COMMONWEALTH OF MASSACHUSETTS

APPELLATE TAX BOARD

MHC GATEWAY TO CAPE COD LLC v. BOARD OF ASSESSORS OF THE TOWN OF ROCHESTER

Docket No. F314003

Promulgated: December 30, 2014

This is an appeal under the formal procedure, pursuant to G.L. c. 58A, § 7 and G.L. c. 59, §§ 64 and 65, from the refusal of the appellee to abate taxes on certain real estate in the Town of Rochester assessed under G.L. c. 59, §§ 11 and 38 for fiscal year 2011.

Commissioner Mulhern heard this appeal. Chairman Hammond and Commissioners Scharaffa and Rose joined him 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 1.32.

David J. Rasnick, Esq. for the appellant.

John P. Mello, Chairman of the Board of Assessors, for the appellee.

FINDINGS OF FACT AND REPORT

At the hearing of this appeal, MHC Gateway to Cape Cod LLC (the "appellant") called four witnesses to testify, including its real estate valuation expert, Mark Reenstierna. The appellant also entered nine exhibits into evidence, including Mr. Reenstierna's appraisal report, as well as spread sheets or summaries depicting the subject property's 2009 occupancy, income, expenses, and rental rates. Charles Shea, who served as the real estate valuation advisor for the Town of Rochester's Board of Assessors (the "assessors"), was the only witness to testify for them. The assessors also entered five exhibits into evidence, including the requisite jurisdictional documents, Mr. Shea's income valuation papers, and several deeds with supporting documentation for sales of RV camping resorts in: Carver, Wareham, and South Dennis, Massachusetts; South Hampton and Hopkinton, New Hampshire; Lake George, New York; and Stonington, Connecticut. The sales closed on the following dates: the Massachusetts sales in 2012; the New Hampshire sales in 2005 and 2007; the New York and Connecticut sales in 2008 and 2007, respectively. Based on all of the testimony and exhibits, and reasonable inferences drawn therefrom, the Appellate

Tax Board (the “Board”) made the following findings of fact.

On January 1, 2010, the appellant was the assessed owner of a parcel of real estate located at 90 Stevens Road in the Town of Rochester and is identified for assessment purposes as Map 12, Lot 9. (the “subject property”). The subject property is located at the southern terminus of Stevens Road, south of High Street and approximately 3.4 miles south of exit 2 off I-495, which is about 5 miles northwest of I-495’s intersection with I-195. At all relevant times, the appellant operated the subject property as a recreational vehicle (“RV”) resort, named Outdoor World RV Resort (the “resort”). The subject property consists of an irregularly shaped parcel containing a total of 79.26 acres. The resort was originally developed in the mid-1970s, with updating since that time, but a majority of the amenities were installed during the 1970s. Overall, the resort features 194 developed RV sites, 26 cabins, affiliated amenities, an internal roadway, and a number of buildings for administration, recreation, and bathroom facilities.

More specifically, a security kiosk and a registration office/manager’s office and residence (the “registration building”), located on the northern portion of the parcel, define the campground entrance. The registration building is a single- and two-story, wood-framed structure on a slab with a gross area of 2,955 square feet. This building has, along with the manager's residence, a game room, campground store, and office on the first floor, plus an office on the upper level. The building also contains a bathhouse area with lavatories and showers for guests. There is an in-ground pool skirted by a concrete deck and enclosed by a chain link fence located to the rear of the registration building.

The one-story, approximately 1,400-square-foot recreation building is of similar construction to the registration building and is located in the same portion of the resort. There is also a 100-square-foot snack bar and playground in this portion of the parcel. A collection of manufactured homes located near the entrance operate as a lounge building. Other amenities include a tennis court and basketball court, along with a second playground placed in the southern portion of the resort. Shuffleboard, horseshoe, and bocce courts are placed strategically around the grounds. There is an additional bathhouse with separate lavatories and shower areas situated in the southern portion of the parcel. A swimming dock is located at the subject property's southern periphery where it abuts Leonard's Pond.

