

COMMONWEALTH OF MASSACHUSETTS

APPELLATE TAX BOARD

ROMAINE M. RANDALL

v.

BOARD OF ASSESSORS OF  
THE TOWN OF CONCORD

Docket No. F337752

Promulgated:  
August 4, 2021

This is an appeal under the formal procedure<sup>1</sup> 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 Concord ("assessors" or "appellee") to abate a tax on a certain parcel of real estate located in Concord owned by and assessed to Romaine M. Randall ("appellant"), for fiscal year 2019 ("fiscal year at issue").

Commissioner Elliott heard this appeal. Chairman Hammond and Commissioners Rose, Good, and Metzger 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.

*Romaine M. Randall, pro se*, for the appellant.

*R. Lane Partridge*, town assessor, for the appellee.

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<sup>1</sup> The appeal was originally filed under the informal procedure. Subsequently, pursuant to G.L. 58A, § 7, the assessors elected to transfer the appeal to the formal procedure.

## **FINDINGS OF FACT AND REPORT**

The present appeal was heard simultaneously with Docket No. X308520, an appeal under the informal procedure relating to fiscal year 2018. Both appeals involve the same property, and the evidence presented by the appellant formed part of the record with respect to each appeal. Based on that evidence, the Board made the following findings of fact with respect to the fiscal year at issue.

On January 1, 2018, the relevant valuation and assessment date for the fiscal year at issue, the appellant was the assessed owner of a parcel of real estate located at 349 Harrington Avenue in Concord ("subject property"). The subject property contains approximately 3.07 acres of land that is located on the Assabet River and is improved with a one-story, ranch-style, single-family dwelling constructed in 1953. The dwelling has a finished living area of 1,654 square feet with six rooms, including three bedrooms, as well as two full bathrooms. There is also a one-car attached garage, an enclosed porch, and a deck.

For fiscal year 2018, the assessors originally valued the subject property at \$739,800. On April 23, 2018, the assessors granted a partial abatement reducing the assessed value to \$723,600. Not satisfied with this reduction, on July 2, 2018, the

appellant seasonably filed an appeal with the Board on July 2, 2018.

For the fiscal year at issue, the assessors valued the subject property at \$762,000 and assessed a tax thereon, at the rate of \$14.19 per \$1,000, in the total amount of \$10,953.69.<sup>2</sup> The appellant timely paid the tax due without incurring interest. On January 31, 2019, in accordance with G.L. c. 59, § 59, the appellant timely filed an abatement application with the assessors, which they denied on April 6, 2019. On April 24, 2019, the appellant seasonably filed an appeal with the Board. On the basis of these facts, the Board found and ruled that it had jurisdiction to hear and decide this appeal.

In support of her claim that the subject property was overvalued for the fiscal year at issue, the appellant offered into evidence a chart comparing the percentage increases in assessments for properties located at 315 Harrington Avenue and 337 Harrington Avenue. According to the data supplied by the appellant, the subject property's assessed value increased by 35.5% between fiscal years 2016 and 2019 compared to only 29.3% for 315 Harrington Avenue's assessment and only 9.7% for 337 Harrington Avenue's assessment, for the same period. The appellant also offered into evidence a listing of ranch-style homes that

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<sup>2</sup> This amount includes a CPA surcharge in the amount of \$140.91.

sold during 2016 and compared their sale prices to their fiscal year 2018 assessed values. From this data, which indicated that these properties' assessed values exceeded their sale prices, the taxpayer again argued that the subject property was overvalued for the fiscal year at issue.

Lastly, the appellant offered into evidence the property record card for 121 Assabet Avenue. The appellant noted that although this property is similar in age, style, and square footage to the subject property, it had undergone recent renovations. The appellant testified that in contrast, the subject property was in only average condition, had not undergone any renovations since its original construction date, and has been in need of updating and structural repairs with a 40-year-old roof and multiple cracks in the concrete foundation. Despite the notable differences in condition and appeal, the property located at 121 Assabet Avenue sold on September 29, 2017, for \$629,000 and was assessed at more than \$100,000 less than the subject property's assessment for the fiscal year at issue and fiscal year 2018.

