

**COMMONWEALTH OF MASSACHUSETTS
APPELLATE TAX BOARD**

YAKO K. YAKO

v.

**BOARD OF ASSESSORS OF
THE TOWN OF GRAFTON**

Docket No. F341990

Promulgated:
March 29, 2023

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 Grafton ("assessors" or "appellee") to abate a tax on a certain parcel of real estate owned by and assessed to Yako K. Yako ("appellant"), under G.L. c. 59, §§ 11 and 38, for fiscal year 2021 ("fiscal year at issue").

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

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

Yako K. Yako, pro se, for the appellant.

Tammy Kalinowski, Assessor, for the appellee.

FINDINGS OF FACT AND REPORT

Based on 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, 2020, the relevant date of valuation and assessment for the fiscal year at issue, the appellant was the assessed owner of real property located at 4 Christopher Drive in Grafton ("subject property"). The subject property consists of a 0.46-acre parcel of land improved with a single-family Colonial-style residence, built in 1996, with 1,900 square feet of living area. It features eight rooms, including four bedrooms, as well as two full bathrooms and one half bathroom, an above-ground pool, a two-car garage, and a deck.

For the fiscal year at issue, the assessors valued the subject property at \$421,000 and assessed a tax thereon at a rate of \$17.18 per \$1,000 in the total amount of \$7,315.50, inclusive of the Community Preservation Act ("CPA") surcharge. The appellant timely paid the tax due without incurring interest. On January 15, 2021, the appellant filed an abatement application with the assessors. The assessors denied the abatement application on February 16, 2021. The appellant seasonably filed a petition with the Appellate Tax Board ("Board") on March 12, 2021. Based on these facts, the Presiding Commissioner found and ruled that the Board had jurisdiction to hear and decide this appeal.

The Appellant's Case

The appellant presented his case through his own testimony and a self-prepared written valuation analysis. He asserted that the assessed value of the subject property for the fiscal year at issue should be in the range of \$380,000 to \$390,000, rather than \$421,000, the value at which it was assessed. The appellant based his case on the contention that the subject property had increased in value at a higher rate than that of the neighboring properties on the same street for the fiscal year at issue compared to the prior fiscal year. His analysis focused entirely on the percentage increase in the assessments.

In arriving at his opinion of fair cash value in the range of \$380,000 to \$390,000 for the subject property, the appellant did not introduce any evidence of comparable sales. Instead, he focused on two purportedly comparable assessments of neighboring properties located at 2 Christopher Drive and 19 Christopher Drive, with assessed values of \$379,900 and \$395,300, respectively, for the fiscal year at issue. The appellant noted that in years prior to fiscal year 2017, the assessment of the subject property had increased at a rate similar to the rate increase for these two properties, but since fiscal year 2017, the assessment of the subject property had increased at a higher rate than the other two properties. The appellant argued that the subject property should be assessed at a rate increase similar to that for the two

purportedly comparable properties. Notably, he made no adjustments to account for differences between the purportedly comparable properties and the subject property.

The Assessors' Case

In addition to the testimony of Tammy Kalinowski, Assessor, the assessors submitted relevant jurisdictional documents and a comprehensive comparable sales market analysis, including property record cards and Multiple Listing Service ("MLS") listings for each of three purportedly comparable properties that sold in 2019. These purportedly comparable sales are all located on the same street, each within a half mile of the subject property, at 12, 24, and 27 Christopher Drive. The assessors introduced evidence that the properties sold for prices ranging from \$445,000 to \$550,000 and maintained that the properties were substantially similar in character and features to the subject property. The assessors then made appropriate adjustments to the purportedly comparable sales to account for differences between those properties and the subject property, resulting in an indicated value of \$431,700 for the subject property.

Based on their sales analysis, the assessors maintained that the subject property was appropriately valued at \$421,000 for the fiscal year at issue.

The Presiding Commissioner's Findings

The Presiding Commissioner found that the appellant failed to present any credible evidence of overvaluation of the subject property. The appellant's case rested on his comparison of the increases in the assessments of the subject property over several years relative to those of two other properties. The Presiding Commissioner found and ruled that the appellant's comparison of relative increases in assessments from year to year was not probative of the fair cash value of the subject property.

Furthermore, the Presiding Commissioner found that the assessors' sales market analysis strongly supported the assessed value of the subject property. The assessors' analysis featured timely, arm's-length sales of neighboring properties with appropriate adjustments made to reflect differences between the comparable properties and the subject property. The Presiding Commissioner found that the assessors arrived at a credible conclusion that the indicated value of the subject property was \$431,700, which supported the assessed value of \$421,000.

Based on the record, the Presiding Commissioner found and ruled that the appellant failed to meet his burden of establishing that the fair cash value of the subject property 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 upon which a willing seller and a willing buyer agree if both of them 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 proof in establishing that the property at issue has a lower value than its assessed value. "The burden of proof is upon the petitioner to make out its 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 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 Presiding Commissioner found that the appellant failed to meet his burden of proof in establishing that the subject property had a lower fair cash value than its assessed value for the fiscal year at issue. The appellant's case was based solely on his claim that the assessed value of the subject property increased by a higher percentage than those of neighboring properties. However, the appellant did not demonstrate that any such deviation resulted in a valuation above the subject property's fair cash value for the fiscal year at issue. "The fact that appellant's assessment may have increased at a percentage greater than the percentage increase in the assessments of other houses is not determinative of the issue. It could be that prior assessments and the institution of revaluation procedures revealed that his former assessment was unduly low. The test is fair cash value or market value." *Loomis v. Assessors of Boston*, Mass. ATB Findings of Fact and Reports 2023-18, 24-25 (quoting *Burke et al. v. Assessors of Peru*, Mass. ATB Findings of Fact and Reports 1983-1, 6).

While the Presiding Commissioner found that the appellant's case was deficient of evidence of overvaluation, the assessors, by contrast, provided a strong comparable-sales analysis that compared the subject property's assessment with the adjusted sale prices of three neighboring properties. 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). Properties are “comparable” when they share “fundamental similarities” with the subject property, including age, location, and size. See **Lattuca v. Robsham**, 442 Mass. 205, 216 (2004). See also **New Boston Garden Corp. v. Assessors of Boston**, 383 Mass. 456, 470 (1981). (“[B]asic comparability is established upon considering the general character of the properties. Once basic comparability is established, it is then necessary to make adjustments for the differences, looking primarily to the relative quality of the properties, to develop a market indicator of value.”)

The comparable properties cited by the assessors in the sales market analysis are neighboring properties located within a half mile of the subject property, and each had sold within the year preceding the relevant assessment date of the subject property. Although the properties are substantially similar in character and features, the assessors accounted for any key differences between the subject property and the comparable properties by making the appropriate adjustments to the sale prices. The assessors’ sales-comparison analysis thus reliably illustrated that the assessed

value of the subject property fell comfortably within the range of the adjusted sale prices of the comparable properties.

Based on the foregoing, the Presiding Commissioner issued a decision for the appellee.

THE APPELLATE TAX BOARD

By: /s/ Patricia M. Good

Patricia M. Good, Commissioner

A true copy,

Attest: /s/ William J. Doherty

Clerk of the Board