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## **THE COMMONWEALTH OF MASSACHUSETTS**

### ***Appellate Tax Board***

*Leverett Saltonstall Building  
100 Cambridge Street, Suite 200  
Boston, Massachusetts 02114*

**Docket No. X308104**

**JANICE COOPER, TRUSTEE OF THE COOPER  
FAMILY IRREVOCABLE TRUST  
Appellant.**

**BOARD OF ASSESSORS OF  
THE TOWN OF UPTON  
Appellee.**

### **DECISION WITH FINDINGS**

The Decision is for the appellee. On the basis of the testimony and evidence introduced at the hearing of this appeal, the Presiding Commissioner makes the following findings and rulings.

This appeal involves the assessed value of a property located at 77 Prospect Street in the town of Upton ("the subject property"). The subject property consists of a 2.65-acre parcel of land improved with a ranch-style, single-family dwelling ("subject dwelling"). The subject dwelling was built in 1956 and contains a total of 1,028 square-feet of finished living area, including two bedrooms.

The evidence showed that there is a utility easement on the subject property for a gas pipeline, which affects approximately one-half of an acre of the parcel. The evidence likewise showed that the assessors gave a 10% reduction to the land value of the subject property to account for this easement. For fiscal year 2017 ("fiscal year at issue"), the assessors valued the subject property at \$284,800.

The appellant presented two main arguments in support of her contention that the subject property was overvalued. First, she asserted that the pipeline easement significantly impacts the subject property's value, and the 10% reduction given by the assessors was inadequate to account for its negative impact. In addition, the appellant asserted that the subject property was improperly assigned to neighborhood 5, when in reality it should be in neighborhood 4. According to the appellant, neighborhood 5 has higher base property rates than neighborhood 4, and the property values in neighborhood 4 decreased over the previous fiscal year while those in neighborhood 5 increased.

The appellant submitted substantial documentary evidence into the record in support of her claim for abatement. The documents included property record cards for numerous properties located on Prospect Street, like the subject property, as well as properties located on Taft Street and Christian Hill Road, which were both designated as neighborhood 4. The appellant additionally entered into the record area street maps and documents pertaining to the aforementioned pipeline easement.

The assessors for their part entered into the record the requisite jurisdictional documents and brief testimony, which included the fact that the 10% land value reduction is the standard reduction given for easements town-wide. The assessors otherwise rested on the presumptive validity of the assessment.

On the basis of all of the evidence, the Presiding Commissioner finds and rules that the appellant failed to establish that the assessed value of the subject property exceeded its fair cash value for the fiscal year at issue.

Assessors are required to value and 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, §§ 2A and 38. "The 'fair cash value' of real property, for tax purposes, is the price that an owner willing but not compelled to sell ought to receive from one willing but not compelled to buy." **Tennessee Gas Pipeline Co. v. Assessors of Agawam**, 428 Mass. 261, 262 (1998). The burden of proving overvaluation lies with the taxpayer. **Schlaiker v. Assessors of Great Barrington**, 365 Mass. 243, 245 (1974)(citation omitted).

"A taxpayer may prove a right to an abatement by either introducing affirmative evidence of fair cash value, or by proving that the assessors erred in their method of valuation." **General Electric Co. v. Assessors of Lynn**, 393 Mass. 591, 600 (1984)(citation omitted). The Presiding Commissioner was not persuaded by the evidence and arguments offered by the appellant.

Although the evidence did establish that the subject property is subject to a utility easement, the evidence also showed that the assessors reduced the subject property's land value by 10% to account for the easement. There was no market or other evidence entered into the record to support a determination that the adjustment made by the assessors to account for the easement was inadequate, and the Presiding Commissioner therefore rejected this argument.

The Presiding Commissioner likewise rejected the appellant's contention regarding the subject property's neighborhood designation. In support of her position that the subject property was overvalued, the appellant entered into the record numerous property record cards relating to properties on Prospect Street, Christian Hill Road, and Taft Street, along with area road maps. The maps showed that Prospect Street is close to Taft Street and Christian Hill Road, as were many other streets, but the record did not indicate which neighborhood designation the other streets were given. The record did not indicate that Prospect Street was somehow inappropriately

carved out of neighborhood 4 and designated as neighborhood 5, and the Presiding Commissioner therefore rejected this argument.

Furthermore, the information contained on the property record cards did not undermine the validity of the assessment. On the contrary, it furnished additional support for the subject property's assessed value.

For example, 61 Prospect Street was a 1.5-acre parcel of land improved with a 1,436 square-foot ranch-style dwelling built in 1960. Thus, this property had a considerably smaller lot size than the subject property, even taking into consideration the portion of the subject property that is impacted by the easement, and it sold for \$307,500 on July 14, 2014. 64 Taft Street was a 3.067-acre parcel of land improved with an 1,120 square-foot ranch-style dwelling built in 1946. That property sold for \$350,000 on February 26, 2015, considerably more than the subject property's assessed value. "[S]ales of property usually furnish strong evidence of market value, provided they are arm's-length transactions and thus fairly represent what a buyer has been willing to pay for the property to a willing seller." **Foxboro Associates v. Assessors of Foxborough**, 385 Mass. 679, 682 (1982). Sales of comparable realty in the same geographic area and within a reasonable time of the assessment date contain credible data and information for determining the value of the property at issue. **McCabe v. Chelsea**, 265 Mass. 494, 496 (1929). These sales were reasonably proximate to the relevant valuation date of January 1, 2016 and reasonably comparable to the subject property, and they furnished additional support for the subject property's assessed value.

So, too, did the comparable assessment data contained on the property record cards. For example, 53 Prospect Street was a 0.92-acre parcel of land improved with a single-family dwelling, built in 1965, with a total finished living area of 1,064 square feet. That property was assessed for \$310,200, considerably more than the subject property's assessed value, despite its much smaller lot size. Additionally, 5 Christian Hill Road was a 1.57-acre parcel of land improved with a 1,448 square-foot single-family dwelling, built in 1949. Its assessed value for the fiscal year at issue was \$281,300, nearly identical to the subject property's assessed value, despite its smaller lot size and older age. The Presiding Commissioner could not say, based on this record, that the subject property's assessment was out of line with those of nearby, similar properties.

In conclusion, on the basis of all of the evidence, the Presiding Commissioner finds and rules that the appellant failed to meet her burden of proving that the assessed value of the subject property exceeded its fair cash value for the fiscal year at issue. Accordingly, the decision is for the appellee.

This is a single-member decision promulgated in accordance with G.L. c. 58A, § 1A.

**APPELLATE TAX BOARD**

By: Patricia M. Good  
Patricia M. Good, Commissioner

**Location: 77 Prospect Street**  
**Year: 2017**

Attest: James Brown  
Clerk of the Board  
Asst.  
Date: NOV - 2 2017  
(Seal)

**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. An appeal under the Informal Procedure is limited by g. L. c. 58A, § 7A to questions of law raised by the pleadings or by a statement of agreed facts. Pursuant to G.L. c. 58A, § 13, no further findings of fact or report will be issued by the Board.