

COMMONWEALTH OF MASSACHUSETTS

APPELLATE TAX BOARD

HOPE REALTY TRUST

v.

**BOARD OF ASSESSORS OF
THE TOWN OF NORWELL**

Docket Nos. F346777
F346778

Promulgated:
August 15, 2025

These are appeals 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 Norwell ("appellee" or "assessors") to abate a tax on two condominium units owned by and assessed to Hope Realty Trust ("appellant") for fiscal year 2022 ("fiscal year at issue").

Commissioner Elliott ("Presiding Commissioner") heard these appeals and, pursuant to G.L. c. 58A, § 1A, issued single-member decisions for the appellant.¹

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.

Dr. Kristin Penza, Trustee, pro se, for the appellant.

Meredith Rafiki, Principal Assessor, for the appellee.

¹ Simultaneously with the promulgation of these findings of fact and report, the Presiding Commissioner is also issuing revised decisions for the appellant, as the original decisions each referenced the other condominium unit at issue. The revised decisions also reflect slight monetary changes to the abatement amounts that resulted from the correction.

FINDINGS OF FACT AND REPORT

Based on testimony and documents admitted into evidence during the hearing of these appeals, the Presiding Commissioner made the following findings of fact.

On January 1, 2021, the relevant valuation and assessment date for the fiscal year at issue, the appellant was the owner of two adjacent office condominium units, numbered C-17 ("Suite C-17") and C-18 ("Suite C-18"), located in a two-story building at 80 Washington Square in the Town of Norwell (collectively, "subject properties").

For the fiscal year at issue, the assessors valued Suite C-17 at \$257,300 and Suite C-18 at \$248,800, and assessed a tax on each, at the commercial rate of \$16.62 per thousand, in the amounts of \$4,404.62 and \$4,259.11, respectively. These amounts included the respective portions of the Community Preservation Act ("CPA") surcharges. The appellant timely paid the taxes due without incurring interest. On February 1, 2022, the appellant timely filed abatement applications with the assessors, which the assessors denied on March 23, 2022. On June 22, 2022,² the appellant seasonably filed appeals with the Appellate Tax Board ("Board"). Based on this information, the Presiding Commissioner found and

² While the petitions were stamped as having been docketed by the Board on June 29, 2022, the envelope containing the petitions bore a United States Postal Service postmark of June 22, 2022. Pursuant to G.L. c. 58A, § 7, the Board considered the date of the postmark to be the date of filing.

ruled that the Board had jurisdiction to hear and decide the instant appeals.

The subject properties were built in 1989 and are in average condition and of average quality with an effective year built of 2002. Suite C-17 contains 900 square feet of office area and Suite C-18 contains 840 square feet of office area. The subject properties do not include bathroom facilities, as bathrooms are part of the common area of the 80 Washington Square building. The subject properties are contiguous and essentially used as a single entity, as they are leased to similar tenants who share a main entrance and reception area.

The appellant presented its case through the testimony of its trustee, Dr. Kristin Penza, the testimony of the appellant's bookkeeper, Bridgett Ryan, and the submission of documents. Dr. Penza testified to her opinion that the values of the subject properties have fallen substantially as a result of the COVID-19 pandemic, during which tenancy at the subject properties dropped significantly. Ms. Ryan presented income and expense forms to demonstrate that the gross income on the subject properties had dropped from \$62,580 in 2019 to \$42,066 in 2020, and down to \$38,084 for 2021, with recovery beginning in 2022. After deducting expenses, including real estate taxes and mortgage payments, the subject properties generated net income of \$45,447 in 2019, \$22,741 in 2020, and \$18,140 for 2021. Dr. Penza testified that the

appellant's financial position vis-à-vis the subject properties was untenable, and it could not afford to continue to pay these elevated taxes in the face of the tremendous loss in revenue.

The appellant provided property record cards demonstrating 4 sales of purportedly comparable commercial condominiums within the subject properties' building at 80 Washington Square. Three condominium units contained 840 square feet and the fourth contained 900 square feet. The sales occurred between April 2020 and July 2021 for prices of \$244.69 per square foot for the 900-square-foot unit and ranging from \$263.99 per square foot to \$285 per square foot for the smaller 840-square-foot units, which was appropriate because, as will be explained in the Opinion, smaller properties typically command larger per-square-foot values. In comparison, the subject units' assessed values were \$285.89 per square foot for the 900-square-foot Suite C-17 and \$296.19 per square foot for the smaller 840-square-foot Suite C-18.

