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THE TAX COURT COMMITTEE ON OPINIONS

**TAX COURT OF NEW JERSEY**

**KATHI F. FIAMINGO**  
JUDGE



120 High Street  
Mount Holly, NJ 08060  
(609) 288-9500 EXT 38303

July 24, 2020

Mian Gao and Hengran Cui  
41 Greenbrook Drive  
Columbus, NJ 08022

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RE: Mian Gao & Hengran Cui v. Mansfield Township  
Docket No. 011907-2019

Dear Plaintiffs and Counsel:

This letter constitutes the court's opinion after trial in the above-referenced matter challenging the judgment of the Burlington County Board of Taxation for the 2019 tax year on plaintiff's single-family residence.<sup>1</sup> The court finds that plaintiff failed to produce sufficient evidence to overcome the presumptive validity of the assessment. As a result, plaintiffs' complaint is dismissed, and the judgment of the County Board is affirmed.

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<sup>1</sup> Although plaintiffs also requested relief in the nature of a correction of errors pursuant to N.J. S.A. 54:51A-7 and for the tax year 2020, plaintiffs' case information statement reflected only that plaintiffs were appealing the County Board Tax Judgment which referred only to the assessment of the subject property for the 2019 tax year. Plaintiffs' complaint did not comply with the requirements of N.J.S.A. 54:51A-7. No appeal for 2020 was filed and the assessment for such year was not before the court.



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**I. Procedural History and Factual Findings**

The court makes the following findings of fact and conclusions of law based on the evidence and testimony offered at trial in this matter.

Plaintiffs Mian Gao and Hengran Cui (“plaintiffs”) are the owners of the single-family home located at 41 Greenbrook Drive, Mansfield Township, Burlington County, New Jersey identified on the tax map of the Township of Mansfield (the “Township”) as Block 10.09, Lot 7 (the “subject property”). For the 2019 the subject property was assessed as follows:

Land:	\$ 65,900
<u>Improvements:</u>	<u>198,500</u>
Total	\$ 264,400

The Chapter 123 ratio for 2019 was 81.88% with a corresponding Chapter 123 common level range between 69.60% and 94.16%. See N.J.S.A. 54:1-35a(a); N.J.S.A. 54:1-35a(b). When the average ratio is applied to the assessment, the implied equalized value of the subject property for the 2019 tax year is \$322,911.

Plaintiffs filed a petition of appeal with the Burlington County Board of Taxation (the “Board”) challenging the 2019 tax year assessment on the subject property. On June 20, 2019, the Board entered a Memorandum of Judgment (the “Judgment”) affirming the assessment under judgment code “2B Assessment Affirmed – Presumption of correctness not overturned.” On July 31, 2019 plaintiffs filed a complaint with the Tax Court contesting the Board’s judgment. The Township filed an answer and counterclaim on August 7, 2019. The matter was tried on July 21, 2020.

At trial, plaintiff Gao testified that he was in agreement with the Township’s appraiser’s conclusion of market value for the subject property of \$345,000. He then presented a document

purporting to include the comparables submitted at the hearing before the County Board by the Tax Assessor for the Township (Plaintiff's Exhibit P-1). He observed that when one compared the tax assessment values of the referenced properties to their "net adjusted value" as set forth on the exhibit the ratio of "assessed to true value" for each of those properties was as follows:

Property	Value	Assessment	Ratio
39 Lincoln Drive	\$385,000	\$266,500	.6922
22 Birmingham Dr.	\$387,000	\$249,200	.6439
30 Coventry Terr	\$349,000	\$237,100	.6794

Plaintiff maintained if the ratios determined above were applied to the true value of the subject property at \$345,000, the resulting assessment would be \$238,812, \$222,155 or \$234,383, respectively. ( $238,812/345,00 = .6922$ ;  $222,155/345,000 = .6439$ ; and  $234,383/345,000 = .6794$ ) He asked that his assessment of \$264,400 be reduced accordingly by applying a ratio in that range. That is, based on an assumed fair market value of \$345,000 and an assessed value of \$264,400, he determined his assessed to true value ratio at 76.64% which he believes is in excess of the amount it should be based on the assessed values of the foregoing comparable properties.

He further testified that the property record card for the subject property included a value for a partial finished basement and he maintained that his basement was not finished. He asserted that assessment of the subject property should be reduced by \$13,303, the amount ascribed to the partial finished basement. He requested that this relief be provided for the tax year 2016 through the current year 2020. He acknowledged that except for the 2019 appeal he had not contested the valuation, had not filed an appeal for the 2020 tax year, and had not filed a complaint for a correction of errors. Moreover, he indicated that he agreed that the value of the subject property,

as it existed with the status of the basement as unfinished, was \$345,000 as maintained by the Township.

The Township presented its Tax Assessor who testified that the subject property was assessed at \$264,400, which was first established as a result of a reassessment which was effective for the 2013 tax year. He further testified that a review of the property record card indicated that there had been a determination that a portion of the basement was finished. He further testified that there was an indication on the property record card that the finished basement was an estimate. Although he was not the assessor at the time of the reassessment and had not reviewed any records relating to the reassessment of the subject property in 2013, his experience indicated that the value was estimated because access to the subject property was not provided for reassessment purposes.

The assessor further testified that applying the assessed value to a market value of \$345,000 results in a ratio of 76.64%, which was within the common level range of 69.60% and 94.16% for the Township for tax year 2019 and that no adjustment was warranted. He further maintained that as the plaintiffs concurred with the fair market value of the subject property of \$345,000 with the basement in an unfinished condition, there was no reason to the reduce the assessment.

The Township also presented a certified residential real estate appraiser who had provided an opinion of value for the subject property. Testimony revealed that the opinion of value had an effective date of October 1, 2019 and was, therefore, not relevant to the 2019 tax year, the valuation date for which was October 1, 2018. As a result, the witness did not testify further as to his opinion of value.

