the subject property, particularly kitchen granite stains, mildew damage, a drafty fireplace, water damage, garage issues, and plumbing issues, along with accompanying photographs. They estimated that repairs would cost upwards of $30,000 to $40,000, but admitted these figures were not based upon actual estimates from a contractor.

The appellants offered an opinion of value for the subject property between $1,000,000 to $1,100,000 for the fiscal year at issue.

III. The appellee’s case

The appellee presented jurisdictional documents, posed several questions to the appellants, and otherwise rested on the presumed validity of the assessment.

IV. The Board’s findings

Based upon the record in its entirety, and as discussed further in the Opinion below, the Board found that the appellants failed to establish that the fair cash value of the subject property was less than the assessed value for the fiscal year at issue.

The Zillow links to allegedly comparable sales and a spreadsheet with allegedly comparable assessments lacked critical adjustments to account for differences between those properties and the subject property. Testimony and photographs concerning the condition of the subject property, as well as testimony concerning the inferior amenities of the subject property compared to neighboring properties, failed to establish any correlation with a reduction in fair cash value for the subject property for the fiscal year at issue. Likewise, the appellants’ speculative assertions of cost for repairs provided no useful information from which the Board could determine a reduction in value of the subject property as a whole.

Accordingly, the Board issued a decision for the appellee.

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).

A taxpayer has the burden of proving that the property at issue has a lower 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 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)). Here, the appellants provided no evidence of flaws or errors in the assessors' method of valuation and failed to present affirmative evidence of overvaluation. *See* ***Fox v. Assessors of Longmeadow***, Mass. ATB Findings of Fact and Reports 2021-479, 483 (finding that evidence "of any quantifiable impact on the subject property's fair cash value was critically lacking").

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 fair cash value of the property at issue. ***Graham v. Assessors of West Tisbury***, Mass. ATB Findings of Fact and Reports 2007-321, 400, *aff'd*, 73 Mass. App. Ct. 1107 (2008) (Rule 1:28 decision). Similarly, the fair cash value of property may be determined by evidence of assessed values of comparable properties. *See* G.L. c. 58A, § 12B ("At any hearing relative to the assessed fair cash valuation . . . of property, evidence as to the fair cash valuation . . . at which assessors have assessed other property of a comparable nature . . . shall be admissible.”). The introduction of such evidence may provide adequate support for the granting of an abatement. *See* ***Chouinard v. Assessors of Natick***, Mass. ATB Findings of Fact and Reports 1998-299, 307-308 (citing ***Garvey v. Assessors of West Newbury***, Mass. ATB Findings of Fact and Reports 1995-129, 135-36, and ***Swartz v. Assessors of Tisbury***, Mass. ATB Findings of Fact and Reports 1993-271, 279-80); ***Sterling v. Assessors of Arlington***, Mass. ATB Findings of Fact and Reports 2021-76, 93-4 (finding that the taxpayer bears the burden of establishing that comparable assessment properties share fundamental similarities with the subject property).

The Board considered the information and purportedly comparable properties submitted by the appellants but found that this evidence was not useful for determining the fair cash value of the subject property. *See* ***North American Philips Lighting Corp. v. Assessors of Lynn***, 392 Mass. 296, 297-299 (1984). Critically, the appellants failed to account for any differences between their comparable properties and the subject property. “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). *See also* ***Graham v. Assessors of West Tisbury***, Mass. ATB Findings of Fact and Reports at 2007-402 (“The assessments in a comparable assessment analysis, like the sale prices in a comparable sales analysis, must . . . be adjusted to account for differences with the subject.”).

Additionally, the appellants provided no probative evidence as to the effect on value of alleged inferior amenities of the subject property. Similarly, speculative costs for repairs offered no insight on the overall value of the subject property. *See, e.g.,* ***Abuzahra v. Assessors of Rowley***, Mass. ATB Findings of Fact and Reports 2008-1514, 1522 (finding that taxpayers failed to meet their burden of proving overvaluation "because they failed to quantify the effects of wetlands or topographical issues on the value of their lots"); ***Durgin and Chojnacki-Durgin v. Assessors of Dudley***, Mass. ATB Findings of Fact and Reports 2021-469, 477 ("The appellants relied upon speculation, unadjusted sales comparisons, and hearsay.").

Accordingly, the Board found and ruled that the appellants failed to sustain their burden of proving that the fair cash value of the subject property was lower than its assessed value for the fiscal year at issue and issued a decision in favor of the appellee.

THE APPELLATE TAX BOARD

By: ____________________________________
Mark J. DeFrancisco, Chairman

A true copy,

Attest: ____________________________________
Clerk of the Board