The assessors presented their case through the testimony of Assessor Rafiki and the submission of documents, including the requisite jurisdictional documents. Assessor Rafiki testified that she could understand the appellant's position, and that an income-capitalization approach to valuing the subject properties using a 10.5% capitalization rate would yield indicated values lower than the assessed values for the fiscal year at issue. Nonetheless, she opined that the sales-comparison approach was the proper method

for valuing the subject properties. Assessor Rafiki presented a table listing six purportedly comparable sales from 80 Washington Square, the subject properties' building. The sales dates were from January 2020 to December 2020, and the sale values ranged from \$239,000 to \$625,000. Two properties sold for \$625,000, which skewed her overall average. The appellee provided no explanation for the outlier values that would enable the Presiding Commissioner to review these units for comparability with the subject properties.

In reviewing the evidence, the Presiding Commissioner agreed with the assessors that the sales-comparison approach was the appropriate method for deriving the subject properties' fair cash values for the fiscal year at issue. The Presiding Commissioner reviewed the evidence and noted that the four sales at 80 Washington Square that were provided by the appellant were decidedly appropriate for comparison without significant adjustment. These sales yielded a per-square-foot value of \$244.69 for the 900-square-foot Suite C-18 and a slightly larger average per-square-foot value of \$275.85 for the smaller 840-square-foot condominium. The subject properties' assessments exceeded this persuasive sales data.

The Presiding Commissioner found that a per-square-foot value of \$250 for the 900-square-foot Suite C-17 and a per-square-foot value of \$260 for the smaller 840-square-foot Suite C-18

appropriately reflected the fair cash values for the subject properties. These reduced the subject properties' assessed values to \$225,000 for Suite C-17 and a rounded \$220,000 for Suite C-18.

Accordingly, the Presiding Commissioner issued revised decisions for the appellant and ordered abatements of \$552.93 for Suite C-17 and \$493.02 for Suite C-18, inclusive of appropriate CPA surcharges.

OPINION

Assessors are required to assess real estate at its fair cash value as of the first day of January preceding the fiscal year at issue. G.L. c. 59, § 38. Fair cash value is defined as the price upon which a willing buyer and a willing seller will agree if both are fully informed and under no compulsion. ***Boston Gas Co. v. Assessors of Boston***, 334 Mass. 549, 566 (1956). An appellant has the burden of proving that property has a lower fair cash 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)).

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 instant appeal, the appellant presented evidence of four condominium sales from the subject properties' same building, of the same sizes as the subject properties, and occurring close in time to the relevant assessment date. Sales of comparable realty in the same geographic area and within a reasonable time of the relevant assessment date generally contain probative evidence for determining the value of the property at issue. **Graham v. Assessors of West Tisbury**, Mass. ATB Findings of Fact and Reports 2007-321, 399-400 (citing **McCabe v. Chelsea**, 265 Mass. 494, 496 (1929), *aff'd*, 73 Mass. App. Ct. 1107 (2008)). These sales yielded a per-square-foot value of \$244.69 for a 900-square-foot condominium and an average of \$275.85 for an 840-square-foot condominium. See APPRAISAL INSTITUTE, THE APPRAISAL OF REAL ESTATE (15th ed., 172) (smaller properties ordinarily command a higher value per square foot than larger ones).

Considering the evidence of record, the Presiding Commissioner thus determined that the appellant had sustained its burden of demonstrating that the subject properties' fair cash values for the fiscal year at issue were less than their assessed values. Having considered the full record, the Presiding

Commissioner found and ruled that the subject properties' fair cash values for the fiscal year at issue were \$225,000 (Suite C-17) and \$220,000 (Suite C-18).

The fair cash value of property cannot be proven with "mathematical certainty and must ultimately rest in the realm of opinion, estimate and judgment." **Assessors of Quincy v. Boston Consolidated Gas Co.**, 309 Mass. 60, 72 (1941). In reaching his opinion of fair cash value in these appeals, the Presiding Commissioner was not required to believe the testimony of any particular witness or to adopt any particular method of valuation. Rather, the Presiding Commissioner could accept those portions of the evidence that he determined had more convincing weight. **Foxboro Assocs. v. Assessors of Foxborough**, 385 Mass. 679, 683 (1982); **New Boston Garden Corp. v. Assessors of Boston**, 383 Mass. 456, 473 (1981); **Assessors of Lynnfield v. New England Oyster House, Inc.**, 362 Mass. 696, 702 (1972). In evaluating the evidence before him, the Presiding Commissioner selected among the various elements of value and formed his own independent judgment of fair cash value. **General Electric Co.**, 393 Mass. at 605; **North American Philips Lighting Corp. v. Assessors of Lynn**, 392 Mass. 296, 300 (1984).

Accordingly, the Presiding Commissioner issued revised decisions for the appellant ordering abatement in the amounts of \$552.93 for Suite C-17 and \$493.02 for Suite C-18, inclusive of the appropriate CPA surcharges.

THE APPELLATE TAX BOARD

By: 

Steven G. Elliott, Commissioner

A true copy,

Attest: 

Clerk of the Board