COMMONWEALTH OF MASSACHUSETTS

APPELLATE TAX BOARD

MARY-ELLEN MANNING **v.** **BOARD OF ASSESSORS OF THE CITY OF PEABODY**

Docket No. F350977

Promulgated:
July 13, 2026

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 Peabody ("appellee" or "assessors") to abate a real estate tax assessed against Mary-Ellen Manning ("appellant") for fiscal year 2024 ("fiscal year at issue").

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

These findings of fact and report are made at the request of the appellant pursuant to 831 CMR 1.34.

Mary-Ellen Manning, Esq.*, pro se*, for the appellant.

Susan Antonellis, Assessor, for the appellee.

FINDINGS OF FACT AND REPORT

Based on testimony and documents admitted into evidence during the hearing of this appeal, the Appellate Tax Board ("Board") made the following findings of fact.

On January 1, 2023, the valuation and assessment date for the fiscal year at issue, the appellant was the owner of an 8,490-square-foot parcel of land improved with a four-unit rental property with an address of 80 Lowell Street ("subject property"). For the fiscal year at issue, the appellee valued the subject property at $575,800 and assessed a tax thereon at the rate of $9.12 per $1,000, in the total amount of $5,294.69, which included a Community Preservation Act ("CPA") surcharge. The appellant timely paid the tax due without incurring interest. On February 1, 2024, the appellant timely filed an abatement application with the appellee. On February 9, 2024, the appellee denied the appellant's abatement request. On May 8, 2024, the appellant seasonably filed an appeal with the Board.[1] Based on these facts, the Board found and ruled that it had jurisdiction to hear and decide this appeal.

The appellant presented her case through her testimony and the submission of documents. According to its property record card, the subject property is an "old style" structure, built in 1792, of grade-C construction, and in average condition. The subject property has a total living area of 1,787 square feet that is divided into four rental units, with three units being studio/efficiency rooms and one unit being a one-bedroom apartment. Each unit has one bathroom. The appellant testified that, while the units are separated from each other, the subject building is essentially a rooming house, as the subject property has one shared meter for gas and other utilities. The appellant testified that the subject property resembles a "chicken coop" with its small rooming units. The appellant offered pictures of the interior of the subject property to demonstrate that the rooming units are dated. She further testified that each unit is very small, which prohibits

[1] While the Petition was stamped as having been docketed by the Board on May 10, 2024, the envelope containing the Petition bore a United States Postal Service postmark of May 8, 2024. Pursuant to G.L. c. 58A, § 7, the Board considered the date of postmark to be the date of filing.

a tenant from having much furniture. The appellant testified that the appellee had not inspected the interior of the subject property.

The appellant further testified that the subject property is located in the business district of downtown Peabody near City Hall and the fire station. It is on a highly trafficked street as well as undesirably located across from a liquor store that draws much drive-by attention. The property record card includes a notation for “traffic” and an accompanying ten-percent deduction for the land component of the subject property’s assessed value.

According to the property record card, the appellee valued the subject property under the cost approach. The appellant, however, contended that the valuation should consider the subject property’s earning potential. She further testified that, because of their small sizes, the units cannot command more rent than what she charges. The appellant submitted an income-and-expense report for the subject property, indicating a total of $4,280 in monthly rent for the four units, which includes all utilities and one parking space per unit. The subject property includes two additional parking spaces, which the appellant rents to the neighboring property for an additional $60 per month of income. After accounting for the subject property’s actual expenses, the appellant contended that a gross-rent multiplier would have to be as high as 11 to achieve the subject property’s assessed value, rather than what she considered a more appropriate gross-rent multiplier of 4 to 7. The appellant opined that, when using a more appropriate gross-rent multiplier and then applying a five-percent discount, which she assumed was the appellee’s valuation methodology, she derived a value for the subject property of $411,000.

The appellant also developed a sale-comparison approach to value the subject property. Her analysis consisted of three purportedly comparable properties that sold between January 2021 and September 2022. These properties contained living areas from 2,160 square feet to 6,752 square feet, as compared with the subject property's 1,787 square feet, and consisted of rental apartments of four, five, and eight units. These purportedly comparable properties sold for prices from $642,000 to $1,200,000. The appellant calculated the sale value per square foot of living area as well as the assessed value per square foot of living area for her comparison properties and demonstrated that the subject property had a higher per-square-foot assessed value than these other more spacious properties located in less congested areas. The appellant further complained that the subject property had the highest assessed value of living area per square foot for all four-to-eight-unit apartments in Peabody, and yet it was the smallest property per living area. The appellant used the average assessed value per square foot for her three purportedly comparable properties and extrapolated a value of $427,120 for the subject property.

Considering all her evidence, the appellant's opinion of value for the subject property was $411,000 for the fiscal year at issue.

