

COMMONWEALTH OF MASSACHUSETTS

APPELLATE TAX BOARD

VINCENT GILLESPIE

v.

**BOARD OF ASSESSORS OF
THE CITY OF GREENFIELD**

Docket No. F339805

Promulgated:
April 6, 2023

This is an appeal filed under the formal procedure pursuant to G.L. c. 60A, § 2 and G.L. c. 59, §§ 64 and 65, from the refusal of the Board of Assessors of the Town of Greenfield ("assessors" or "appellee") to abate an excise on a certain motor vehicle owned by and assessed to Vincent Gillespie ("appellant") under G.L. c. 60A, § 1 for calendar year 2019 ("tax year at issue").

Commissioner Good heard this appeal and was joined in the decision for the appellant by former Chairman Hammond, Chairman DeFrancisco, and Commissioners Elliott and Metzger.

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

Vincent Gillespie, pro se, for the appellant.

Kimberly Mew, Assessor, 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 October 24, 2018, the appellant registered a 2006 Nissan Murano ("vehicle at issue") with the Massachusetts Registry of Motor Vehicles, listing an address in Greenfield, Massachusetts. On April 19, 2019, the assessors issued to the appellant a motor vehicle excise bill for the tax year at issue in the amount of \$72.50. The excise remained unpaid. On May 24, 2019, the assessors issued to the appellant a demand for unpaid excise tax for the tax year at issue. The appellant timely filed an application for abatement with the assessors on November 14, 2019, which was deemed denied on February 14, 2020. Subsequently, on April 29, 2020, the appellant seasonably filed an appeal with the Board. Based on these facts, the Board found that it had jurisdiction to hear and decide this appeal.

At the hearing of this appeal, the appellant argued that the vehicle at issue is not subject to the Greenfield motor vehicle excise because he lived in the Town of Athol for the tax year at issue. The appellant testified that since he purchased the vehicle at issue in August 2018, it never worked properly. He unregistered and removed the insurance for a period of time and then in November

2019 he re-registered the vehicle solely for the purpose of bringing it to New Hampshire for repairs.

The appellant testified that he moved to Athol in 2013 and that he maintains a post office box in Greenfield. The appellant acknowledged that although the registration for the vehicle at issue lists a Greenfield address, it is in fact the address for his Greenfield post office box and not his residence. In support of his argument that he lived in Athol during the tax year at issue, the appellant offered a copy of his Massachusetts driver's license, issued in 2016, with a stated address of 72 Green Street, Athol. The appellant also offered into evidence copies of money orders, issued in December 2017 and March 2018, in his name made payable to the Town of Athol for property taxes; certain utility bills that were mailed "c/o Vincent Gillespie, 72 Green Street, Athol"; a printout from a utility company that referenced the appellant as the account holder's roommate; and several pieces of mail addressed to the appellant at 72 Green Street, Athol.

For their part, the assessors offered into evidence the requisite jurisdictional documents.

Based on the evidence presented, the Board found that the appellant did not live in Greenfield during the tax year at issue. The Board was also persuaded by documents provided by the appellant establishing Athol as his residence, including his driver's

license, utility bills addressed to him at 72 Green Street, Athol, and money orders to pay property taxes in Athol.

Accordingly, the Board decided this appeal for the appellant and granted an abatement in the amount of \$72.50, plus statutory additions.

OPINION

Pursuant to G.L. c. 60A, § 1, an excise shall be assessed and levied on every motor vehicle registered in the Commonwealth under G.L. c. 90, for the privilege of registration:

The excise shall be assessed to the owner of the motor vehicle . . . registering the same, and the registrar of motor vehicles shall promptly transmit to the commissioner a notice of the registration of a motor vehicle or trailer subject to this excise, giving the name and residential address of the owner, if an individual.

The appellant registered the motor vehicle at issue in this appeal On October 24, 2018, listing an address in Greenfield, Massachusetts. Accordingly, the assessors issued a motor vehicle excise to the appellant for the tax year at issue. The statute further provides that the excise "shall be laid and collected at the residential address of the owner." G.L. c. 60A, § 6.

In the present appeal, the appellant argued that he did not reside in Greenfield during the tax year at issue. The appellant acknowledged that although the registration for the vehicle at

issue lists a Greenfield address, it is in fact the address for his Greenfield post office box and not his residence. In support of his argument that he lived in Athol during the tax year at issue, the appellant offered a copy of his Massachusetts driver's license, issued in 2016, with a stated address of 72 Green Street, Athol. The appellant also offered into evidence copies of money orders, issued in December 2017 and March 2018, in his name made payable to the Town of Athol for property taxes; certain utility bills that were mailed "c/o Vincent Gillespie, 72 Green Street, Athol"; a printout from a utility company that referenced the appellant as the account holder's roommate; and several pieces of mail addressed to the appellant at 72 Green Street, Athol.

"The credibility of witnesses, the weight of the evidence, and the inferences to be drawn from the evidence are matters for the board.". ***Cumington School of Arts, Inc. v. Assessors of Cumington***, 373 Mass. 597, 605 (1977).

Based on the evidence presented, the Board found that the appellant did not reside in Greenfield during the tax year at issue. A post office box is not the equivalent of a physical address where one can keep a car garaged. The Board was also persuaded by documents provided by the appellant establishing Athol as his residence, including his driver's license, utility bills addressed to him at 72 Green Street, Athol, and money orders to pay property taxes in Athol. Therefore, pursuant to G.L. c.

60A, § 6, the Board found the appellant was not subject to the Greenfield motor vehicle excise for the tax year at issue.

Accordingly, the Board issued a decision for the appellant and granted an abatement of \$72.50, plus statutory additions.

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