COMMONWEALTH OF MASSACHUSETTS

APPELLATE TAX BOARD

KAREN J. PAZARY	**v.**	**BOARD OF ASSESSORS OF THE TOWN OF STOW**

Docket No. F348628

Promulgated:
April 14, 2025

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 Stow ("appellee" or "assessors") to abate taxes on real estate owned by and assessed to Karen J. Pazary ("appellant") for fiscal year 2023 ("fiscal year at issue").

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

These findings of fact and report are made pursuant to a request by the appellee under G.L. c. 58A, § 13 and 831 CMR 1.34.

Karen J. Pazary, *pro se*, for the appellant.

Kristen Fox, 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, 2022, the relevant valuation date for the fiscal year at issue, the appellant was the assessed owner of a two-story condominium with an address of 55 Ridgewood Drive ("subject property") located within a development known as Regency at Stow. For the fiscal year at issue, the appellee valued the subject property at $554,000 and assessed a tax thereon, at a rate of $18.13 per $1,000, in the total amount of $10,290.95, inclusive of a Conservation Preservation Act ("CPA") surcharge. The appellant timely paid the taxes due. On January 30, 2023, the appellant timely filed an abatement application for the subject property. On March 27, 2023, the appellee partially granted the appellant's abatement request, reducing the subject property's assessed value to $510,800. Not satisfied with this reduction, on June 7, 2023, the appellant seasonably filed her appeal with the Board. Based on the information in this paragraph, 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 a self-prepared valuation analysis, which included diagrams of floor plans and other information regarding comparable properties.

The subject property is part of Regency at Stow, a condominium community for residents aged 55 and over described as consisting of a combination of attached two- and three-story town homes and stand-alone residences. The Regency at Stow units were constructed and purchased during 2018 and 2019. The appellant testified and submitted diagrams to demonstrate that units of the same style share a highly comparable, nearly identical floor plan. The subject property is an end unit with an "Acorn" design. The subject property contains 1,917 square feet of living space on two floors. Additionally, the subject property is a base unit, meaning there were no expansions to the original Acorn design. The appellant purchased the subject property in January of 2019 for $538,595.

The appellant first offered background information, testifying that the subject property's assessment has been flawed since fiscal year 2021, when the property record card on file with the assessors mistakenly indicated that the unit was a triplex with third-floor living space. The appellant testified that the assessors granted her a partial abatement, but she opined that the decrease in assessed value did not sufficiently compensate for the error. For the fiscal year at issue, the assessors again mistakenly added square foot living area to the subject property. The appellant opined that the partial abatement that the assessors granted again did not compensate for this error.

The appellant offered a comparable-assessment analysis using eleven purportedly comparable units from the Regency at Stow complex. Four of the units shared the same Acorn design, six of the units had an "Alder" design, and one unit had a "Tamarack" design. The appellant introduced floor plans to illustrate those floor plans' similarities with the Acorn design. Nine of her eleven comparable properties had greater square-foot living areas than the subject property.

Although the average sale price of these eleven properties was $541,480 – compared with the subject property's sale price of $535,595 – the assessed values of these properties consistently decreased, with the average assessed values decreasing from $517,736 in fiscal year 2022 to $476,536 in the fiscal year at issue.

The appellant further demonstrated that the subject property's assessed value was $40,875 higher than the average assessed value of the four Acorn-design comparison properties, three of which she maintained had expanded kitchens and thus larger living areas than the base-unit subject property.

Moreover, the subject property was assessed $75,000 higher than the assessed value of 50 Ridgewood, an Acorn-style unit that, like the subject property, had no expansions. All in all, the subject property's assessment was $34,000 higher than the average assessed value of all eleven comparable properties, nine of which

had an average purchase price of $8,000 more than the purchase price of the subject property.

On the basis of her comparable-assessment analysis, the appellant offered her opinion that the value of the subject property for the fiscal year at issue was $455,000.

The appellee presented its case through the testimony of Assessor Kristen Fox. Assessor Fox disputed the appellant's claim that the properties at Regency at Stow were remarkably comparable. She testified that these units were designed to be highly customizable, which she claimed was reflected in the very specific purchase price of the subject property and the appellant's comparable properties.

Assessor Fox further stated that the condition grade determined by the assessors reflected the custom furnishings and finishes for the various comparable properties referenced by the appellant, and that the subject property's condition grade of A- confirmed its high-end finishes. However, she acknowledged that neither she nor the assessors had inspected many of the appellant's comparable properties to determine their proper condition grade.

Assessor Fox further disputed the appellant's claim that some of the comparison properties had expanded kitchens that were not reflected in their property record cards, testifying that she and other assessors have not been granted access to each unit at

Regency at Stow and therefore, she could not confirm whether the floor plans recorded on the property record cards were accurate.

