

COMMONWEALTH OF MASSACHUSETTS

APPELLATE TAX BOARD

STEPHANIE KWAN

v.

**BOARD OF ASSESSORS OF THE
CITY OF BOSTON**

Docket No. F345775

Promulgated:
March 18, 2024

This is an appeal 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 City of Boston ("assessors" or "appellee") to abate a tax on certain real estate located in Boston, owned by and assessed to Stephanie Kwan ("appellant"), for fiscal year 2022 ("fiscal year at issue").

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

These findings of fact and report are made pursuant to a request by the appellant under G.L. c. 58A, § 13 and 831 CMR 1.32.¹

Stephanie Kwan, pro se, for the appellant.

Laura Caltenco, Esq., for the appellee.

¹This citation is to the version of the regulation in effect prior to January 5, 2024.

FINDINGS OF FACT AND REPORT

Based on the testimony and exhibits admitted 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 valuation and assessment date for the fiscal year at issue, the appellant was the assessed owner of a 5,887 square-foot improved parcel of real estate located at 145 Arlington Street in Boston ("subject property"). The subject property is improved with a Colonial-style, single-family dwelling built in 1940 ("subject dwelling"). The subject dwelling contains 1,320 square feet of living area, including three bedrooms as well as two full bathrooms. The subject property also features a fireplace, a partially finished basement, a front porch, and a one-car detached garage. According to the property record card, the interior condition is good.

For the fiscal year at issue, the assessors valued the subject property at \$741,900 and assessed a tax thereon, at the rate of \$10.88 per thousand, in the amount of \$4,803.46, including the Community Preservation Act surcharge. The appellant timely paid the tax due without incurring interest. On January 31, 2022, the appellant timely filed an application for abatement with the assessors. On March 23, 2022, the assessors granted a partial abatement, reducing the subject property's assessed value to \$723,100. The appellant seasonably filed her appeal with the Board

on June 10, 2022. Based on these facts, the Board found and ruled that it had jurisdiction to hear and decide this appeal.

The appellant testified on her own behalf and offered into evidence a written statement, which included a comparable-assessment analysis relying on ten purportedly comparable properties that are also located on Arlington Street and using data compiled from the assessors' on-line assessment information. The appellant testified that she chose properties that were of similar age, style, and condition, within one-eighth mile, and had lot sizes and living area within twenty percent of the subject property. The cited properties ranged in size from 1,166 square feet to 1,581 square feet with assessed values ranging from \$611,000 to \$825,100. The appellant argued (i) that the subject property's assessed value was significantly higher than both the average assessed value of \$686,960 and the median assessed value of \$675,550 for the cited comparable properties, and (ii) that the subject property's tax of \$6.12 per square foot of living area was significantly higher than the \$5.31 average and \$5.06 median tax per square foot of living area for her comparable properties.

The appellant also disputed several items on the property record card, which she argued were mischaracterized, including: the below-grade bathroom, which she argued was only a three-quarters bathroom because it does not have a bathtub; she also argued that the kitchen is only semi-modern, not modern; and,

lastly, she maintained that the interior condition is average, not good. Based on her alleged errors on the subject property's property record card and her comparable-assessment analysis, the appellant opined that the subject property's fair cash value for the fiscal year at issue was \$640,300.

Having produced the requisite jurisdictional documents, the appellee presented its case through the testimony of Kevin Killoran, Supervisor of Assistant Assessors, and the submission of a comparable-sales analysis. Mr. Killoran testified that he researched comparable sales and ultimately chose three properties, two within one-tenth of a mile and the third within seven-tenths of a mile of the subject property - 119 Arlington Street, 196 Faneuil Street, and 7 Matchett Road. The appellee offered into evidence the property record cards, deeds, and Multiple Listing Service sheets for each of the three purportedly comparable properties. These properties were similar in age and style to the subject property and had finished living areas that ranged from 1,336 square feet to 1,696 square feet. The properties sold between May 2020 and August 2021, with sale prices that ranged from \$860,000 to \$880,000. Mr. Killoran adjusted his comparison properties for differences between those properties and the subject property that affect fair cash value, including appreciation/depreciation to account for time of sale, condition, living area, number of bathrooms, finished basement, and

additional features like porches, fireplaces, and garages. After adjustments, the purportedly comparable properties yielded sale prices ranging from \$850,760 to \$878,780. The subject property's assessment, as abated, of \$723,100 fell below this range.

