

**COMMONWEALTH OF MASSACHUSETTS  
APPELLATE TAX BOARD**

**RYAN MORRISSEY**

**v.**

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

Docket No. F342215

Promulgated:  
November 1, 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 real estate located in Boston, owned by and assessed to Ryan Morrissey ("appellant") for fiscal year 2021 ("fiscal year at issue").

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

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.

*Ryan Morrissey, pro se*, for the appellant.

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

## **FINDINGS OF FACT AND REPORT**

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

On January 1, 2020, the valuation and assessment date for the fiscal year at issue, the appellant was the assessed owner of a condominium unit located in Boston with an address of 787 East Fourth Street, Unit 1 ("subject unit"). It is a first-floor unit that contains 800 square feet of living area comprised of four rooms, including one bedroom as well as one bathroom. The subject unit also includes a small amount of finished basement area. The property record card lists the "actual year built" and "effective year built" as 1890 and 1979, respectively, and further notes that the subject unit was remodeled in 2005.

The assessors valued the subject unit at \$631,800 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 \$6,798.05, inclusive of the Community Preservation Act ("CPA") surcharge. The appellant timely paid the tax due without incurring interest. On January 25, 2021, the appellant timely filed an abatement application with the assessors, which the assessors denied on March 15, 2021. On April 16, 2021, the appellant seasonably filed an appeal with the Board. Based on these facts, the Board found and ruled that it had jurisdiction to hear and decide this appeal.

### **The Appellant's Case**

The appellant presented his case through his own testimony and the submission of a detailed comparable-sales analysis consisting primarily of a spreadsheet listing sales data for 37 condominium units, similarly located in Boston, that were sold between 2018 and 2022. The data included one-bedroom, one-bathroom condominium units that were built before 2010 and contained living areas ranging from 700 square feet to 1,100 square feet. The sale prices of these condominium units ranged from \$370,000 to \$839,000.

In addition to the spreadsheet, the appellant introduced into evidence an accompanying document that offered his analysis of the data presented on the spreadsheet.<sup>1</sup> The appellant asserted that the six condominium units on the spreadsheet that sold in 2019 with sale prices ranging from \$525,000 to \$750,000 had features that were superior to the subject unit, including amenities such as deeded parking and high-end level of fit and finish, or were located within luxury high-rise condominium buildings. Based on his comparison of these properties with the subject unit, which he noted does not have on-site parking or recent renovations and is not located in a luxury building, the appellant argued that the assessed value of the subject unit was higher than its fair cash

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<sup>1</sup> The appellant focused a significant portion of his analysis on arguing for a reduction in assessed value for fiscal year 2023. However, fiscal year 2023 was not under consideration by the Board in this appeal.

value. The appellant's opinion of value of the subject unit for the fiscal year at issue was between \$525,000 and \$535,000.

### **The Assessors' Case**

The assessors provided relevant jurisdictional documents and rested on the presumed validity of the assessment of the subject unit after posing several questions to the appellant on cross-examination.

### **The Board's Findings**

From among the substantial amount of comparative sales data presented by the appellant, the Board found and ruled that the sales data for 2021 and 2022 were less probative of fair cash value of the subject unit for the fiscal year at issue than sales data for 2019 and 2020. The Board identified four comparable sales of condominium units that provided particularly probative evidence that the fair cash value of the subject unit was less than its assessed value for the fiscal year at issue. The following table includes data for these properties:

<b>Address</b>	<b>Sale date</b>	<b>Sale price</b>	<b>Square feet</b>
790 East 4 <sup>th</sup> Street	6/20	\$575,000	736
9 West Broadway	8/20	\$600,000	850
110 P Street #2	6/19	\$560,000	724
312 W. 3 <sup>rd</sup> Street	6/19	\$525,000	810

The Board gave weight to each of these sales, considering differences in living area, amenities and renovations, date of sale, and sale price and found that these sales indicated that the

fair cash value of the subject unit for the fiscal year at issue was lower than its assessed value. Taking into account the various factors, the Board found that the subject unit, comprised of 800 square feet of living area and a small area of finished basement, with no parking, was overvalued at \$631,800 as compared to the above-referenced properties. The Board determined, based on the record in its entirety, and specifically on these four comparable sales, that \$575,000 was the fair cash value of the subject unit for the fiscal year at issue.

#### 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 seller and a willing buyer will 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 proving 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 Board found that the appellant provided sufficient persuasive evidence through his sales-comparison analysis to establish overvaluation of the subject unit for the fiscal year at issue. The fair cash value of property may be determined by recent sales of comparable properties in the market. See **Correia v. New Bedford Redevelopment Authority**, 375 Mass. 360, 361 (1978). Properties are "comparable" to the subject property when they share "fundamental similarities" with the subject condominium, including age, location, and size. **Lattuca v. Robsham**, 442 Mass. 205, 216 (2004).

The fair cash value of property cannot be proven with "mathematical certainty and must ultimately rest in the realm of opinion, estimate, and judgment." **Assessors of Quincy v. Boston Consol. Gas Co.**, 309 Mass. 60, 72 (1941). In evaluating the evidence before it, the Board selected among the various elements of value and formed its own independent judgment of fair cash

value. *General Electric Co.*, 393 Mass. at 605; *North American Philips Lighting Corp. v. Assessors of Lynn*, 392 Mass. 296, 300 (1984).

Based on the sales data submitted by the appellant and the record in its entirety, the Board found and ruled that the appellant met his burden of proving that the subject unit's fair cash value was less than its assessed value for the fiscal year at issue. In particular, the four comparable sales discussed above shared similarities with the subject unit and had living areas in the same size range as the subject unit, yet their sale prices were significantly less than the subject unit's assessed value. These comparable sales were sufficient for the Board to find and rule that the subject unit was overvalued for the fiscal year at issue. The Board took into account the various factors differentiating the subject unit from the comparable sales and determined that the fair cash value of the subject unit was \$575,000 for the fiscal year at issue.

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Accordingly, the Board issued a decision for the appellant in this appeal and ordered an abatement in the amount of \$612.12, inclusive of the appropriate portion of the CPA surcharge.

**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