

COMMONWEALTH OF MASSACHUSETTS

APPELLATE TAX BOARD

STANLEY MAZURCZYK

v.

BOARD OF ASSESSORS OF  
THE TOWN OF CHELMSFORD

Docket No. F336873

Promulgated:  
August 26, 2019

This is an appeal heard 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 Chelmsford ("appellee" or "assessors") to abate a tax on a certain parcel of real estate located in Chelmsford, owned by and assessed to Stanley Mazurczyk ("appellant") for fiscal year 2018 ("fiscal year at issue").

Commissioner Good ("Presiding Commissioner") heard this appeal under G.L. c. 58A, § 1A and 831 CMR 1.20 and issued a single-member 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.

*Stanley Mazurczyk, pro se, for the appellant.*

*Frank Reen, chief assessor, for the appellee.*

**FINDINGS OF FACT AND REPORT**

On the basis of testimony and exhibits offered into evidence at the hearing of this appeal, the Presiding Commissioner made the following findings of fact.

As of January 1, 2017, the relevant assessment date for the fiscal year at issue, the appellant was the assessed owner of a 0.43-acre parcel of land with an address of 5 Aberdeen Road, Chelmsford ("subject property"). The subject property is improved with a single-family, ranch-style residence built in 1959 and containing 2,216 square feet of living area consisting of seven rooms, including five bedrooms, as well as one full bathroom, and a two-car garage ("subject home").

Relevant jurisdictional facts are summarized in the following table:

Fiscal Year	Assessed Value	Tax Amount Tax Rate	Taxes Timely Paid (Y/N)	Abatement Application Filed	Date of Denial	Date Petition Filed With Appellate Tax Board
2018	\$385,400	\$6,921.78 \$17.96	Y	01/31/2018	04/26/2018	07/25/2018

Based on these facts, the Presiding Commissioner found and ruled that the Appellate Tax Board ("Board") had jurisdiction over the instant appeal.

The appellant presented his case through his own testimony and the submission of documents. The appellant testified that the subject property is situated on land within the Environmental

Protection Agency's conservation protection zone. He further testified that, because of its location, the subject home is prone to flooding and requires significant maintenance to prevent water damage. The appellant contended that the Town of Chelmsford has also imposed certain building restrictions on the subject property because of the flooding problems. For example, he testified that the Building Department for the Town of Chelmsford denied him a permit to install a second bathroom in the subject home.

The appellant submitted a table comparing nine purportedly comparable properties from Chelmsford, together with data sheets from Vision Government Solutions (herein referred to as the appellant's "comparable-sales and comparable-assessments analyses"). The purportedly comparable properties ranged in size from 0.28 acres to 0.55 acres, and they were improved with single-family, ranch-style dwellings with living areas ranging from 1,508 square feet to 2,250 square feet and with either no garage or a one-car garage. Eight of these properties were sold between mid-2013 to mid-2018, with sale prices ranging from \$332,000 to \$391,900. The nine properties' assessments for fiscal year 2018 ranged from \$334,200 to \$356,200. The appellant did not adjust any of his sales or assessments for differences between the properties and the subject property.

The appellee presented its case through the testimony of Frank Reen, chief assessor. He presented a comparable-sales analysis

using four purportedly comparable properties that sold between December 18, 2015 and November 15, 2016. These purportedly comparable properties ranged in size from 0.51 acres to 1.23 acres and were improved with single-family, ranch-style dwellings with living areas ranging from 1,708 square feet to 2,048 square feet. The chief assessor included copies of property record cards as well as deeds to demonstrate that the sales were made at arm's length. Furthermore, the chief assessor provided adjustments to his purportedly comparable properties to account for key differences that affected market value, including: land area; square footage of home's living area; building grade; number of bathrooms; outbuildings; site index; and condition. When adjusted, the appellee's purportedly comparable properties yielded fair market values ranging from \$395,911 to \$436,825.

The chief assessor also testified that the subject property's assessment reflected a ten percent reduction in the subject property's land value for the impact of drainage problems and the presence of culverts at the subject property.

In reviewing the evidence, the Presiding Commissioner was not persuaded by the appellant's comparable-sales and comparable-assessments analyses. The appellant did not apply any adjustments to compensate for key differences between the subject property and his purportedly comparable properties that would affect value. For example, the appellant relied primarily on a sale from 2013, a

0.52-acre property improved with a 2,250-square-foot home with nine rooms, including four bedrooms, as well as two full bathrooms, which sold for \$375,100. However, the Presiding Commissioner found that the 2013 sale was not sufficiently contemporaneous with the assessment date at issue. Moreover, at 2,216 square feet of living area, the subject home was larger than all but one of the purportedly comparable homes, and it also included a two-car garage, while the comparable properties either had one-car garages or lacked garages altogether. Without adjustments, the Presiding Commissioner found that the appellant's comparable-sales and comparable-assessments analyses lacked sufficient comparability with the subject property, thus rendering the analyses unpersuasive.