For their part, the assessors offered into evidence the testimony of R. Lane Partridge, the town assessor, and several exhibits, including: the requisite jurisdictional documentation; the subject property's property record cards for the fiscal year at issue and fiscal year 2018; photographs of the exterior of the subject property showing the cracked portions of the concrete

foundation; and several aerial photographs showing the subject property and its frontage along the Assabet River. The assessors also offered into evidence sales of purportedly comparable properties.

Based on all the evidence, the Board found and ruled that the appellant met her burden of proving that the subject property was overvalued for the fiscal year at issue. The Board found that although the appellant focused on a disparity in the percentage increase of the subject property's assessments compared to similar and neighboring properties, she presented comparable-assessment and sales data that supported her appeals by showing that the assessment of the subject property was excessive.

The Board further found and ruled that the subject property's fair cash value for fiscal year 2018 was \$680,000. The Board also found that the record reflected an appreciating market between January 1, 2017, and January 1, 2018, of approximately 4.5 percent. Thus, the Board found that the subject property's rounded fair cash value for the fiscal year at issue was \$710,000.

On this basis, the Board issued a decision for the appellant in this appeal and granted an abatement in the amount of \$748.95.

#### **OPINION**

Assessors are required to assess real estate at its full and 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 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 subject 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)).

In appeals before the Board, the 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. v. Assessors of Lynn***, 393 Mass. 591, 600 (quoting ***Donlon v. Assessors of Holliston***, 389 Mass. 848, 855 (1983)).

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, 394 (citing ***McCabe v. Chelsea***, 265 Mass. 494, 496 (1929)), *aff'd*, 73 Mass. App. Ct. 1107 (2008) (decision under Rule 1:28). Similarly, evidence of the assessed values of

comparable properties may provide probative evidence of fair cash value. See G.L. c. 58A, § 12B; *John Alden Sands v. Assessors of Bourne*, Mass. ATB Findings of Fact and Reports 2007-1098, 1106-07 (citing *Chouinard v. Assessors of Natick*, Mass. ATB Findings of Fact and Reports 1998-299, 307-308). "Adjustments must be made to both assessed values and sales data to account for differences between the subject property and the properties offered for comparison." *Doherty v. Assessors of Lee*, Mass. ATB Findings of Fact and Reports 2013-174, 181 (citing *Lareau v. Assessors of Norwell*, Mass. ATB Findings of Fact and Reports 2010-879, 889-90. "The assessments in a comparable-assessment analysis, like the sale prices in a comparable-sales analysis, must also be adjusted to account for differences with the subject." *Graham v. Assessors of West Tisbury*, Mass. ATB Findings of Fact and Reports at 2007-396.

In the present appeal, the Board found that the comparable-sales information introduced by the appellant provided useful data for ascertaining the fair cash value of the subject property as did the comparable-assessment information introduced by the appellant. Finally, this evidence coupled with evidence indicating an appreciating market in Concord from January 1, 2017, to January 1, 2018, led to the Board's conclusion of value for the fiscal year at issue.

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; *North American Philips Lighting Corp. v. Assessors of Lynn*, 392 Mass. 296, 300 (1984). The Board need not specify the exact manner in which it arrived at its valuation. *Jordan Marsh 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 sum, based on all the evidence, the Board found and ruled that the subject property's fair cash value for the fiscal year at issue was \$710,000. Accordingly, the Board issued a decision for the appellant in this appeal and granted an abatement in the amount of \$748.95.

THE APPELLATE TAX BOARD

By: /s/ Thomas W. Hammond  
Thomas W. Hammond, Jr., Chairman

A true copy,

Attest: /s/ William J. Doherty  
Clerk of the Board