

**COMMONWEALTH OF MASSACHUSETTS  
APPELLATE TAX BOARD**

**WILLIAM T. LOOMIS**

**v.**

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

Docket No. F342076

Promulgated:  
January 25, 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 City of Boston ("assessors" or "appellee") to abate a tax on a certain parcel of real estate located in the City of Boston, owned by and assessed to William T. Loomis ("appellant"), under G.L. c. 59, §§ 11 and 38, for fiscal year 2021 ("fiscal year at issue").

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

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.

*William T. Loomis, pro se*, for the appellant.

*Laura Caltenco, Esq.*, for the appellee.

## **FINDINGS OF FACT AND REPORT**

Based on 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, 2020, the relevant date of valuation and assessment for the fiscal year at issue, the appellant was the assessed owner of real property located at 54 West Cedar Street in the City of Boston ("subject property"). The subject property consists of a 924-square-foot parcel of land improved with a row-house-style, single-family residence built in 1850, in average overall condition, and consisting of 2,356-square-feet of living area. It features nine rooms, including two bedrooms, three full bathrooms, one half bathroom, a chimney, and a deck/patio. The property record card indicates that building permits were last issued in 2013.

The assessors valued the subject property at \$2,264,400 for the fiscal year at issue and assessed a tax thereon at a rate of \$10.67 per \$1,000 in the total amount of \$21,207.54, inclusive of the Community Preservation Act ("CPA") surcharge.<sup>1</sup> The appellant timely paid the tax due and incurred no interest. The appellant filed an abatement application with the assessors on January 5,

---

<sup>1</sup>The residential exemption of \$295,503 allowed by the City of Boston was subtracted from the assessed value prior to applying the rate of \$10.67 per \$1,000. The CPA surcharge of \$199.41 was then added to calculate the total tax due.

2021. The assessors denied the abatement application on April 5, 2021. The appellant timely filed a petition with the Board on April 13, 2021. Based on this information, the Board found and ruled that it had jurisdiction to hear and decide this appeal.

### **1. The Appellant's Case**

The appellant presented his case through his own testimony and documentary evidence. Notably, the appellant acknowledged during his testimony that the fair cash value of the subject property was higher than its assessed value for the fiscal year at issue.

The appellant based this appeal on his contention that for the fiscal year at issue, the subject property's assessed value increased at a higher percentage rate than that of most other properties on the same street or one on a neighboring street. He did not introduce evidence of comparable sales, nor did he introduce any property record cards for the other properties referenced during his testimony.

The appellant introduced documentary evidence consisting of a chart and an accompanying written analysis showing the assessed values for fiscal year 2010 through fiscal year 2022 of eleven properties located on West Cedar Street, including the subject property, and one property on Pinckney Street. This chart illustrated the percentage change in assessed values for each fiscal year over the prior fiscal year. The appellant also provided

a list of the percentage increases in the assessments for most of the properties for each year from fiscal year 2011 through fiscal year 2022.

For most of the fiscal years since 2010, except in revaluation years (fiscal years 2013 and 2016, and the fiscal year at issue) and except when major capital improvements had been made to a property, most of the listed properties increased in assessed value by the same or similar percentages. The appellant acknowledged that the fiscal year at issue was a revaluation year and, as was typical of past revaluation years, the assessed values of the listed properties increased at non-uniform rates.

The appellant calculated an increase in the assessed value of the subject property for the fiscal year at issue of 8.41%, while he calculated that the assessed value of all of the properties on his chart increased by an average of 4.75%. The appellant noted that for the fiscal year at issue, the average increase of all of the properties, minus the three highest increased properties (including the subject property), was 3.15%. The appellant also noted that the three properties (not including the subject property) that historically had the lowest assessed values were subject to an average increase of 2.95% for the fiscal year at issue.

The appellant maintained that the determination of the assessed value of the subject property for the fiscal year at issue

deviated from the assessors' prior practice of increasing assessed values by a uniform percentage each year. He opined that the appropriate measure for calculating the assessed value of the subject property, which had not had significant improvements in the past seven years, would have been to apply a 2.95% increase to its fiscal year 2020 assessed value (\$2,088,800), reducing the assessed value for the fiscal year at issue from \$2,264,400 to \$2,150,420.

## **2. The Assessors' Case**

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

The Board did not consider sales information that the assessors had submitted to the Board prior to the hearing of this appeal. That information was submitted in accordance with the Board's order that potential evidence must be submitted no later than seven days prior to the hearing. However, the assessors chose to rest on value and declined to submit the sales information into evidence. Thus, the sales information was not considered by the Board and had no bearing on the outcome of the appeal.

## **3. The Board's Findings**

The appellant's case rested entirely on what he presented as the relatively large increase in the assessed value of the subject

property when compared to other properties on the same street and one on Pinckney Street in the same neighborhood. The Board ruled that this evidence did nothing to establish the subject property's fair cash value for the fiscal year at issue. Significantly, the appellant also conceded that the subject property had a fair cash value greater than that of its assessed value.

Based on the record, the Board found and ruled that the appellant failed to meet his burden of establishing that the fair cash value of the subject property was lower than its assessed value 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 upon which a willing seller and a willing buyer agree where both 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 proof in establishing that the property at issue has a lower value than its assessed value. "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 (citing **Donlon v. Assessors of Holliston**, 389 Mass. 848, 855 (1983)).

In the present appeal, the appellant failed to meet his burden of proof in establishing that the subject property had a lower fair cash value than its assessed value for the fiscal year at issue. The appellant's case was based solely on what he claimed to be a deviation from prior years' valuations, in which properties on his street and one on a neighboring street had historically increased by a uniform percentage, except during revaluation years or when major capital improvements had been made. However, the appellant did not demonstrate that any such deviation resulted in a valuation above the subject property's fair cash value for the fiscal year at issue. "The fact that appellant's assessment may have increased at a percentage greater than the percentage increase in the assessments of other houses is not determinative of the

issue. It could be that prior assessments and the institution of revaluation procedures revealed that his former assessment was unduly low. The test is fair cash value or market value." **Burke et al. v. Assessors of Peru**, Mass. ATB Findings of Fact and Reports 1983-1,6.

Furthermore, the appellant asserted that the subject property was assessed disproportionately in comparison with other properties in his neighborhood. This claim is without merit. "[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. The appellant did not present any such evidence in this appeal.

The Board therefore ruled that the appellant failed to expose flaws or errors in the assessors' method of valuation or introduce affirmative evidence of value which undermined the assessors' valuation. See **General Electric Co.**, 393 Mass. at 600.

Based upon the above and the record, the Board found and ruled that the appellant failed to meet his burden of proving that the fair cash value of the subject property for the fiscal year at



issue was lower than its assessed value. The Board accordingly issued a decision for the appellee.

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