

COMMONWEALTH OF MASSACHUSETTS

APPELLATE TAX BOARD

RUSSELL L. SEELIG

v.

BOARD OF ASSESSORS OF  
THE CITY OF SPRINGFIELD

Docket Nos. F324156  
F328080  
F334703

Promulgated:  
August 13, 2019

These are appeals under the formal procedure pursuant to G.L. c. 59, §§ 64 and 65, from the refusal of the Board of Assessors of the City of Springfield ("assessors" or "appellee") to abate a tax on real estate located in the City of Springfield, owned by Russell L. Seelig ("appellant"), for fiscal years 2014, 2015, and 2018 ("fiscal years at issue").

Commissioner Elliott heard these appeals. Chairman Hammond and Commissioners Scharaffa, Rose, and Good joined him in the decision for the appellant for the fiscal years at issue.

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.

*Russell L. Seelig, pro se*, for the appellant.

*Robert P. Shewchuk, Esq.* for the appellee.

## FINDINGS OF FACT AND REPORT

On January 1, 2013, January 1, 2014, and January 1, 2017, the relevant valuation and assessment dates for the fiscal years at issue, the appellant was the assessed owner of an 8,859-square-foot parcel of real estate located at 38 Oxford Street in the City of Springfield ("subject property"). The subject property is improved with a single-family, Colonial-style dwelling, which has a total of eight rooms, including four bedrooms and two full and one half bathroom. The subject property also has a two-car detached garage.

Relevant jurisdictional information is contained in the following table:

Fiscal Year	Assessed Value	Tax Rate	Total Taxes	Abatement Application Filed	Abatement Application Denied	Petition Filed
2014	\$ 181,400	\$19.71	\$3,575.39	01/27/14	04/15/14	06/24/14
2015	\$ 193,400	\$19.67	\$3,804.18	01/20/15	04/14/15	07/09/15
2018	\$ 222,600	\$19.68	\$4,416.96 <sup>1</sup>	01/10/18	04/09/18	01/22/18 <sup>2</sup>

On the basis of these facts, the Appellate Tax Board ("Board") found and ruled that it had jurisdiction to hear and decide these appeals.

At the hearing of these appeals, the appellant argued that the subject property was overvalued for the fiscal years at

<sup>1</sup> The total tax amount for fiscal year 2018 includes a 1.5% Community Preservation Act ("CPA") surcharge.

<sup>2</sup> Although the appellant's abatement application had not yet been denied, premature filing of a petition is not fatal to the Board's jurisdiction. *Becton, Dickinson & Co. v. State Tax Commission*, 374 Mass. 230, 234 (1978).

issue because the assessors overstated the subject property's finished living area. In support of his claim the appellant offered into evidence several exhibits, including the subject property's property record card, which listed a finished living area of 2,551 square feet, and also a copy of the assessors' September 10, 2018 inspection of the subject property and their subsequent agreement that the subject property's correct finished living area was only 2,285 square feet.

The appellant also submitted into evidence copies of the comparable-sales analyses used by the assessors to determine the subject property's assessed values for the fiscal years at issue. For each of the fiscal years at issue the assessors relied on five purportedly comparable properties. For fiscal year 2014, the cited properties sold between August 2011 and April 2013, with sale prices ranging from \$120,000 to \$182,500. The properties varied in size from 2,304 square feet to 2,488 square feet. For fiscal year 2015, the cited properties varied in size from 2,343 square feet to 2,734 square feet and sold between February 2012 and September 2013, with sale prices ranging from \$134,000 to \$242,390. For fiscal year 2018, the assessors' cited properties sold between June 2015 and October 2016, with sale prices ranging from \$156,144 to \$196,606. The properties ranged in size from 2,402 square feet to 2,827 square feet. The appellant made adjustments to all of the purportedly

comparable properties to account for their sizes compared to the subject property's corrected finished living area to arrive at his opinions of value for the subject property of \$152,227, \$179,641, and \$153,986.

For their part, the assessors relied on the testimony of Patrick Greenhalgh, assessor for the City of Springfield, and the introduction of several exhibits, including the requisite jurisdictional documents and also the subject property's property record cards for the fiscal years at issue. Mr. Greenhalgh testified that the assessors made an error in the subject property's finished living area, which when corrected, resulted in lower assessed values for the fiscal years at issue. Mr. Greenhalgh further testified that fair market values of \$160,000 for fiscal year 2014, \$170,000 for fiscal year 2015, and \$180,000 for fiscal year 2018, were appropriate.

Based on the evidence presented, the Board found that the subject property was overvalued for the fiscal years at issue. The Board found that the reduction in the subject property's finished living area warranted a reduction in the subject property's fair market values for the fiscal years at issue. The Board further found that the assessors' suggested values of \$160,000 for fiscal year 2014, \$170,000 for fiscal year 2015, and \$180,000 for fiscal year 2018 were supported by the evidence and best reflected the subject property's fair cash values for

the fiscal years at issue. The Board therefore found that the subject property was overvalued by \$21,400 for fiscal year 2014, \$23,400 for fiscal year 2015, and \$142,600 for fiscal year 2018.

Accordingly, the Board decided these appeals for the appellant and granted abatements in the amount of \$421.79 for fiscal year 2014, \$460.28 for fiscal year 2015, and \$850.94<sup>3</sup> for fiscal year 2018.

#### OPINION

The assessors are required to assess all real property at its full and fair cash value. G.L. c. 59, § 28; *Coomey v. Assessors of Sandwich*, 367 Mass. 836, 837 (1975). 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 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 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

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<sup>3</sup> This amount is inclusive of a 1.5% CPA surcharge.

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)).

The Board need not specify the exact manner in which it arrived at its valuation. *Jordan Marsh Co. v. Assessors of Malden*, 359 Mass. 106, 110 (1971). The fair cash value of property cannot be proven with "mathematical certainty and must ultimately rest in the realm of opinion, estimate and judgment." *Assessors of Quincy v. Boston Consolidated Gas Co.*, 309 Mass. 60, 72 (1941). In evaluating the evidence before it, the Board selected among the various elements of value and formed its own independent judgment of fair cash value. *General Electric Co.*, 393 Mass. at 605. "The credibility of witnesses, the weight of evidence, the inferences to be drawn from the evidence are matters for the board." *Cumington School of the Arts, Inc. v. Assessors of Cumington*, 373 Mass. 597, 605 (1977).

Based on all of the evidence, the Board found and ruled that the subject property was overvalued for the fiscal years at

issue. The Board agreed with both parties that the correction to the subject property's finished living area resulted in a lower fair market value and found that the assessors' suggested values were supported by the evidence and represented the subject property's fair market values for the fiscal years at issue. Therefore, the Board found that the subject property's fair market value was \$160,000 for fiscal year 2014, \$170,000 for fiscal year 2015, and \$180,000 for fiscal year 2018, which resulted in overvaluations of \$21,400, \$23,400, and \$42,600, respectively.

The Board therefore decided these appeals for the appellant and granted abatements in the amount of \$421.79 for fiscal year 2014, \$460.28 for fiscal year 2015, and \$850.94 for fiscal year 2018.

THE APPELLATE TAX BOARD

By: 

Thomas W. Hammond Jr., Chairman

A true copy:

Attest: 

Clerk of the Board