

COMMONWEALTH OF MASSACHUSETTS

APPELLATE TAX BOARD

RONALD & SANDRA PORTER

v.

BOARD OF ASSESSORS OF  
THE TOWN OF GRAFTON

Docket No. F335197

Promulgated:  
June 1, 2020

This is an appeal under the formal procedure pursuant to G.L. c. 59, §§ 64 and 65, from the refusal of the Board of Assessors of the Town of Grafton ("assessors" or "appellee") to abate a tax on certain real estate located in Grafton owned by and assessed to Ronald & Sandra Porter ("appellants"), for fiscal year 2018 ("fiscal year at issue").

Commissioner Elliott ("Presiding Commissioner") heard this appeal and in accordance with G.L. c. 58A, § 1 and 831 CMR 1.20 issued a single-member decision for the appellants.

These findings of fact and report are made pursuant to a request by the appellants under G.L. c. 58A, § 13 and 831 CMR 1.32.

*Ronald Porter, pro se*, for the appellants.

*Mary Oliver*, Principal Assessor, and *Marsha R. Pratt*, Clerk, for the appellee.

## FINDINGS OF FACT AND REPORT

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

On January 1, 2017, the relevant valuation and assessment date for the fiscal year at issue, the appellants were the assessed owners of Unit #14, in the Providence Roads Common Condominium complex, located at 27 Luka Drive in Grafton ("subject property"). The subject property is a two-story, townhouse-style condominium containing 2,206 square feet<sup>1</sup> of living space with a total of six rooms, including three bedrooms, plus two full bathrooms and one half bathroom. Other amenities include a rear deck, a fireplace, an attached two-car garage, and central air conditioning. The subject property is the middle unit in a three-unit building located in the 28-unit complex. The appellants purchased the subject property on April 21, 2016, approximately eight months prior to the relevant valuation date, for \$419,000.

For the fiscal year at issue, the assessors valued the subject property at \$447,000 and assessed a tax thereon at a rate of \$16.59 per thousand, in the total amount of \$7,415.73.<sup>2</sup>

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<sup>1</sup> The record contains several different per-square-foot measurements for the subject property area. The Presiding Commissioner adopted the assessors' measurement which is also the smallest one.

<sup>2</sup> This amount does not include the Community Preservation Act ("CPA") surcharge in the amount of \$83.86.

On January 25, 2018, in accordance with G.L. c. 59, § 59, the appellants timely filed an abatement application with the assessors, which they denied on February 21, 2018. In accordance with G.L. c. 59, §§ 64 and 65, the appellants seasonably filed an appeal with the Appellate Tax Board ("Board") on May 17, 2018. On the basis of these facts, the Presiding Commissioner found and ruled that the Board had jurisdiction to hear and decide this appeal.

Mr. Porter testified on behalf of the appellants and offered into evidence a written presentation and several accompanying documents that focused primarily on typographical errors on the subject property's property record card, but did not demonstrate the impact, if any, of these errors on the subject property's fair market value for the fiscal year at issue. The appellants also submitted the property record cards for the adjoining end-unit townhouses located at 25 and 29 Luca Drive, which were assessed at \$436,800 and \$421,700, respectively, for the fiscal year at issue. On average, these adjoining townhouses were assessed \$17,750 less than the subject property. Mr. Porter estimated the value of the subject property at approximately \$433,000.

Mary Oliver, principle assessor, testified in defense of the subject property's assessment for the fiscal year at issue. The assessors offered into evidence several exhibits, including

the subject property's property record card and a spreadsheet summarizing the assessed values and sales prices for seven townhouses located on Luka Drive, which sold during 2016. The data provided by the assessors indicated a price range of \$345,000 to \$457,560 with an assessment range of \$331,100 to \$440,900. The Presiding Commissioner noted that the spreadsheet along with some of the empirical evidence and testimony offered by the assessors revealed an appreciation rate of four percent per year for residential condominium units in the subject property's neighborhood for calendar year 2016.

After considering all the evidence, the Presiding Commissioner ultimately found that the record supported a reduction in value for the subject property. The Presiding Commissioner was most persuaded by the assessors' sales and assessment data for properties located on Luka Drive that sold during 2016. This data along with the testimony of Ms. Oliver revealed a four-percent appreciation rate per year for residential condominiums located in the subject property's neighborhood during the relevant time period. Applying this appreciation rate, *pro rata*, to the subject property's sale price resulted in a rounded fair cash value of \$430,000, which also approximated the value that Mr. Porter had estimated for the subject property for the fiscal year at issue.

Accordingly, the Presiding Commissioner issued a decision for the appellants and granted an abatement in the amount of \$286.26.<sup>3</sup>

#### OPINION

Assessors are required to assess all real property at its full and 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 in a free and open market will agree if both of them are fully informed and under no compulsion. ***Boston Gas Co. v. Assessors of Boston***, 334 Mass. 549, 566 (1956).

The appellants have the burden of proving that the property has a lower value than that assessed. "The burden of proof is upon the petitioner[s] to make out [their] 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 taxpayers . . . prov[e] the contrary.'" ***General Electric Co. v. Assessors of Lynn***, 393 Mass. 591, 598 (1984) (quoting ***Schlaiker***, 365 Mass. at 245).

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<sup>3</sup> This amount includes the applicable portion of the CPA surcharge.

In appeals before this 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.**, 393 Mass. at 600 (quoting **Donlon v. Assessors of Holliston**, 389 Mass. 848, 855 (1983)).

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 Consolidated Gas**, 309 Mass. 60, 72 (1941). In evaluating the evidence before it, the Presiding Commissioner selected among the various elements of value and formed his own independent judgment of fair cash value. **General Electric Co.**, 393 Mass. at 605. "The credibility of witnesses, the weight of evidence, the inferences to be drawn from the evidence are matters for the [Presiding Commissioner]." **Cumington School of the Arts, Inc. v. Assessors of Cumington**, 373 Mass. 597, 605 (1977).

Based on all the evidence, the Presiding Commissioner found that the assessors' sales and assessment data for properties located on Luka Drive that sold during 2016, as well as other empirical evidence and the assessors' testimony, revealed an appreciation rate of four percent per year for residential condominiums in the subject property's neighborhood for the calendar year 2016. Applying this appreciation rate, *pro rata*,

to the subject property's sale price of \$419,900 yielded a rounded fair cash value of \$430,000.

Accordingly, the Presiding Commissioner determined that the subject property's fair cash value for the fiscal year at issue was \$430,000, and he, therefore, decided this appeal for the appellant and granted abatement in the amount of \$286.26.

**APPELLATE TAX BOARD**

By: /s/ Steven G. Elliott  
Steven G. Elliott, Commissioner

**A true copy:**

Attest: /s/ William J. Doherty  
Clerk of the Board