|  |  |
| --- | --- |
|  | ***THE COMMONWEALTH OF MASSACHUSETTS******Appellate Tax Board****100 Cambridge Street**Suite 200**Boston, Massachusetts 02114* |

(617) 727-3100

(617) 727-6234 FAX

 **Docket No. F339173**

**MARY ANNE AND JEFFREY S. NORTH,**

**Appellants**

**BOARD OF ASSESSORS OF THE**

**TOWN OF BELMONT**

**Appellee**

 **DECISION WITH FINDINGS**

This appeal concerns the appellants’ overvaluation claim for fiscal year 2019 (“fiscal year at issue”) with respect to residential property located in the Town of Belmont. On January 1, 2018, the relevant valuation and assessment date, the appellants were the assessed owners of an 8,200-square-foot parcel of real estate improved with a single-family, Colonial-style residence located at 138 School Street (“subject property”). The subject dwelling had 2,028 square feet of finished living area, including three bedrooms and two bathrooms.

For the fiscal year at issue, the assessors valued the subject property at $952,000. The appellants timely paid the tax due and timely filed both their Application for Abatement with the assessors, which was denied, and their appeal with the Appellate Tax Board (“Board”). Accordingly, the Board found that it had jurisdiction to hear and decide this appeal.

In support of their claim for overvaluation, the appellants submitted, in addition to testimony, the following: a comparison of the assessed value of the subject property to the assessed values of nearby, similar properties; a sales-comparison analysis comparing the assessed value of the subject property to the sale prices of nearby, similar properties; and photographs illustrating various deficiencies in the condition of the subject dwelling. The appellants noted that

these deficiencies were not accounted for in the subject property’s condition factor on its property record card. The appellants also noted that the property record card incorrectly indicated that the residence had nine rooms, when in reality it had seven.

At the conclusion of their case, the appellants expressed an opinion of value for the subject property of $770,000.

 The assessors offered relevant jurisdictional documents, and after a brief cross-examination of the appellants’ witness, rested on the presumed validity of the subject property’s assessed value.

 A taxpayer has the burden of proving that property has a lower value that that assessed. The burden of proof is upon the taxpayer to make out a right as a matter of law to an abatement of tax. ***Schlaiker v. Assessors of Great Barrington***, 365. Mass. 243, 245 (1974). The Board is entitled to presume that the valuation made by the assessors is valid unless the taxpayer proves to the contrary***. General Electric Co. v. Assessors of Lynn***, 393 Mass. 591, 598 (1984).

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 (quoting ***Donlon v. Assessors of Holliston***, 389 Mass. 848, 855 (1983)).

In this appeal, the appellants attempted to demonstrate overvaluation by introducing affirmative evidence of value, which included sale prices of various similar nearby homes. “[S]ales of property usually furnish strong evidence of market value, provided they are arm's-length transactions and thus fairly represent what a buyer has been willing to pay for the property to a willing seller.”  ***Foxboro Associates v. Assessors of Foxborough,*** 385 Mass. 679, 682 (1982). 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 value of the property at issue. ***Graham v. Assessors of West Tisbury,*** Mass. ATB Findings of Fact and Reports 2007-321, 394 (citing ***McCabe v. Chelsea***, 265 Mass. 494, 496 (1929)), *aff’d* 73 Mass. App. Ct. 1107, Decision Under Rule 1:28 (2008).

The appellants also introduced assessment information for various properties. “At any hearing relative to the assessed fair cash valuation . . . of property, evidence as to the fair cash valuation . . . at which assessors have assessed other property of a comparable nature . . . shall be admissible.” G.L. c. 58A, § 12B.

On the basis of the record as a whole, the Board finds and rules that the appellants met their burden of proving that the subject property’s assessed value exceeded its fair cash value for the fiscal year at issue. In reaching this conclusion, the Board gave weight to the various elements of the appellants’ evidence, with particular emphasis on their comparable-sales data as well as photographs establishing the assessors’ mischaracterization of the condition of the subject dwelling.

After taking the appellants’ evidence into consideration, the Board determined a fair cash value for the subject property of $860,000 for the fiscal year at issue.

In reaching an opinion of fair cash value, the Board was not required to believe the testimony of any particular witness or to adopt any particular method of valuation that a witness suggested. Rather, the Board could accept those portions of the evidence that it determined had more convincing weight. ***New Boston Garden Corp. v. Board of Assessors,*** 383 Mass. 456, 473 (1981); ***Board of Assessors v. New England Oyster House, Inc.,*** 362 Mass. 696, 701-02 (1972). Moreover, the Board need not specify the exact manner used to determine valuation. ***Jordan Marsh v. Assessors of Malden,*** 359 Mass. 196, 110 (1971). 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). “The credibility of witnesses, the weight of evidence, and inferences to be drawn from the evidence are matters for the board.” ***Cummington School of the Arts, Inc. v. Assessors of Cummington,*** 373 Mass. 597, 605 (1977).

**[This space intentionally left blank.]**

Mindful of these principles, and having considered the record as a whole, the Board, as previously noted, found a fair cash value for the subject property of $860,000 for the fiscal year at issue. Accordingly, the Board issues a decision for the appellants in this appeal, and grants an abatement of $1,089.74, inclusive of the Community Preservation Act surcharge.

**APPELLATE TAX BOARD**

 /S/ **Thomas W. Hammond** Chairman

 Thomas W. Hammond

 /S/ **Patricia M. Good**  Commissioner

 Patricia M. Good

 /S/ **Steven G. Elliott** Commissioner

 Steven G. Elliott

 /S/ **Patricia Ann Metzer** Commissioner

 Patricia Ann Metzer

 /S/ **Mark J. Defrancisco** Commissioner

 Mark J. Francisco

Attest: /S/ **William J. Doherty**

 Clerk of the Board

Date: **November 30, 2020**

**NOTICE:** Either party to these proceedings may appeal this decision to the Massachusetts Appeals Court by filing a Notice of Appeal with this Board in accordance with the Massachusetts Rules of Appellate Procedure. Pursuant to G.L. c. 58A, § 13, no further findings of fact or report will be issued by the Board.