The 194 developed RV sites offer 3-way hook-ups for water, sewer, and 30/50 amp electric. The typical site ranges in size from approximately 3,000 to over 5,000 square feet and can accommodate an RV up to 70 feet in length. Each site also contains parking for two vehicles. Wi-Fi Internet service is available throughout the resort.

For fiscal year 2011, the assessors valued the subject property at $6,315,200 and assessed taxes thereon at the rate of $12.02 per $1,000, resulting in a tax assessment of $75,908.70. On January 20, 2011, the Tax Collector for Rochester caused the town's actual tax bills to be mailed. In accordance with G.L. c. 59, § 57, the appellant timely paid the taxes without incurring interest.

On January 31, 2011, in accordance with G.L. c. 59, § 59, the appellant timely filed an Application for Abatement with the assessors for fiscal year 2011. The assessors denied the appellant's abatement application on Monday, May 2, 2011.[1] In accordance with G.L. c. 59, §§ 64 and 65, the appellant seasonably appealed the denial by filing a Petition Under Formal Procedure with the Board on

[1] Because the three-month period within which the assessors could act on the appellant's abatement application expired on Saturday, April 30, 2011, the three-month period was extended to Monday, May 2, 2011. *See* G.L. c. 4, § 9 and G.L. c. 41, § 110A.

July 20, 2011. On the basis of these facts, the Board found and ruled that it had jurisdiction over this appeal.

The subject property is part of a multiple RV resort membership club whereby members pay annual dues to a managing entity and have access to any RV resorts under the club ownership. Non-members are also permitted to rent RV sites and cabins on a daily or weekly basis. Rochester limits the number of sites made available for seasonal tenants to 30 RV sites and 15 cabin units. The remainder of the RV sites and cabins may be occupied for no longer than two weeks by the same renter.

Each site is typically improved with an earthen pad onto which an RV or cabin unit is placed or installed. The residents or renters of the resort pay a transient fee for the use of their designated site or lot and for the services provided by the resort. The actual RV's are the personal property of the residents or renters and are not part of the real estate.

To prove that the subject property was overvalued for the fiscal year at issue, the appellant primarily relied upon its real estate valuation expert, Mr. Reenstierna. He valued the subject property using both sales-comparison and income-capitalization approaches. He considered but did not employ a cost method because of the nature and age of the improvements on and to the subject property.

In his sale-comparison approach, Mr. Reenstierna selected four sales of RV resorts in New England and New York, with the following sale dates and locations: sale number one - January 31, 2012, for $2,300,000 in Carver, Massachusetts; sale number two - February 15, 2012, for $6,650,000 in Wareham, Massachusetts; sale number three - March, 2008, for $2,050,000 in Lake George, New York; and sale number four - September, 2007, for $2,900,000 in Old Mystic, Connecticut. Even though the sales dates ranged from September, 2007 to February, 2012, Mr. Reenstierna did not adjust the sale prices for market conditions due to time because he considered the market essentially flat throughout this over four-year period.

As for his other adjustments - location, size, building condition, and occupancy - he concluded that variances in each property’s net income compensated for property dissimilarities because, as he related, differences in property characteristics are reflected in rental rates, occupancy, and ultimately net-operating income. Consequently, he decided that net-operating income adjustments are all encompassing and circumvent the myriad individual adjustments. To implement this methodology, Mr. Reenstierna determined that the subject property’s net-operating income was $259,249 or $1,336 per RV pad. He then adjusted his comparable properties’ sale prices per pad by the differential between their net-operating incomes per pad compared to the subject property’s. The following table summarizes his comparable-sale methodology.

Mr. Reenstierna’s Comparable Sale Methodology

	Sale #1	Sale #2	Sale #3	Sale #4	Average
Price/Pad	$11,917	$20,030	$15,769	$22,308	$17,506
NOI/Pad	$ 1,081	$ 1,679	$ 1,262	$ 1,538	$ 1,390
Indicated Adjustment	124%	80%	106%	87%	N/A
Indicated Value	$14,732	$15,942	$16,698	$19,383	$16,689

The net-operating incomes per pad site indicate an adjusted value range between $14,732 and $19,383 per pad site for the subject property, with an average of $16,689. Considering the attractiveness of the subject property, Mr. Reenstierna further adjusted this average downward to $15,000 per pad site, which indicated a value of $2,910,000 for the subject property for the fiscal year at issue using this methodology.

