



## **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 date of valuation and assessment for the fiscal year at issue, the appellant was the assessed owner of an office condominium unit numbered U105/106 and located at 1147 Hancock Street in the City of Quincy ("subject unit"). The gross area of the subject unit is 836 square feet, and there is a half bathroom in the unit. The subject unit is located on the first floor of a two-story, L-shaped building situated at the corner of Hancock and Dimmock Streets. Hancock Street is a four-lane road that runs through the center of Quincy and is developed with a variety of uses, including retail, office, and residential. In contrast, Dimmock Street is a two-lane road that is primarily residential.

For the fiscal year at issue, the assessors valued the subject unit at \$198,800, and assessed a tax thereon, at the commercial rate of \$27.04 per thousand, in the amount of \$5,375.55. The appellant timely paid the tax due without incurring interest. On January 11, 2018, in accordance with G.L. c. 59, § 59, the appellant timely filed an abatement application with the assessors, which was deemed denied on April 11, 2018. In accordance with G.L. c. 59, §§ 64 and 65, the appellant

seasonably filed an appeal with the Appellate Tax Board ("Board") on April 19, 2018. On the basis of these facts, the Presiding Commissioner found and ruled that the Board had jurisdiction to hear and decide this appeal.

The appellant maintained that the subject unit was overvalued for the fiscal year at issue. First, the appellant argued that the subject unit was in poor condition, which negatively impacted its fair cash value. However, the only evidence the appellant offered to support this claim was an undated photograph depicting a broken exterior window.

Second, the appellant offered into evidence the property record cards for four purportedly comparable condominium units located in the same building - 1155 Hancock Street, 1163 Hancock Street, 12 Dimmock Street Unit #101/102, and 12 Dimmock Street Unit #103/104. The condominium units located on Hancock Street were assessed at \$237.88 and \$237.71 per square foot, respectively, while the Dimmock Street units were assessed at \$124.35 and \$145.31 per square foot, respectively. The appellant argued that since he chooses to enter and exit the subject unit from Dimmock Street, the subject unit should be assessed at the lower per-square-foot value. However, the appellant did not adjust any of the purportedly comparable Dimmock Street condominium units for obvious differences between those condominium units and the subject unit.

The assessors did not offer any affirmative evidence of value, instead resting on the presumptive validity of the assessment.

Based on all of the evidence, the Presiding Commissioner found that the appellant failed to meet his burden of proving that the assessed value of the subject condominium unit exceeded its fair cash value for the fiscal year at issue. The Presiding Commissioner found that the appellant did not show that the subject unit was in worse condition than that reflected on its property record card or that the assessors failed to consider its condition when valuing the subject unit.

The Presiding Commissioner also found that although the appellant chose to enter and exit the subject unit from Dimmock Street, the actual address is on Hancock Street and the assessments of the other Hancock Street condominium units compared favorable to the subject unit's assessment. The Presiding Commissioner further found that the appellant's purportedly comparable assessments that were located on Dimmock Street were approximately half the size of the subject unit, did not have a bathroom within the unit, and were not necessarily in the same condition as the subject unit. The appellant did not make any adjustments to account for these differences.

For these reasons, the Presiding Commissioner ultimately found that the appellant failed to show that the subject unit's

assessment exceeded its fair cash value for the fiscal year at issue. Accordingly, the Presiding Commissioner issued a decision for the appellee in this appeal.

#### OPINION

The assessors are required to assess real estate 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 appellant has the burden of proving that the subject unit 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)). "[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).

In appeals before this 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 the present appeal, the appellant offered into evidence the assessments of four condominium units located in the same building to show that the subject unit was overvalued for the fiscal year at issue.

Evidence of the assessed values of comparable properties may provide probative evidence of fair cash value. See G.L. c. 58A, § 12B; **John Alden Sands v. Assessors of Bourne**, Mass. ATB Findings of Fact and Reports 2007-1098, 1106-07 (citing **Chouinard v. Assessors of Natick**, Mass. ATB Findings of Fact and Reports 1998-299, 307-308). "Adjustments must be made to both assessed values and sales data to account for differences between the subject property and the properties offered for comparison." **Doherty v. Assessors of Lee**, Mass. ATB Findings of Fact and Reports 2013-174, 181 (citing **Graham v. Assessors of West Tisbury**, Mass. ATB Findings of Fact and Reports 2007-321, 396 ("The assessments in a comparable assessment analysis, like the sale prices in a comparable sales analysis, must also be adjusted to account for differences with the subject.")).

In the present appeal, the Presiding Commissioner found that the appellant failed to show that the subject unit was in worse condition than that reflected on its property record card.

Further, the Presiding Commissioner found that although the appellant chose to enter and exit the subject unit from Dimmock Street, its actual address was on Hancock Street and the assessments of the other Hancock Street condominium units compared favorably to that of the subject unit. The Presiding Commissioner also found that the appellant failed to adjust his purportedly comparable condominium units that were located on Dimmock Street for obvious differences with the subject unit.

Based on the evidence presented, the Presiding Commissioner found and ruled that the appellant failed to meet his burden of proving that the subject unit was overvalued for the fiscal year at issue. Accordingly, the Presiding Commissioner decided this appeal for the appellee.

**THE APPELLATE TAX BOARD**

By: *James D. Rose*  
James D. Rose, Commissioner

**A true copy:**

Attest: *William J. Doherty*  
Clerk of the Board