

COMMONWEALTH OF MASSACHUSETTS

APPELLATE TAX BOARD

LAYLA HORMOZI

**v. BOARD OF ASSESSORS OF THE
TOWN OF BELMONT**

Docket No. F345789

Promulgated:
September 22, 2023

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 Belmont ("assessors" or "appellee") to abate a tax on certain real estate located in the Town of Belmont owned by and assessed to Layla Hormozi ("appellant") for fiscal year 2022 ("fiscal year at issue").

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

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

Layla Hormozi, pro se, for the appellant.

Dan Dargon, 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 January 1, 2021, the relevant date of valuation and assessment for the fiscal year at issue, the appellant was the assessed owner of a condominium unit located at 25 Thomas Street in Belmont ("subject condominium"). The subject condominium is part of a duplex-style two-family dwelling originally built in 1915 and converted into two condominium units in 2004. The subject condominium contains 1,056 square feet of living area comprised of five rooms, including three bedrooms, as well as one full bathroom and one half bathroom.

For the fiscal year at issue, the assessors valued the subject condominium at \$652,000 and assessed a tax thereon, at the rate of \$11.15 per thousand, in the total amount of \$7,632.84, which included the Community Preservation Act surcharge. The appellant timely paid the tax due without incurring interest. On January 28, 2022, the appellant timely filed an application for abatement with the assessors, which the assessors denied on March 11, 2022. On June 9, 2022, the appellant seasonably filed a petition with the Board. Based on these facts, the Board found and ruled that it had jurisdiction to hear and decide this appeal.

The appellant purchased the subject condominium in an arm's-length transaction for \$680,000 on September 10, 2020, less than four months prior to the relevant assessment date. Notwithstanding this purchase, the appellant argued that the subject condominium was overvalued for the fiscal year at issue. In support of her contention, the appellant submitted two self-prepared analyses. First, the appellant presented a listing of several condominiums also located on Thomas Street. These properties ranged in size from 1,158 square feet to 1,932 square feet with assessed values ranging from \$409,000 to \$1,017,000, with an average assessed value of \$423.66 per square foot of living space. In contrast, the appellant was assessed at \$617.00 per square foot. The appellant, therefore, argued that the subject condominium was disproportionately assessed for the fiscal year at issue.

The appellant also provided a list of twenty-seven condominiums/townhomes, which sold between January 1, 2021, and April 30, 2021. These properties ranged in size from 615 square feet to 1,977 square feet with sale prices that ranged from \$335,000 to \$930,000. The appellant did not offer an opinion of value for the subject property.

In addition to providing the relevant jurisdictional documents and the property record card for the subject condominium, the assessors cross-examined the appellant and then rested on the presumed validity of the assessment.

On the basis of all the evidence, including testimony, exhibits, and reasonable inferences drawn therefrom, the Board found that the purchase price paid by the appellant for the subject condominium in an arm's-length transaction was the most probative evidence of the subject condominium's fair cash value for the fiscal year at issue. That the sale occurred less than four months prior to the relevant assessment date, was sufficiently close in time to the assessment date, and the purchase price exceeded the subject condominium's assessed value for the fiscal year at issue.

With respect to the appellant's claim of disproportionate assessment, the Board found that the appellant did not offer evidence to prove that a pattern of disproportionate assessment existed or that there was any intentional or deliberate scheme by the assessors to over-assess the subject condominium. The appellant did not introduce any evidence that indicated a pattern of disproportionate assessment or any evidence that supported an intent on the part of the assessors to assess in a discriminatory way.

Based upon the evidence of record, the Board found and ruled that the appellant failed to establish that the assessed value of the subject condominium exceeded its fair cash value for the fiscal year at issue. Accordingly, the Board issued a decision for the appellee for the fiscal year at issue.

OPINION

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 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 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)).

Actual sales of the particular property at issue are "very strong evidence of fair market value, for they represent what a buyer has been willing to pay to a seller for [the] particular property [under appeal]." ***New Boston Garden Corp. v. Assessors of Boston***, 383 Mass. 456, 469 (1981) (quoting ***First Nat'l Stores, Inc. v. Assessors of Somerville***, 358 Mass. 554, 560 (1971)). In the present appeal, the Board found and ruled that the most probative evidence of the subject condominium's fair cash value was the purchase price that the appellant paid for the subject condominium in an arm's-length transaction that took place slightly less than four months prior to the assessment date. See ***Kane v. Assessors of Topsfield***, Mass. ATB Findings of Fact and Reports 2000-409, 411 (finding that the sale price that the appellants paid for the subject property approximately three months before the relevant assessment date was the best evidence of the subject property's fair cash value absent any evidence of compulsion); see also ***Kernan v. Assessors of Great Barrington***, Mass. ATB Findings of Fact and Reports 2022-133, 135 (finding that the most probative evidence of the subject property's fair cash value was the purchase price that the appellant paid for the subject property in an arm's-length transaction that took place slightly more than five months prior to the assessment date, and noting that the purchase price exceeded the assessed value.)

The appellant asserted that the subject condominium was assessed disproportionately in comparison with other condominiums located on the same street in Belmont. This claim is without legal weight. "[T]o obtain relief on the basis of disproportionate assessment, a taxpayer must show that there is an 'intentional policy or scheme of valuing properties or classes of property at a lower percentage' of fair cash value than the taxpayer's property." **Brown v. Assessors of Brookline**, 43 Mass. App. Ct. 327, 328 (1997) (quoting **Shoppers' World, Inc. v. Assessors of Framingham**, 348 Mass. 366, 377 (1965)). See also **Wardwell v. Assessors of Wellesley**, Mass. ATB Findings of Fact and Reports 2021-160, 165-66; **Scullane v. Assessors of Wellesley**, Mass. ATB Findings of Fact and Reports 2001-85, 95. In the present appeal, the appellant did not offer evidence to support an assertion that the assessors engaged in a scheme of discriminatory, disproportionate assessment.

Moreover, the evidence presented by the appellant, while showing a higher assessed value for the subject condominium per square foot than the cited properties, fell well short of meeting the requisite standard of proof. There is no support for the assertion that all properties in a given area must be assessed at equivalent value per-square-foot of living area, without regard to specific comparability factors. See **June Shillman, Trustee of RJS**

Home Trust v. Assessors of Weston, Mass. ATB Findings of Fact and Reports 2006-108, 123-24.

Based upon the above and all the evidence of record, the Board found that the evidence offered by the appellant was insufficient to overcome the presumed validity of the assessment and the strong evidence of value in the form of a sale of the subject condominium, for more than its assessed value, less than four months prior to the relevant assessment date. Accordingly, the Board found and ruled that that the appellant failed to demonstrate that the subject condominium's fair cash value was less than its assessed value for the fiscal year and issued a decision for the appellee in this appeal.

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