Mr. Killoran further addressed the appellant's claim of errors on the subject property's property record card for the fiscal year at issue. With respect to the appellant's claim that the subject property's kitchen was semi-modern, Mr. Killoran testified that the City of Boston classifies a semi-modern kitchen as one that was last updated ten or more years prior. The subject property's kitchen was last updated in 2016 and therefore, was properly characterized as modern. Regarding the below-grade bathroom, Mr. Killoran testified that the City recognizes only half and full bathrooms and classifies as a full bathroom, a room with a toilet, a sink, and a shower. Finally, Mr. Killoran testified that based on his view of the subject property, which had nice natural woodwork and no deferred maintenance, the interior condition rating of good was warranted.

Based on the evidence presented, the Board found and ruled that the appellant failed to meet her burden of proving that the fair cash value of the subject property was lower than its assessed value for the fiscal year at issue. The Board found that while the appellant limited her analysis to the assessed values of properties located on the same street as the subject property, she failed to

make adjustments for differences between those properties and the subject property; thus, those properties and their tax assessments failed to serve as persuasive evidence in establishing the fair cash value of the subject property for the fiscal year at issue. Furthermore, the appellant failed to demonstrate how these values correlated with the subject property's fair cash value for the fiscal year.

Moreover, the Board found that the assessors' comparable-sales analysis, which featured arm's-length sales of nearby properties with appropriate adjustments made to reflect differences between the comparable properties and the subject property, supported the subject property's assessed value, as abated, for the fiscal year at issue.

Accordingly, the Board issued a decision for the appellee in this appeal.

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)).

In the present appeal, the appellant tried to prove that the subject property was overvalued for the fiscal year at issue by demonstrating that its assessed value was greater than the average and median assessment of ten purportedly comparable properties located on the same street. The Board found, however, that the appellant failed to make adjustments for differences between those properties and the subject property; thus, those properties failed to serve as persuasive evidence in establishing the fair cash value of the subject property for the fiscal year at issue. Furthermore,

the appellant failed to demonstrate how these values correlated with the subject property's fair cash value for the fiscal year.

Moreover, the evidence presented by the appellant - indicating, for the subject property, a tax per square foot of living area higher than the average and median taxes per square foot of living area for her ten purportedly comparable properties - fell well short of meeting the requisite standard of proof. There is no requirement that all properties in a given area must be assessed and taxed at equivalent per-square-foot of living area, without regard to specific comparability factors. See **Layla Hormozi v. Assessors of Belmont**, Mass. ATB Findings of Fact and Reports 2023-336, 3442.

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 value of the property at issue. **Graham v. Assessors of West Tisbury**, Mass. ATB Findings of Fact and Reports 2007-321, 400 (citing **McCabe v. Chelsea**, 265 Mass. 494, 496 (1929)), *aff'd*, 73 Mass. App. Ct. 1107 (2008). Properties are "comparable" when they share "fundamental similarities" with the subject property, including age, location, and size. See **Lattuca v. Robsham**, 442 Mass. 205, 216 (2004). See also **New Boston Garden Corp. v. Assessors of Boston**, 383 Mass. 456, 470 (1981). ("[B]asic comparability is established upon considering the general character of the properties. Once basic comparability is


established, it is then necessary to make adjustments for the differences, looking primarily to the relative quality of the properties, to develop a market indicator of value.”)

While the Board found that the appellant's case lacked credible evidence of overvaluation, the assessors' comparable-sales analysis, which featured arm's-length sales of nearby properties with appropriate adjustments made to reflect differences between the comparable properties and the subject property, supported the subject property's assessed value, as abated, for the fiscal year at issue.

Based upon the above and all the evidence of record, the Board found that the appellant failed to meet her burden of proving that the subject property's fair cash value was less than its assessed value for the fiscal year at issue.

Accordingly, the Board issued a decision for the appellee in this appeal.

THE APPELLATE TAX BOARD

By: /S/ 
Mark J. DeFrancisco, Chairman

A true copy,
Attest: /S/ 
Clerk of the Board