

COMMONWEALTH OF MASSACHUSETTS

APPELLATE TAX BOARD

TRENT P. MUTCHLER

v.

BOARD OF ASSESSORS OF
THE TOWN OF HAMILTON

Docket No. F344973

Promulgated:
August 21, 2024

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 Hamilton ("assessors") to abate a tax on a parcel of real estate owned by and assessed to Asbury Camp Meeting Corporation ("ACMC") for fiscal year 2022 ("fiscal year at issue"). Trent P. Mutchler ("appellant") filed this appeal.

Commissioner Elliott ("Presiding Commissioner") heard the appeal under G.L. c. 58A, § 1A and 831 CMR 1.20¹ 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 1.32.²

Trent P. Mutchler, pro se, for the appellant.

Todd Laramie, Assessor, for the appellee.

¹ This citation is to the regulation in effect prior to January 5, 2024.

² This citation is to the regulation in effect prior to January 5, 2024.

FINDINGS OF FACT AND REPORT

On April 10, 2016, the appellant purchased a 598-square-foot dwelling located at 26 Morris Road in Hamilton containing two bedrooms, one full bathroom, and a three-quarter bathroom ("subject dwelling"). The subject dwelling is situated within and on an 83-acre community known as Asbury Grove. The single parcel that comprises Asbury Grove ("Grove Parcel") is owned by ACMC. Real estate taxes for Grove Parcel and dwellings located within and on the Grove Parcel, including the subject dwelling, were assessed to ACMC for the fiscal year at issue.

The assessors valued the Grove Parcel and assessed a single tax thereon for the fiscal year at issue. The assessors separately valued and billed ACMC for the subject dwelling as well as each of Asbury Grove's other dwellings.

On January 3, 2022, arguing overvaluation of the subject dwelling, the appellant applied to the assessors for an abatement of tax on the subject dwelling, which had been valued at \$20,400 with a tax of less than \$400. The assessors denied the application on March 16, 2022, on the basis that the appellant lacked standing to pursue an abatement. The appellant seasonably filed his petition with the Appellate Tax Board ("Board") on May 9, 2022, challenging the \$20,400 assessed value of the subject dwelling for the fiscal year at issue.

The appellant testified at the hearing of the appeal and argued that as the owner of the subject dwelling, he should be allowed to appeal the assessed value of the subject dwelling and corresponding tax. The appellant did not establish or even argue that he filed his application for abatement as a representative of ACMC.

The appellant submitted a copy of the five-year Land Lease Only agreement between the appellant and ACMC, which was effective April 1, 2019 ("Lease"). Pursuant to the Lease, the appellant paid to ACMC rent equal to the sum of: (a) the real estate tax assessed and levied by the Town of Hamilton attributable to the value of the dwelling and any ancillary outbuildings, (b) the real estate tax assessed and levied by the Town of Hamilton attributable to the value of the land constituting the "Leased Premises,"³(c) a portion of the real estate tax and personal property tax levied by the Town of Hamilton attributable to the value of the common amenities, land, and facilities of the Grove, and (d) a portion of the common expenses of the Grove, including but not limited to insurance, maintenance, landscaping, plowing, resurfacing roadways, electricity, utilities, and management. According to the Lease, the appellant's portion of the taxes as set forth in

³ The Lease defines "Leased Premises" as "a portion of the land located within the Asbury Grove community . . . commonly known as 26 Morris Road" . . . and that the area of the Leased Premises "consists only of the land on which there currently is a Dwelling (plus any existing appurtenant structures approved by LESSOR) owned by LESSEE at that location, i.e., the footprint of such structures, and shall not include any other portion of the Grove."

subsections (b) and (c) is based upon a rate of \$.85 per square foot of the Leased Premises. For the fiscal year at issue, based upon evidence in the record, the real estate tax attributable to the land value of the Grove Parcel was \$45,291.37, with the appellant's rental obligation associated with the land constituting less than one percent of that sum.

Based on the evidence presented, and for the reasons explained in the following Opinion, the Presiding Commissioner found and ruled that the appellant did not have standing to prosecute this appeal, and therefore, the Board did not have jurisdiction to hear and decide the appeal.

Accordingly, the Presiding Commissioner issued a decision for the appellee in this appeal.

OPINION

It is a familiar maxim that the Board is without jurisdiction to hear tax appeals unless the appellant has complied with all of the relevant statutory prerequisites. See *Donlon v. Assessors of Holliston*, 389 Mass. 848, 853 (1983); *Boston Five Cents Savings Bank v. Assessors of Boston*, 311 Mass. 415, 416 (1942); *Assessors of Boston v. Suffolk Law School*, 295 Mass. 489, 492 (1936). These prerequisites include being a person authorized by statute to bring an appeal, that is a "person aggrieved." G.L. c. 59, § 59; *Donlon*, 389 Mass. at 864. General Laws c. 59, § 59 ("§ 59") "defines a

person aggrieved as: (1) "[a] person upon whom a tax has been assessed or the personal representative of the estate of such person"; (2) "[a] tenant of real estate paying rent therefor and under an obligation to pay more than one-half of the taxes thereon"; or (3) "a person other than the person to whom a tax on real estate is assessed [who] is the owner thereof, or has an interest therein, or is in possession thereof, and pays the tax."

It is undisputed that the appellant was not assessed a tax by the assessors for the fiscal year at issue as ACMC was assessed the tax on both the subject dwelling and the Grove Parcel. Further, the appellant did not establish or even argue that he filed his application for abatement as a representative of ACMC.

To qualify under the "one-half of the taxes" alternative of § 59, the Board has ruled that "the tax, which a tenant is obligated to pay to be a 'person aggrieved' under § 59, is the tax assessed to the entire parcel, not just the portion of the parcel in which the lessee had an interest." ***Kinney System of Sudbury Street, Inc. v. Assessors of Boston***, Mass. ATB Findings of Fact and Reports 2000-967, 973-4 (citation omitted). The appellant's obligations under the Lease were a small fraction of the requisite one-half amount.

The final alternative under § 59 requires an appellant to establish that he "pays the tax." As noted, the Board in ***Kinney*** ruled that the tax is the entirety of the tax on the legal parcel,

not just the portion of the parcel upon which the person claiming to be a person aggrieved has an interest. While the appellant paid ACMC rent equal to the sum of certain tax amounts pursuant to the terms of the Lease, he was the owner of only the subject dwelling, and the "tax" for purposes of § 59 was the tax on the legal parcel for the fiscal year at issue, which included the tax on the subject dwelling and the tax on the entirety of the Grove Parcel. Indeed, to find that the requisite tax to be paid would be equal to an unspecified smaller portion of the entire tax (in this case less than one percent) based on an appellant's interest in only a portion of the parcel would render the one-half minimum avenue available to lessees superfluous. Thus, the appellant did not "pay the tax" as required by § 59.

Accordingly, based on the above and the evidence of record, the Presiding Commissioner found and ruled that the appellant did not have standing to bring this appeal before the Board. On this basis, the Presiding Commissioner found and ruled that the Board did not have jurisdiction to hear and decide the appeal and issued a decision for the assessors.

THE APPELLATE TAX BOARD

By: _____


Steven G. Elliott, Commissioner

A true copy,

Attest: _____


Clerk of the Board