For his income-capitalization approach to value, Mr. Reenstierna first estimated the market rent for the subject property by examining the rental rates of five relatively similar RV resorts located in Plymouth, Bourne, Wareham, and Mansfield. He ascertained that RV resorts in the area enjoyed a six-month rental season. The rental rates for these resorts ranged from $3,300 to $5,000 per site for the six-month seasonal sites and from $35 to $45 per day for transient sites, which are defined as daily, weekly, and at times monthly rentals. The subject property's actual rental rates were $2,040 per site for its 30 six-month seasonal sites permitted by the town, and its actual rental rates for its transient sites averaged about $30 per day. The market occupancy for the seasonal sites was 100%, while the market occupancy for transient sites ranged from 30% to 100% depending upon the day of the week and the time of the year. The subject property's occupancy rate for its 30 six-month seasonal sites was also 100%, while the rate for its 164 transient sites was approximately 40%.

To determine the subject property's market rent, Mr. Reenstierna applied the subject property's actual rental rate of $2,040 per season to its 30 seasonal sites and a $35-per-day rental rate to the subject property's 164 transient sites. He also applied an occupancy rate of 100% to the 30 six-month seasonal sites and a rate of 40% to the 164 transient sites. Mr. Reenstierna decided that, given the subject property's location, condition, age, and available amenities, those rents and occupancy rates best reflected the subject property’s place in the area RV resort market.

In addition, Mr. Reenstierna similarly determined that the appellant utilized 15 of the 36 cabins for six-month seasonal rentals at $2,140 per season with a 100% occupancy and the 11 remaining cabins for transient rentals at $45.00 per day with 50% occupancy. As for other income from the on-site store, laundry facilities, propane sales, additional adult or children fees, other recreational activities, as well as dump station service, Mr. Reenstierna reported that $75 per site annually was an appropriate and reasonable estimate based on reported market ranges, the actual other income achieved at the subject property, and the amenities and services offered there. Mr. Reenstierna also included a category for the reimbursement of electrical costs by the 30 six-month seasonal RV sites at a rate of $135 per site annually.

Lastly, with respect to income, Mr. Reenstierna included a collection-loss provision to account for lost rent or tenant defaults. He based his estimate of 10% of gross potential income on discussions with the managers of competing RV resorts, as well as the manager of the subject property. Mr. Reenstierna stated that he had already considered and incorporated the vacancy factor in his occupancy projections.

A summary of Mr. Reenstierna's income determination is contained in the following table.

Mr. Reenstierna's Income Determination

Number	Site/Income Type	Occupancy	Rental Rate	Time Period	Amount
30	Seasonal RV	100%	$ 2,040	per season	$ 61,200
164	Transient RV	40%	$ 35	per day	$413,280
15	Seasonal Cabin	100%	$ 2,140	per season	$ 32,100
11	Transient Cabin	50%	$ 45	per day	$ 44,550
	Reimbursement				$ 4,050
	Other Income				$ 38,800
Gross Potential Income					**$593,980**
Collection Loss			@ **10%**		**($ 59,398)**
Effective Gross Income					**$534,582**

In estimating market expenses for the subject property for the fiscal year at issue, Mr. Reenstierna reviewed the actual expenses during the relevant time period, as well as those from competitive properties and industry surveys. Based on this information, the expense categories that he included in his methodology were those for insurance, management, utilities, repairs and maintenance, professional fees, administrative costs and advertising, salaries and wages, miscellaneous, and reserves.

For insurance costs, Mr. Reenstierna used an expense of $18,000, which reflected the historical costs at the subject property and fell within national, New England, and Massachusetts market ranges. For management fees, Mr. Reenstierna noted that they usually ranged from 3% to 6% of effective gross income. Considering the management requirements for an RV resort of the subject property’s size, Mr. Reenstierna selected a management fee of 4% of effective gross income. Utility expenses at the subject property have ranged from $104,638 to $115,506 over the relevant time period. Mr. Reenstierna estimated a stabilized utility cost of $110,000 for inclusion in his methodology.

