

COMMONWEALTH OF MASSACHUSETTS

APPELLATE TAX BOARD

ZONG L. YANG

**v. BOARD OF ASSESSORS OF THE
TOWN OF GROVELAND**

Docket No. F345201

Promulgated:
June 28, 2024

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 Groveland ("assessors" or "appellee") to abate a tax on certain real estate located in Groveland owned by and assessed to Zong L. Yang ("appellant") for fiscal year 2022 ("fiscal year at issue").

Commissioner Bernier ("Presiding Commissioner") heard this appeal under G.L. c.58A, § 1A and 831 CMR 1.20¹ and 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 1.32.²

Zong L. Yang, pro se, for the appellant.

William J. Krajewski, Valuation Consultant, for the appellee.

¹ This citation is to the regulation in effect prior to January 5, 2024.

² This citation is to the regulation in effect prior to January 5, 2024.

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, 2021, the relevant date of valuation and assessment for the fiscal year at issue, the appellant was the assessed owner of a 20,600-square-foot parcel of real estate improved with two buildings, a former gasoline and service station and a single-story office building, (collectively "subject property"), located at 299-301 Main Street in Groveland. The appellant purchased the subject property in September 2018 for \$370,000.

For the fiscal year at issue, the assessors valued the subject property at \$411,600 and assessed a tax thereon, at the rate of \$14.47 per \$1,000, in the total amount of \$6,134.53, inclusive of the Community Preservation Act surcharge. The appellant timely paid the tax due without incurring interest. On January 18, 2022, the appellant timely filed an application for abatement with the assessors. On March 14, 2020, the assessors granted a partial abatement, reducing the subject property's assessed value to \$374,600. Seeking a further reduction, the appellant seasonably filed a petition with the Board on May 10, 2022. Based on these facts, the Presiding Commissioner found and ruled that the

Appellate Tax Board had jurisdiction to hear and decide this appeal.

The appellant testified on his own behalf and offered into evidence a written statement, including copies of correspondence with various departments of the Town of Groveland. The appellant testified that since he purchased the subject property in 2018, he has filed several applications with the Town of Groveland seeking authorization to further develop the subject property. The appellant filed an application for a Site Plan Approval and Parking Reduction Special Permit ("Special Permit") to remodel the former gasoline and service station and to use it for a corporate office, a showroom area for product samples, storage for equipment and miscellaneous materials, and garage access to load and unload vehicles, for a business that conducted online and internet sales only. The appellant filed a second application for a Special Permit seeking to remodel the former gasoline and service station and surrounding area for use as a restaurant and bar with both indoor/outdoor patio seating. Both applications were denied due to the size of the lot and the existence of only one curb cut, which prohibits safe traffic flow to and from the subject property.

The appellant maintained that because the special permit requests were denied, he was prohibited from using the subject property. Therefore, he argued that the portion of the subject

property identified as 301 Main Street should be deemed worthless and the assessed value reduced accordingly.

The appellant was questioned by the Presiding Commissioner regarding the office building that is situated on the subject property. The appellant acknowledged that the building is leased to and occupied by the Groveland Post Office. However, he refused to provide any information about the existing lease.

The assessors presented their case through the testimony of William J. Krajewski, Valuation Consultant for Groveland, and the introduction of several exhibits, including the requisite jurisdictional documents, and the subject property's property record card for the fiscal year at issue. Mr. Krajewski also introduced his appraisal report, using the income-capitalization analysis to estimate the subject property's fair market value for the fiscal year at issue at \$374,600.

Based on the evidence presented, the Presiding Commissioner found and ruled that the appellant failed to meet his burden of proving that the subject property's fair cash value was less than its assessed value for the fiscal year at issue. The appellant's sole argument was that, because he was prevented from renovating the former gasoline and service station, that portion of the subject property was worthless, and the land portion of the assessment should be reduced accordingly. The appellant did not, however, offer any evidence to demonstrate and quantify the impact

of this alleged deficiency on the subject property's fair market value.

Accordingly, the Presiding Commissioner issued a decision for the appellee in this appeal.

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 on which a willing seller and a willing buyer 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).

A taxpayer has the burden of proving 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 appellant provided no evidence of flaws or errors in the assessors' valuation and offered no affirmative evidence that undermined the assessed value for the fiscal year at issue. The appellant argued that the town's refusal to allow him to remodel and use the former gasoline and service station rendered that portion of the subject property worthless. A taxpayer "does not conclusively establish a right to an abatement merely by showing that his land or building is overvalued. 'The tax on a parcel of land and the building thereon is one tax . . . although for statistical purposes they may be valued separately.'" **Hinds v. Assessors of Manchester-by-the-Sea**, Mass. ATB Findings of Fact and Reports 2006-771, 778 (quoting **Assessors of Brookline v. Prudential Insurance Co.**, 310 Mass. 300, 317 (1941)). In abatement proceedings, "the question is whether the assessment for the parcel of real estate, including both the land and the structures thereon, is excessive. The component parts, on which that single assessment is laid, are each open to inquiry and revision by the appellate tribunal in reaching the conclusion whether that single assessment is excessive." **Massachusetts General Hospital v. Belmont**, 238 Mass. 396, 403 (1921); see also **Buckley v. Assessors of Duxbury**,

Mass. ATB Findings of Fact and Reports 1990-110, 119; ***Jernegan v. Assessors of Duxbury***, Mass. ATB Findings of Fact and Reports 1990-39, 49.

Moreover, the "mere existence of some sort of restriction, by itself, does not merit an abatement of tax." ***Nelson v. Assessors of Wilmington***, Mass. ATB Findings of Fact and Reports 2013-320, 338. To establish the effect of the restriction on value, "the appellant must show how the restriction 'would affect the value of the property to a potential buyer.'" See ***Ross v. Assessors of Ipswich***, Mass. ATB Findings of Fact and Reports 2000-952, 959 (citing ***Reliable Electronic Finishing Co. v. Assessors of Canton***, 410 Mass. 381, 382 (1991), and ***Parkinson v. Assessors of Medfield***, 398 Mass. 112 (1986)).

Based upon the above and the record in its entirety, the Presiding Commissioner found and ruled that the appellant failed to establish that the fair cash value of the subject property was less than its assessed value for the fiscal year at issue.

Accordingly, the Presiding Commissioner issued a single-member decision for the appellee in this appeal.

THE APPELLATE TAX BOARD

By: /S/



Nicholas D. Bernier, Commissioner

A true copy,

Attest: /S/



Clerk of the Board