

COMMONWEALTH OF MASSACHUSETTS

APPELLATE TAX BOARD

ROMAINE RANDALL

v.

BOARD OF ASSESSORS OF
THE TOWN OF CONCORD

Docket No. F348308

Promulgated:
November 7, 2024

This is an appeal originally filed under the informal procedure pursuant to G.L. c. 58A, § 7A and G.L. c. 59, §§ 64 and 65 from the refusal of the Board of Assessors of the Town of Concord ("appellee" or "assessors") to abate taxes on real estate owned by and assessed to Romaine Randall ("appellant") for fiscal year 2023 ("fiscal year at issue").¹

Commissioner Good heard the 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 appellee under G.L. c. 58A, § 13 and 831 CMR 1.34.

Romaine Randall, pro se, for the appellant.

Ellen M. Hutchinson, Esq., for the appellee.

¹ Within thirty days of service of the Statement Under Informal Procedure, the assessors elected to transfer the proceedings to the formal docket. See G.L. c. 58A, § 7A.

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 and assessment date for the fiscal year at issue, the appellant was the assessed owner of a 3.07-acre improved parcel of real estate located along the Assabet River with an address at 349 Harrington Avenue ("subject property"). For the fiscal year at issue, the subject property was valued at \$896,400, resulting in a tax due of \$11,617.34. The tax due was paid timely without incurring interest. The appellant timely filed an abatement application with the assessors on January 24, 2023, which they denied on March 2, 2023. The appellant seasonably filed her petition with the Board on April 21, 2023. Based on these facts, the Board found and ruled that it had jurisdiction to hear and decide the instant appeal.

The subject property is improved with a single-family, ranch-style home constructed in 1953 ("subject home"). The subject home has 1,654 square feet of living area with six rooms, including three bedrooms, as well as two full bathrooms and a one-car attached garage. The subject home has not been substantially renovated and its ceilings and doorways are lower than current building requirements. The subject property is located entirely within a flood plain. The appellant testified that the subject

property is frequently affected by flooding, necessitating the recurrent use of a sump pump, and inhibiting the ability to finish the subject home's basement. Moreover, the subject property is located less than a mile downstream from a Superfund site, and it is not connected to town sewer service.

The appellant offered into evidence an appraisal report for the subject property that was prepared on June 7, 2023 on behalf of a bank in conjunction with a refinance transaction. However, the appraiser was not presented as a witness at the hearing and therefore was not available for cross examination by the appellee or questioning by the Board. The Board thus did not accept any of the opinions of value offered in the appraisal.

The appellant also completed her own comparable-sales analysis using six purportedly comparable sales of properties improved with ranch-style homes in Concord. These sales occurred from January 15, 2021 to October 18, 2021 for sale prices ranging from \$649,000 to \$936,000. The appellant pointed out that her comparable-sale properties had key features that the subject property lacked, including modern kitchens and bathrooms, finished basements, high ceilings, and town sewer connection, as well as not being fully located in a flood plain or downstream from a Superfund site.

Based on her evidence, the appellant's opinion of value for the subject property was \$764,000 for the fiscal year at issue.

The appellee did not enter independent valuation evidence but instead submitted the property record cards for some of the purportedly comparable properties used by the appellant. The appellee also cross-examined the appellant, challenging her on the comparability of her sales evidence.

In weighing the evidence, the Board found that the two properties most comparable to the subject property were 28 Commerford Road and 25 Cranefield Road, which were included in the appellant's comparable-sales analysis. Both properties, like the subject property, were improved with ranch-style homes built in the 1950s. The property at 28 Commerford is a one-acre parcel improved with a 2,376-square-foot home that sold on May 5, 2021 for \$839,000. The property at 25 Cranefield is a half-acre parcel improved with a 1,568-square-foot home that sold on August 27, 2021 for \$839,000. The Board further considered that 25 Cranefield previously sold in 2007, two years after the sale of the subject property to the appellant, for \$595,000, which was the same sale price that the appellant paid for the subject property. Neither property has had significant improvements in the intervening time. The Board considered differences between the subject property and these properties in land size and living area as well as the negative impacts of the subject property's location in a flood plain and downstream from a Superfund site.

Based on the evidence presented in this appeal in its entirety, the Board arrived at a fair cash value of \$830,000 for the subject property for the fiscal year at issue.

Accordingly, the Board issued a decision for the appellant and ordered an abatement of \$860.54.

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)). 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, 400 (citing **McCabe v. Chelsea**, 265 Mass. 494, 496 (1929)), *aff'd*, 73 Mass. App. Ct. 1107 (2008) (decision under Rule 1:8).

In the present appeal, the appellant offered credible evidence showing that the assessed value of the subject property was greater than its fair cash value for the fiscal year at issue. Specifically, the appellant offered sales information for six purportedly comparable properties improved with ranch-style homes. The Board found that two of the sales were sufficiently comparable to the subject property, and these sales supported a fair cash value for the subject property that was lower than its assessed value. Based on these sales, as well as the record in its entirety, the Board found and ruled that the subject property's fair cash for the fiscal year at issue was \$ 830,000.

Accordingly, the Board decided this appeal for the appellant and granted an abatement of \$860.54.

THE APPELLATE TAX BOARD

By: 
Mark J. DeFrancisco, Chairman

A true copy,

Attest: 
Clerk of the Board