According to national and local data reviewed by Mr. Reenstierna, repairs and maintenance costs were typically $100 to $250 per site during the relevant time period. Considering the overall condition of the subject property, he selected a repairs and maintenance cost of $24,250, or approximately $125 per site. Mr. Reenstierna factored a $2,500 expense for professional fees into his methodology, which he reported was market oriented. Based on national and regional data, as well as historic costs, Mr. Reenstierna selected a figure of $7,500 for administrative costs and $4,500 for advertising. After surveying the competitive market and considering the size and improvements at the subject property as well as its management and maintenance budgets, Mr. Reenstierna estimated salary and wage expenses at $75,000 on a stabilized basis.

Mr. Reenstierna also included in his expenses a category to account for miscellaneous expenses, such as licenses and fees, professional association dues, and other minor costs. He placed this cost at $2,500 annually. Lastly, Mr. Reenstierna included a reserve for replacement to account for the replacement of short-lived realty. After surveying the market and taking into consideration the age and condition of the subject property, he estimated this cost at $50 per site.

When viewing the expenses as a whole, Mr. Reenstierna determined that totals for competitive properties ranged from approximately 25% to 55% of effective gross income with properties in Massachusetts tilting toward the mid to upper level of expenses. Considering the subject property’s size, simplicity, and overall condition, Mr. Reenstierna concluded that it was reasonable and appropriate for the subject property’s total expenses to approximate 51.5% for the fiscal year at issue.

In estimating a capitalization rate to use in his income-capitalization methodology for the subject property for the fiscal year at issue, Mr. Reenstierna reviewed published industry survey rates from national and regional

RV resort sales and extracted market rates from the more local RV resort sales upon which he relied in his sales-comparison approach. The industry surveys indicated a capitalization-rate range of approximately 7.00% to 10.5%, while the more local RV resort sales suggested a range of approximately 6.90% to 9.00%. Considering the subject property's size, age, condition, and location, Mr. Reenstierna adopted a capitalization rate of 8.25% plus a 1.202% tax factor, totaling 9.45%, to use in his methodology.

Applying this capitalization rate to his net-operating income resulted in a rounded value of $2,745,000 for the subject property for fiscal year 2011. A summary of Mr. Reenstierna's income-capitalization methodology is contained in the following table.

Mr. Reenstierna's Income-Capitalization Methodology

INCOME:					
Number	**Site/Income Type**	**Occupancy**	**Rental Rate**	**Time Period**	**Amount**
30	Seasonal RV	100%	$ 2,040	per season	$ 61,200
164	Transient RV	40%	$ 35	per day	$413,280
15	Seasonal Cabin	100%	$ 2,140	per season	$ 32,100
11	Transient Cabin	50%	$ 45	per day	$ 44,550
	Reimbursement				$ 4,050
	Other Income				$ 38,800
Gross Potential Income					**$593,980**
Collection Loss			@ **10%**		**($ 59,398)**
Effective Gross Income					**$534,582**
EXPENSES:			**% of EGI**	**$ per Site**	
Insurance		$ 18,000	3.37%		
Utilities		$110,000	20.58%		
Management		$ 21,383	4.00%		
Maintenance & Repairs		$ 24,250	5.54%		
Advertising & Promotions		$ 4,500	0.84%		
Legal & Accounting		$ 2,500	0.47%		
Office and Telephone		$ 7,500	1.40%		
Salaries & Wages		$ 75,000	14.03%		
Miscellaneous		$ 2,500	0.47%		
Reserves for Replacement		$ 9,700	1.81%		
Total Expenses		**$275,333**	**51.50%**		**($275,333)**
Net-Operating Income					**$259,249**
Capitalization Rate			8.25% + 1.202% = 9.45%		**9.45%**
Indicated Value					**$2,742,792**
ROUNDED VALUE:					**$2,745,000**

In estimating a final value for the subject property for fiscal year 2011, Mr. Reenstierna relied primarily on the rounded value that he developed using his income-capitalization methodology - $2,745,000 - because, in his view, this value more closely reflected what investors would be willing to pay for it. He claimed, however, to give some weight to the rounded value that he developed using his sales-comparison approach - $2,910,000 - because, in his view, that value reflected the motivation of a seller. On the basis of this reconciliation, Mr. Reenstierna recommended a value of $2,745,000 for the subject property for fiscal year 2011.

