

COMMONWEALTH OF MASSACHUSETTS

APPELLATE TAX BOARD

RAYMOND F. SIDOR, TRUSTEE

v.

**BOARD OF ASSESSORS OF
THE CITY OF TAUNTON**

Docket No. F347532

Promulgated:
June 14, 2024

This is an appeal originally filed under the informal procedure¹ 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 City of Taunton ("assessors" or "appellee") to abate a tax on a certain parcel of real estate located in Taunton, owned by and assessed to Raymond F. Sidor, Trustee of the Corinthian Revocable Trust ("appellant"), for fiscal year 2022 ("fiscal year at issue").

Chairman DeFrancisco ("Presiding Commissioner") heard this appeal and issued a single-member decision for the appellee pursuant to G.L. c. 58A, § 1A and 831 CMR 1.20.²

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

Raymond F. Sidor, Trustee of Corinthian Revocable Trust, *pro se*, for the appellant.

Richard Conti, Chair, Board of Assessors, for the appellee.

¹The assessors elected to transfer these proceedings to the formal docket pursuant to G.L. c. 58A, § 7A.

²All regulation citations in these findings of fact and report are to the version of the regulations in effect prior to January 5, 2024.

FINDINGS OF FACT AND REPORT

Based on testimony and exhibits admitted into evidence during the hearing of this appeal, the Presiding Commissioner made the following findings of fact.

On January 1, 2021, the relevant date of valuation and assessment for the fiscal year at issue, the appellant was the assessed owner of real property located at 53R Washington Street in Taunton ("subject property"). The subject property consists of a 0.14-acre parcel of land improved with a two-family dwelling built in 1900 that contains 3,903 square feet of living area, comprised of twelve rooms, including four bedrooms and two full bathrooms.

For the fiscal year at issue, the assessors valued the subject property at \$363,000 and assessed a tax thereon, at a rate of \$13.18 per \$1,000 in the total amount of \$4,784.34. The appellant timely paid the tax due without incurring interest. On January 26, 2022, the appellant timely filed an application for abatement ("application") with the assessors for the fiscal year at issue. The assessors denied the application on April 12, 2022. The appellant then seasonably filed a petition with the Appellate Tax Board ("Board").³ Based on these facts, the Presiding Commissioner

³The appellant's appeal was stamped as received by the Board on July 20, 2022, but the appeal was mailed in an envelope that was postmarked July 6, 2022. Under G.L. c. 58A, § 7, the Board used the postmark date as the date of filing, which was within the filing deadline of July 12, 2022.

found and ruled that the Board had jurisdiction to hear and decide this appeal.

The appellant contended that the subject property was overvalued for the fiscal year at issue, citing the conditions of the neighboring properties and activities purportedly occurring on those properties as negatively impacting the fair market value of the subject property. The appellant presented his case through his testimony and the submission of his self-prepared analysis packet ("analysis"). The analysis included photos of the neighboring properties, among which were a gas station and restaurant as well as residences, showing a variety of yard debris, including overfilled trash dumpsters, boxes, barrels, and discarded pallets. The analysis also included correspondence with neighbors in which the appellant expressed dissatisfaction with noise from early morning trash pick-ups as well as correspondence with various city departments in which the appellant raised several concerns. Also included in the appellant's evidence were several newspaper articles, including a column published in 1988 generally opining on property values and an article discussing environmental issues concerning an unrelated property in a different town. In addition, the appellant included various other writings that very broadly discussed ventilation, pollution, and other factors that generally contribute to property valuation. Most notably, however, the

appellant did not introduce any evidence of comparable sales or assessments.

The assessors, for their part, submitted jurisdictional documents into evidence including the property record card for the subject property. They otherwise rested on the presumed validity of the assessment of the subject property.

Although the Presiding Commissioner found the appellant's testimony to be credible regarding the existence of yard debris and certain other conditions involving neighboring properties, the appellant failed to provide evidence by which the Presiding Commissioner could quantify the impact of the various issues raised by the appellant on the fair cash value of the subject property.

Based on the record, the Presiding Commissioner found and ruled that the appellant failed to meet his burden of proving a fair cash value for the subject property that was lower than its assessed 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 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 will agree if both are fully informed and under no compulsion. ***Boston Gas Co. v. Assessors of Boston***, 334 Mass. 549, 566 (1956).

A taxpayer has the burden of proving that the property at issue 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 taxpayer[] sustain[s] the burden of proving the contrary.'" **General Electric Co. v. Assessors of Lynn**, 393 Mass. 591, 598 (1984) (quoting **Schlaiker**, 365 Mass. at 245).

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 the present appeal, the appellant provided no evidence of flaws or errors in the assessors' valuation and failed to present affirmative evidence of overvaluation. While the Presiding Commissioner found the appellant's testimony to be credible as to conditions at the neighboring properties, the appellant failed to demonstrate that those conditions resulted in a fair cash value for the subject property that was less than its assessed value.

See ***Fox v. Assessors of Longmeadow***, Mass. ATB Findings of Fact and Reports 2021-479, 483 ("While the Presiding Commissioner found that the appellants' testimony and evidence were credible as to the condition of the neighboring property, the lack of any quantifiable impact on the subject property's fair cash value was critically lacking.").

Furthermore, while the Board has consistently found comparable sales to be probative of fair cash value, here the appellant failed to submit evidence of any comparable sales or assessments. See, e.g., ***Boston Gas Co.***, 334 Mass. at 566, and ***Graham v. Assessors of West Tisbury***, Mass. ATB Findings of Fact and Reports 2007-321, 394, *aff'd*, 73 Mass. App. Ct. 1107 (2008) ("The fair cash value of property may often best be determined by recent sales of comparable properties in the market.").

Based on the entirety of the record, the Presiding Commissioner found and ruled that the appellant failed to establish that the fair market value of the subject property was less than its assessed value for the fiscal year at issue. Accordingly, the Presiding Commissioner issued a decision for the appellee in this appeal.

THE APPELLATE TAX BOARD

By: /S/



Mark J. DeFrancisco, Chairman

A true copy,

Attest: /S/



Clerk of the Board