The appellee presented its case through the testimony of Assessor Susan Antonellis, who offered the requisite jurisdictional documents, and presented a rebuttal of the appellant's evidence. Assessor Antonellis testified that, during the requisite market time for the fiscal year at issue, rental homes consisting of three units in the city were selling for an average of $748,000 as compared with the assessed value of $575,800 for the four-unit subject property. She further pointed out that one of the appellant's comparable-sale properties that sold for $1,000,000 in September 2022, while listed in a different zone, is only four buildings away from the subject property. Assessor Antonellis maintained that the assessed value of the subject property reflects the disparity between it and more spacious apartment buildings and also considers the subject property's less favorable business-district location.

Assessor Antonellis further explained that properties with smaller living areas are assessed at a higher per-square-foot value than properties with larger living areas, such that it is not appropriate to simply use an assessed per-square-foot value from a larger property to calculate the value of a smaller property. Assessor Antonellis concluded that, in her opinion, the subject property's assessed value reflected its fair cash value for the fiscal year at issue.

Based on the evidence of record, the Board ultimately found and ruled that the appellant failed to meet her burden of proving that the subject property was assessed for more than its fair cash value for the fiscal year at issue. The appellant's per-square-foot-value comparison relied on sale and assessment values for purportedly comparable properties but lacked adjustments for key differences between those properties and the subject property that affect fair cash value. The analysis thus lacked probative value and was unpersuasive. Moreover, as Assessor Antonellis pointed out, the appellant's analysis failed to consider an accepted valuation principle, which is that, all else being equal, smaller properties command a higher value per square foot than larger properties. The Board thus found that the appellant's unadjusted square-foot-value analysis lacked probative value.

The Board also did not find persuasive the appellant's gross-rent-multiplier analysis. Unlike the income-capitalization approach that has long been relied upon by the Board, the appellant's gross-rent-multiplier analysis failed to account for important market-supported value indicators, particularly a capitalization rate, as well as a thorough analysis of projected income and expenses.

On the basis of the evidence presented, the Board found and ruled that the appellant failed to meet her burden of proving a fair cash value for the subject property that was lower than its assessed value for the fiscal year at issue.

Accordingly, the Board issued a decision 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 on which a willing seller and a willing buyer will agree if both are fully informed and under no compulsion. ***Boston Gas Co. v. Assessors of Boston***, 334 Mass. 549, 566 (1956). "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)). 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. v. Assessors of Lynn***, 393 Mass. 591, 600 (1984) (quoting ***Donlon v. Assessors of Holliston***, 389 Mass. 848, 855 (1983)).

In the present appeal, the appellant complained that the subject property's assessed value per square foot of living area was higher than the per-square-foot sale and assessment values of more spacious rental properties in the subject property's vicinity, including those outside the congested business-district zone. However, the appellant's analysis lacked adjustments to her purportedly comparable properties' sale prices for the many attributes that affect fair cash value, including construction quality, condition, and parking availability, as well as size and location. *See, e.g.*, ***New Boston Garden Corp. v. Assessors of Boston***, 383 Mass. 456, 470 (1981) ("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."). The Board found that failing to adjust the sale prices and assessed values of her comparable properties to account for differences between them and the subject property that affect fair cash value rendered the appellant's analysis ineffective for establishing the fair cash value of the subject property for the fiscal year at issue.

Moreover, the appellant's analysis failed to consider the principle of diminishing returns, also known as economies of scale, which holds that as unit size increases, the per-square-foot value decreases. *See* Appraisal Institute, THE APPRAISAL OF REAL ESTATE 172 (15th ed., 2020) ("Generally, as size increases, unit prices decrease. Conversely, as size decreases, unit prices increase."); *see also* ***Boquist v. Assessors of Lincoln***, Mass. ATB Findings of Fact and Reports 2014-704, 715 ("[T]he appellant failed to take into consideration the well-established principle of diminishing returns with increases in unit size. The subject property's prime lot was significantly smaller than those of his comparison properties, and it was therefore logical that it would be valued at a higher value per square foot.").

Finally, the Board found the appellant's gross-rent-multiplier analysis to be unpersuasive. The appellant developed her analysis by considering the actual income and expense figures for the subject property and extrapolating a gross-rent multiplier, which she deemed to be too high. This breakdown is not a convincing analysis that the Board relies upon for determining the market value of income-producing property, as it fails to account for market factors, particularly a capitalization rate. *See* ***45 Rice Street Realty Trust et al. v. Assessors of Cambridge***, Mass. ATB Findings of Fact and Reports 2007-1269, 1328-29. Instead, the Board has long relied on the income-capitalization approach, which applies a capitalization rate to a market-derived net operating income to determine not a property's actual earnings but its earning potential on the market. "It is the earning capacity of the real estate, rather than its actual income, which is probative of fair market value." ***Pappas v. Assessors of Brookline,*** Mass. ATB Findings of Fact and Reports 2006-665, 675 (citing ***Assessors of Quincy v. Boston Consolidated Gas Co.,*** 309 Mass. 60, 64 (1941)).

Based on the foregoing, the Board found and ruled that the appellant failed to meet her burden of proving that the subject property was overvalued for the fiscal year at issue. Accordingly, the Board issued a decision for the appellee in this appeal.

THE APPELLATE TAX BOARD

By: ______________________________
Mark J. DeFrancisco, Chairman

A true copy,

Attest: ______________________________
Clerk of the Board