For their part and in support of the $6,315,200 assessment, the assessors primarily relied upon their income card and "income approach to value." They also relied on several sales of RV camping resorts but did not offer any adjustments to account for differences between these purportedly comparable properties and the subject property. The assessors represented that the data included in their income methodology and the capitalization rate derivation were based on submissions from the appellant or information otherwise garnered from their experience or the market, including sales. They offered virtually no supporting documentation. Their methodology resulted in a value determination of $6,323,546. A summary of their methodology is shown in the following table.

Assessors' Income Approach to Value

Site Type	Units	Rate/Week or Season	Number of Weeks	P GI	Occu-pancy	EGI
Pre/Post Park Models/Trailers	26	$700	12.6	$229,320	40%	$ 91,728
Prime Park Model/Trailers	26	$1,200	14.7	$458,640	85%	$ 389,844
Pre/Post Campsites	116	$280	12.6	$409,248	40%	$ 163,699
Prime Campsites	116	$385	14.7	$656,502	85%	$ 558,027
Season Annual Sites	27	$4,000	Season	$ 4,000	100%	$ 108,000
Season Annual Cottage/Trailers	10	$4,000	Season	$ 4,000	100%	$ 40,000
Season Employee/Trailers	8	$4,000	Season	$ 4,000	100%	$ 32,000
Total EGI						**$1,383,298**
Miscellaneous Income:						
Game Machines		$10,000				
Laundry		$ 2,500				
Concession		$ 2,000				
Soda Vending		$ 1,000				
Activities		$ 2,000				
Propane		$ 2,000				
Storage		$20,000				
No Hookup Tent		$ 2,000				
Total Miscellaneous Income						**$ 39,500**
EGI + Miscellaneous Income						$1,422,798
- Expenses of 60%						($ 853,679)
Net-Operating Income						**$ 569,119**
÷ By Capitalization Rate						**9.00%**
Indicated Value						**$6,323,546**

Based on all of the evidence, the Board found that the appellant successfully proved that the subject property was overvalued for fiscal year 2011. However, because of the limited number of timely and meaningfully comparable sales of RV camping resorts during the relevant time period, the Board found that the value derived from the comparable-sales approach developed by the appellant's real estate valuation expert was useful only as a check. The Board further found that the quantitative analysis which the appellant’s real estate valuation expert employed in his sales-comparison approach lacked precision because he only used a limited number of comparables, many from out-of-state, and he made no time or market adjustments. Further his quantitative analysis was based solely on net-operating differentials without any reference to appraisal authority or precedence. The Board additionally found that the sales information introduced by the assessors was not useful at all because it was not melded into any kind of an analysis that included adjustments to account for differences with the subject property. Consequently, the Board found that this method was not the best available methodology to use to determine the value of the subject property.

The Board instead found that an income-capitalization approach was the best methodology to use to value the subject property for the fiscal year at issue. In implementing this technique, the Board adopted the income and expense recommendations submitted by the appellant’s real estate valuation expert because it found them to be better supported by actual, historical, and market data than the recommendations presented by the assessors. The Board also found that the income and expense recommendations presented by the appellant’s real estate valuation expert best reflected the subject property’s place in the market for the fiscal year at issue. The Board found, however, that the appellant’s recommended capitalization rate of 8.25% was too high and reflected too much risk given the subject property’s size, condition, location, and, in particular, applicable area industry surveys. The Board, therefore, adopted a lower capitalization rate of 7.80%, which fell within the lower mid-range of capitalization rates contained in applicable area industry surveys, before adding a tax factor equivalent to the $12.02-per-$1,000 tax rate for fiscal year 2011. The Board’s loaded capitalization rate equaled the one suggested by the assessors. Based on these findings the Board determined that the fair cash value of the subject property for fiscal year 2011 was $2,880,000.

The following table is a summary of the Board’s income-capitalization methodology reflecting its adoption of the income and expenses proposed by the appellant’s real estate valuation expert and the application of the Board’s capitalization rate which, once loaded for the applicable tax factor, equaled the one recommended by the assessors.