## II. Conclusions of Law

### a. Presumption of Validity

The court's analysis begins with the well-established principle that "[o]riginal assessments and judgments of county boards of taxation are entitled to a presumption of validity." MSGW Real Estate Fund, LLC v. Borough of Mountain Lakes, 18 N.J. Tax 364, 373 (Tax 1998). The presumption "attaches to the quantum of the tax assessment. Based on this presumption, the appealing taxpayer has the burden of proving that the assessment is erroneous." Pantasote Co. v. City of Passaic, 100 N.J. 408, 413 (1985)(citing Riverview Gardens v. North Arlington Borough, 9 N.J. 167, 174 (1952)). The "presumption is not simply an evidentiary presumption serving only as a mechanism to allocate the burden of proof. It is, rather, a construct that expresses the view that in tax matters, it is to be presumed that governmental authority has been exercised correctly and in accordance with law." MSGW Real Estate Fund, LLC, *supra*, 18 N.J. Tax at 374 (citing Powder Mill, I Assocs. v. Hamilton Township, 3 N.J. Tax 439 (Tax 1981)). "The presumption of correctness...stands, until sufficient competent evidence to the contrary is adduced." Little Egg Harbor Township v. Bonsangue, 316 N.J. Super. 271, 285-86 (App. Div. 1998). A taxpayer can only rebut the presumption by introducing "cogent evidence" of true value. That is, evidence "definite, positive and certain in quality and quantity to overcome the presumption." Aetna Life Ins. Co. v. Newark City, 10 N.J. 99, 105 (1952). Therefore, at the close of plaintiffs' proofs, the court must be presented with evidence which raises a "debatable question as to the validity of the assessment." MSGW Real Estate Fund, LLC, *supra*, 18 N.J. Tax at 376.

The court, in evaluating whether the evidence presented meets the "cogent evidence" standard, "must accept such evidence as true and accord the plaintiff all legitimate inferences which can be deduced from the evidence." *Id.* at 376 (citing Brill v. Guardian Life Insurance Co.

of America, 142 N.J. 520 (1995)). However, the evidence presented, when viewed under the Brill standard “must be ‘sufficient to determine the value of the property under appeal, thereby establishing the existence of a debatable question as to the correctness of the assessment.’” West Colonial Enters, LLC v. City of East Orange, 20 N.J. Tax 576, 579 (Tax 2003)(quoting Lenal Props., Inc. v. City of Jersey City, 18 N.J. Tax 405, 408 (Tax 1999), aff’d, 18 N.J. Tax 658 (App. Div. 2000), certif. denied, 165 N.J. 488 (2000)). “Only after the presumption is overcome with sufficient evidence...must the court ‘appraise the testimony, make a determination of true value and fix the assessment.’” Greenblatt v. Englewood City, 26 N.J. Tax 41, 52 (Tax 2011)(quoting Rodwood Gardens, Inc. v. City of Summit, 188 N.J. Super. 34, 38-39 (App. Div. 1982)). If the court concludes that evidence sufficient to overcome the presumption of validity attached to the tax assessment has not been presented, judgment must be entered affirming the assessment. Ford Motor Co. v. Township of Edison, 127 N.J. 290, 312 (1992). In the absence of a motion to dismiss under R. 4:37-2(b), the court is nonetheless required to decide if the plaintiff has overcome the presumption of validity. Thus, if the court independently concludes the plaintiff has not carried its requisite burden, dismissal of the action is warranted under R. 4:40-1, and the trial court need not engage in an evaluation of the evidence to make an independent determination of value.

Here, the plaintiffs presented no evidence of value of the subject property. Instead they concur that the value, as proffered by the Township fairly reflects the value of the subject property. Although plaintiffs produced certain “comparable sales,” they presented such “evidence” solely for the purpose of attempting to demonstrate that the Chapter 123 ratio if applied to the assumed value of the “comparables” was different than that applied to the subject property.

By referencing the various ratios and the “comparables” assumed value, plaintiffs are essentially comparing the assessed values of the referenced properties for the purpose of presenting

their case. The use of the comparables for such purpose does not establish value. “[C]omparing assessments of different properties in a property tax appeal is disallowed – the other assessment may be incorrect.” See AHS Hosp. Corp. v. Town of Morristown, 28 N.J. Tax 456, 520 (Tax 2015). The other properties may be over-assessed or under-assessed. Such a possibility is not relevant to the determination of the validity of the assessment of the subject property, the issue before this court.

Furthermore, plaintiffs provided no testimony to support the claim that the proffered comparable sales were indeed comparable to the subject property, or any evidence to support the appropriateness of the adjustments made to such comparable sales in coming to a conclusion of value. Thus, there was no testimony put before the court which was competent to establish true value of the subject property.

For all of these reasons, the court finds that plaintiffs failed to carry their burden to overcome the presumption of correctness and plaintiffs’ complaint must be dismissed.

Finally, even assuming that the plaintiffs’ acceptance of the flawed appraisal report establishing the value of the subject property at \$345,000 is evidence of value, plaintiffs are not entitled to any relief in this matter. As noted, the chapter 123 average ratio for the Township for 2019 was 81.88%, with a lower limit of 69.60% and an upper limit of 94.16%. No revision to the taxable value of the property would be warranted. See N.J.S.A. 54:51A-6a (revision to assessment to be made when the assessed valuation of the subject property to its true value exceeds the upper limit or falls below the lower limit of the common level range).

For all of the foregoing reasons plaintiffs' complaint is dismissed and the assessment is affirmed.

Very truly yours,

/s/ Kathi F. Fiamingo

Kathi F. Fiamingo, J.T.C.