By contrast, the Presiding Commissioner was persuaded by the appellee's comparable-sales analysis. The chief assessor selected four sales, close in time with the assessment date, of nearby properties that were all improved with single-family, ranch-style homes, and he made what the Presiding Commissioner found to be appropriate adjustments of between five and six percent of the properties' total sale prices. The adjusted sale prices of these comparable properties yielded fair market values greater than the subject property's assessment.

Therefore, on the basis of the evidence, the Presiding Commissioner found and ruled that the appellant failed to meet his

burden of proving a fair market value for the subject property that was less than its assessment for the fiscal year at issue. Accordingly, the Presiding Commissioner 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 parties are fully informed and under no compulsion. ***Boston Gas Co. v. Assessors of Boston***, 334 Mass. 549, 566 (1956). The appellant has the burden of proving that the subject property's fair cash value was lower 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)).

In appeals before the Board, taxpayers "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)). "[T]he board is entitled to 'presume that

the valuation made by the assessors [is] valid unless the taxpayers . . . prov[e] the contrary.'" *General Electric Co.*, 393 Mass. at 598 (quoting *Schlaiker*, 365 Mass. at 245).

The appellant advanced a comparable-sales analysis in an attempt to prove that the subject property had a lower fair cash value than that assessed. 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 fair cash value of the property at issue. *Graham v. Assessors of West Tisbury*, Mass. ATB Findings of Fact and Reports 2007-321, 400, *aff'd*, 73 Mass. App. Ct. 1107 (2008). A comparable-sales analysis must include "fundamental similarities" between the subject property and the comparison properties. *Lattuca v. Robsham*, 442 Mass. 205, 216 (2004). The appellant bears the burden of "establishing the comparability of . . . properties [used for comparison] to the subject propert[ies]." *Fleet Bank of Mass. v. Assessors of Manchester*, Mass. ATB Findings of Fact and Reports 1998-546, 554. "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." *New Boston Garden Corp. v. Assessors of Boston*, 383 Mass. 456, 470 (1981).

The Presiding Commissioner found that the sales that the appellant used in his analysis all had substantial flaws impacting

their comparability with the subject property's assessment, including sales that were too far removed from the relevant assessment date or sale prices that were not adjusted to compensate for the subject property's more valuable amenities, like a two-car garage and greater living area. Without these crucial adjustments, the appellant's evidence was not a reliable indicator of fair market value. See **Pembroke Industrial Park Co., Inc. v. Assessors of Pembroke**, Mass. ATB Findings of Fact and Reports 1998-1072, 1082.

The appellant also compared the subject property's assessment with the assessments of his purportedly comparable properties. An analysis of comparable properties' assessments may also form the basis for abatement. See G.L. c. 58A, § 12B<sup>1</sup>; **John Alden Sands v. Assessors of Bourne**, Mass. ATB Findings of Fact and Reports 2007-1098, 1106-07 ("The introduction of such evidence may provide adequate support for either the granting or denial of an abatement."). However, the appellant provided no adjustments to compensate for differences between his comparable-assessment properties and the subject property. See, e.g., **Lupacchino v. Assessors of Southborough**, Mass. ATB Findings of Fact and Reports 2008-1253, 1269 ("[W]ithout the appropriate adjustments . . . the

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<sup>1</sup> General Laws chapter 58A, § 12B provides as follows: "At any hearing relative to the assessed fair cash valuation or classification of property, evidence as to the fair cash valuation or classification of property at which assessors have assessed other property of a comparable nature or class shall be admissible."



assessed values of [comparable] properties [do] not provide . . . reliable indicator[s] of the subject's fair cash value."). Like his comparable-sales analysis, the appellant's comparable-assessments analysis included no adjustments to compensate for differences between the subject property and his purportedly comparable properties that affect fair market value and, therefore, the evidence was not helpful in determining fair market value.

The Presiding Commissioner thus found that the appellant's comparable-sales and comparable-assessments analyses lacked probative value.

By contrast, the Presiding Commissioner was persuaded by the appellee's evidence. The chief assessor's comparable-sales analysis included properties that, after appropriate adjustments, were highly comparable with the subject property, and their adjusted sale prices yielded fair market values greater than the subject property's assessment.

The Presiding Commissioner found and ruled that the appellant failed to meet his burden of proving that the subject property's assessment exceeded its fair cash value. Accordingly, the Presiding Commissioner issued a single-member decision for the appellee in this appeal.

THE APPELLATE TAX BOARD

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

A true copy,

Attest: Wm. J. Kelly  
Clerk of the Board