Summary of the Board's Income-Capitalization Approach

Gross Potential Income	$ 593,980
Collection Loss @ 10%	$ (59,398)
Effective Gross Income	$ 534,582
Expenses	$ (275,333)
Net-Operating Income	**$ 259,249**
Capitalization Rate (7.80% + 1.20% = 9.00%)	**9.00%**
Indicated Value	**$2,880,544**
Rounded Value	**$2,880,000**

On this basis, the Board found that the subject property was overvalued for fiscal year 2011 by $3,435,200 and, therefore, decided this appeal for the appellant and granted a tax abatement in the amount of $41,291.10

OPINION

The assessors have a statutory and constitutional obligation to assess all real property at its full and fair cash value. Part II, c. 1, § 1, art. 4, of the Constitution of the Commonwealth; art. 10 of the Declaration of Rights; G.L. c. 59, §§ 38, 52. *See* ***Coomey v. Assessors of Sandwich***, 367 Mass. 836, 837 (1975) (citations omitted). "Real property" is statutorily defined to include "all land within the commonwealth and all buildings . . . unless otherwise exempted from taxation under other provisions of law." G.L. c. 59, § 2A(a). Fair cash value means fair market value, which 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).

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 [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[] . . . prov[es] 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 attempted to prove overvaluation by introducing affirmative evidence of value primarily in the form of its real estate valuation expert's testimony, report, and opinion of value.

The fair cash value of property may often best be determined by recent sales of comparable properties in the market. *See* ***Correia v. New Bedford Redev. Authy.***, 375 Mass. 360, 362 (1978); ***McCabe v. Chelsea***, 265 Mass. 494, 496 (1929). Actual sales generally "furnish strong evidence of market value, provided they are arm's-length transactions and thus fairly represent what a buyer has been willing to pay for the property to a willing seller." ***Foxboro Associates v. Assessors of Foxborough***, 385 Mass. 679, 682 (1982); ***New Boston Garden Corp. v. Assessors of Boston***, 383 Mass. 456, 469 (1981); ***First National Stores, Inc. v. Assessors of Somerville***, 358 Mass. 554, 560 (1971). Sales of comparable realty in the same geographic area and within a reasonable time of the assessment date contain credible data and information for determining the value of the property at issue. *See* ***McCabe***, 265 Mass. at 496. "In the sales comparison approach, an opinion of market value is developed by comparing properties similar to the subject property that have recently sold." APPRAISAL INSTITUTE, THE APPRAISAL OF REAL ESTATE 297 (13th ed., 2008). "A major premise of the sales comparison approach is that an opinion of the market value of a property can be supported by studying the market's reaction to comparable and competitive properties." ***Id.*** When comparable sales are used, however, allowance must be made for various factors which would otherwise cause disparities in the comparable prices. *See* ***Pembroke Industrial Park Co., Inc. v. Assessors of Pembroke***, Mass. ATB Findings of Fact and Reports 1998-1072, 1082. "After researching and verifying the transactional data and selecting the appropriate unit of comparison, the appraiser adjusts for any differences." THE APPRAISAL OF REAL ESTATE at 307.

Because of the limited number of timely and meaningfully comparable sales of RV camping resorts during the relevant time period, the Board found that the value derived from the comparable-sales approach developed by the appellant's real estate valuation expert was useful only as a check. The Board further found that the quantitative analysis which the appellant's real estate valuation expert employed in his sales-comparison approach lacked precision because he only used a limited number of comparables - many from out-of-state, he made no time or market adjustments, and his quantitative analysis was based solely on net-operating differentials without any reference to appraisal authority or precedence. The Board additionally found that the sales information introduced by the assessors was not useful at all because it was not melded into any kind of an analysis that included adjustments to account for differences with the subject property. Consequently, the Board found and ruled that this method was not the best available methodology to use to determine the value of the subject property.

