

COMMONWEALTH OF MASSACHUSETTS

APPELLATE TAX BOARD

CATHY M. LASKOWSKI

v.

BOARD OF ASSESSORS OF
THE TOWN OF BELCHERTOWN

Docket No. F348509

Promulgated:
March 19, 2025

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 Belchertown ("appellee" or "assessors") to abate taxes on real estate owned by and assessed to Cathy M. Laskowski ("appellant") for fiscal year 2023 ("fiscal year at issue").

Commissioner Metzger ("Presiding Commissioner") heard the appeal and issued a single-member decision for the appellee in accordance with G.L. c. 58A, § 1 and 831 CMR 1.32.

These findings of fact and report are made pursuant to a request by the appellant under G.L. c. 58A, § 13 and 831 CMR 1.34.

Cathy M. Laskowski, pro se, for the appellant.

Jeffrey Blake, Esq., for the appellee.

FINDINGS OF FACT AND REPORT

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

On January 1, 2022, the relevant valuation date for the fiscal year at issue, the appellant was the owner of a 0.92975-acre improved parcel of land located at 37 Hamilton Street in Belchertown ("subject property"). For the fiscal year at issue, the appellee valued the subject property at \$438,800 and assessed a tax thereon at a rate of \$16.32 per \$1,000 in the total amount of \$7,244.16, including the applicable Community Preservation Act surcharge. The appellant timely paid the tax without incurring interest. On January 30, 2023, the appellant timely filed an abatement application for the subject property. On March 7, 2023, the appellee granted a partial abatement reducing the subject property's assessed value to \$429,500. Not satisfied with the abatement, on June 5, 2023, the appellant seasonably filed her appeal with the Appellate Tax Board ("Board"). Based on the information in this paragraph, the Presiding Commissioner found and ruled that the Board had jurisdiction to hear and decide this appeal.

The subject property is improved with a single-family home built in 2010 containing 2,141 square feet of living area with a total of six rooms, including three bedrooms as well as two full

bathrooms and one half bathroom, plus an attached two-car garage ("subject home"). Upon inspecting the subject property when the appellant applied for an abatement, the appellee reduced the subject home's rating from "good" to "average" condition and granted an abatement based on overvaluation. As abated, the subject home's assessment was reduced from \$377,800 to \$368,500 and the land assessment remained at \$61,000.

The appellant presented her case through her testimony and the submission of documents, including a spreadsheet compiling comparative information relating to the subject property and two other purportedly comparable properties, including features and total assessed values for fiscal years 2022 and 2023. She challenged the subject property's assessment for the fiscal year at issue based on the theory of disproportionate assessment. The appellant claimed that the subject home's assessed value was disproportionately high as compared to the assessed values of the homes of her purportedly comparable properties, noting that the assessed value of her home had increased over the prior fiscal year by a higher percentage than the percentage increase of her two purportedly comparable homes.

The appellant opined that the subject property should have been assessed at \$416,080 for the fiscal year at issue. She did not argue or present evidence to establish that the subject property's fair cash value was less than its assessed value.

When questioned by the Presiding Commissioner, the appellant admitted that she had no knowledge of an intentional discriminatory policy against the subject property that would have led to its alleged disproportionate assessment. The appellant further admitted that her two purportedly comparable properties were not located within a close proximity to the subject property, opining that the properties were not within an easy walking distance but perhaps within a "bikeable" distance.

The appellee presented its case through the testimony of John Whelihan, the town's Director of Assessments, as well as the submission of documents, including the requisite jurisdictional documents. The Director of Assessments testified that the fiscal year at issue's values for properties within the town had been provided to and certified by the Department of Revenue.

Considering all the evidence, the Presiding Commissioner found and ruled that the appellant failed to establish or even raise an inference that the assessors engaged in an intentional scheme of discriminatory, disproportionate assessment against the appellant or the subject property. Moreover, the appellant failed to advance any evidence to suggest that the subject property's overall assessment exceeded its fair cash value for the fiscal year at issue.

Accordingly, the Presiding Commissioner decided this appeal for the appellee.

OPINION

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 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 the property 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 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 this Board, "[t]he 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)).

To demonstrate that the subject property was over assessed, the appellant here raised a claim of disproportionate assessment;

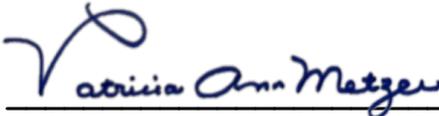
she asserted that the subject home was assessed disproportionately in comparison with two purportedly comparable homes located in Belchertown. This claim is without legal merit. Massachusetts case law provides that, "to obtain relief on the basis of disproportionate assessment, a taxpayer must show that 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 asserted that the assessed value of the subject home had increased over that for the prior fiscal year at a higher percentage than the assessed values of her two purportedly comparable homes. However, the appellant did not offer evidence to support an assertion that the assessors engaged in an "intentional widespread scheme of discrimination" against her or the subject property. **Stilson v. Assessors of Gloucester**, 385 Mass. 724, 727-28 (1982). Without satisfying this key component of disproportionate assessment as defined in Massachusetts law, the appellant's claim has no merit.

Furthermore, the appellant presented no evidence to support that the subject property was assessed for more than its fair cash value for the fiscal year at issue.

In sum, the Presiding Commissioner found and ruled that the appellant failed to meet her burden of proving that the subject property was overvalued or disproportionately assessed for the fiscal year at issue. Accordingly, the Presiding Commissioner issued a decision for the appellee.

THE APPELLATE TAX BOARD

By: 
Patricia Ann Metzger, Commissioner

A true copy,

Attest: 
Clerk of the Board