Finally, Assessor Fox explained that there were very few timely sales at Regency at Stow, but the appellee offered two purportedly comparable condominium sales, one at 21 Ridgewood Drive in the Regency at Stow development and another located at 14 Heather Lane. The 21 Ridgewood Drive unit sold in April of 2021 for $880,000. This comparable is larger than the subject, at 2,276 square feet, and originally sold in 2018 for $766,846, almost $230,000 more than the price that the appellant paid for her property. Assessor Fox gave no indication of where this property or 14 Heather Lane were located relative to the subject property or whether either was a stand-alone property. After her adjustments to her two comparable sale prices, the assessors determined indicated values of $604,300 and $610,400 for the subject property, which values were greater than its assessed value.

The appellant responded to Assessor Fox's claims that the assessors could not confirm whether some of the Regency at Stow units had expanded kitchens. The appellant's submission included a picture of 57 Ridgewood Drive taken from the street, which showed a bump-out and additional windows to demonstrate that a casual observation revealed the space to be expanded kitchen area, not a screened-in porch as listed on the property record card.

The appellant further disputed the high variability of the Regency at Stow units and Assessor Fox's opinion that the purchase price of the subject property reflected its high level of customization. The appellant claimed instead that the Regency at Stow units' prices had increased the later that the sales occurred. She further testified that the units' assessments for the fiscal year at issue were less than their sale prices, reflecting, in her opinion, that the purchase prices had been inflated by the initial demand for the units and that the demand had cooled, as evidenced by the assessments decreasing between fiscal year 2022 and the fiscal year at issue.

Based on the record in its entirety, the Board found that the appellant submitted sufficient evidence to demonstrate that the subject property's assessed value was higher than its fair cash value for the fiscal year at issue. First, the Board found credible the appellant's testimony regarding the cooling of demand for units at Regency at Stow, which was supported by the assessments of her eleven comparable properties for fiscal year 2022 and the fiscal year at issue, and thus found that the sale price paid by the appellant was not the best indication of the subject property's fair cash value for the fiscal year at issue. The Board further found that the appellant proved the substantial similarity between the subject property and her eleven comparable properties from the same development but for the expansion of several of the comparison

properties, and that the subject property's assessment was inconsistent with the other properties' assessments. Assessor Fox admitted that the assessors had not inspected the interiors of the majority of the appellant's comparable properties, and therefore, her statement about variability in grade and condition among Regency at Stow properties was unsubstantiated.

Based on a review of the evidence presented, the Board found that $475,000 was the fair cash value for the subject property for the fiscal year at issue.

Accordingly, the Board issued a decision for the appellants, granting abatement in the amount of $668.52, inclusive of the CPA surcharge.

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 buyer and a willing seller will agree if both 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 property has a lower value than that assessed. "The burden of proof is upon the petitioner to make out its right as [a] matter of law to 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 this Board, "[t]he 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 instant appeal, the appellant offered a comparable-assessment analysis to support her argument that the subject property's assessed value was higher than its fair cash value for the fiscal year at issue. The fair cash value of property may be determined by evidence of assessed values of comparable properties. *See* G.L. c. 58A, § 12B ("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."). Properties used in a comparable-assessment analysis must be "comparable" to the subject property, meaning that they must share "fundamental similarities" with the subject property, including similar age, location, size, and date of sale. ***Lattuca v. Robsham***, 442 Mass. 205, 216 (2004); *see also* ***Heitin v. Assessors of Sharon***, Mass. ATB Findings of Fact and Reports 2002-323, 333. The Board

found that the appellant proved the similarity of the subject property with her comparison properties and further found her evidence supported a fair cash value that was lower than the subject property's assessed value for the fiscal year at issue.

In reaching its opinion of fair cash value in these appeals, the Board was not required to believe the testimony of any particular witness or to adopt any particular method of valuation. Rather, the Board could accept those portions of the evidence that the Board determined had more convincing weight. ***Foxboro Assocs. v. Assessors of Foxborough,*** 385 Mass. 679, 683 (1982); ***New Boston Garden Corp. v. Assessors of Boston,*** 383 Mass. 456, 473 (1981); ***Assessors of Lynnfield v. New England Oyster House, Inc.,*** 362 Mass. 696, 702 (1972). 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).

Having considered the record in its entirety, the Board found and ruled that the subject property's fair cash for the fiscal year at issue was $475,000.

Accordingly, the Board issued a decision for the appellant, granting abatement in the amount of $668.52, which included the appropriate CPA surcharge.

THE APPELLATE TAX BOARD

By: _____
Mark J. DeFrancisco, Chairman

A true copy,

Attest: _____
Clerk of the Board