"The board is not required to adopt any particular method of valuation," ***Pepsi-Cola Bottling Co. v. Assessors of Boston***, 397 Mass. 447, 449 (1986), but the income-capitalization method "is frequently applied with respect to income-producing property." ***Taunton Redev. Assocs. v. Assessors of Taunton***, 393 Mass. 293, 295 (1984). Use of the income-capitalization method is appropriate when reliable market-sales data are not available. ***Assessors of Weymouth v. Tammy Brook Co.***, 368 Mass. 810, 811 (1975); ***Assessors of Lynnfield v. New England Oyster House***, 363 Mass. 696, 701-702 (1972); ***Assessors of Quincy v. Boston Consol. Gas Co.***, 309 Mass. 60, 67 (1942). Under the income-capitalization approach, valuation is determined by dividing net-operating income by a capitalization rate. *See* ***Assessors of Brookline v. Buehler***, 396 Mass. 520, 522-23 (1986). Net-operating income is obtained by subtracting market expenses from a market-derived gross income. ***Id.*** at 523. The capitalization rate should reflect the return on investment necessary to attract capital. ***Taunton Redev. Assoc.***, 393 Mass. at 295. Generally, it is appropriate to add a tax factor to the capitalization rate in most multiple tenant scenarios because the landlord is assumed to be responsible for paying the real estate taxes, and the tenant's contribution toward the real estate tax is included in the landlord's gross income. ***Id.*** at 295-96.

In the present appeal, the Board found and ruled that the capitalization of net income was the best method for determining the fair cash value of the subject property for the fiscal year at issue. In implementing this technique, the Board adopted the income and expense recommendations submitted by the appellant's real estate valuation expert because it found them to be better supported by actual, historical, and market data than the recommendations presented by the assessors. The Board also found that the income and expense recommendations presented by the appellant's real estate valuation expert best reflected the subject property's place in the market for the fiscal year at issue. The Board found, however, that the appellant's recommended capitalization rate of 8.25% was too high and reflected too much risk given the subject property's size, condition, location, and, in particular, applicable area industry surveys. The Board, therefore, adopted a lower capitalization rate of 7.80%, which fell within the lower mid-range of capitalization rates contained in applicable area industry surveys, before adding a tax factor equivalent to the $12.02-per-$1,000 tax rate for fiscal year 2011. The Board's loaded capitalization rate equaled the one suggested by the assessors. Based on these findings the Board determined that the fair cash value of the subject property for fiscal year 2011 was $2,880,000.

"'The board [i]s not required to accept the opinion expressed, or the valuation principles used by [an expert witness.]'" ***Foxboro Associates,*** 385 Mass. at 683 (citation omitted.) Rather, "[t]he essential requirement is that the Board exercise judgment." ***New Boston Garden Corp.***, 383 Mass. at 473. The Board may rely upon any method of valuation that is reasonable and supported by the record." ***Analogic Corp. v. Assessors of Peabody***, 45 Mass. App. Ct. 605, 609 (1998) (quoting ***Blakely v. Assessors of Boston***, 391 Mass. 473, 477 (1984)). The Board found and ruled here that the evidence sufficiently supported its use of an income-capitalization approach to determine the value of the subject property for the fiscal year at issue.

In reaching its opinion of fair cash value, the Board was not required to believe the testimony of any particular witness or to adopt any particular method of valuation that an expert witness suggested. Rather, the Board could accept those portions of the evidence that the Board determined had more convincing weight. ***Foxboro Associates***, 385 Mass. at 682; ***New Boston Garden Corp.***, 383 Mass. at 469. "The credibility of witnesses, the weight of evidence, and the inferences to be drawn from the evidence are matters for the Board." ***Cummington School of the Arts, Inc. v. Assessors of Cummington***, 373 Mass. 597, 605 (1977).

On this basis, the Board decided this appeal for the appellant and granted a tax abatement in the amount of $41,291.10 for fiscal year 2011. The Board's basis of computation of abatement is summarized in the following table.

Assessed Value	**Tax Rate per $1,000**	**Tax Assessed**	**Fair Cash Value**	**Over-Valuation**	**Tax Abatement**
$6,315,200	$12.02	$75,908.70	$2,880,000	$3,435,200	$41,291.10

THE APPELLATE TAX BOARD

By: ________________________________
Thomas W. Hammond, Jr., Chairman

A true copy,

Attest: ____________________________
Clerk of the Board