COMMONWEALTH OF MASSACHUSETTS

APPELLATE TAX BOARD

RAED Y. BALBESI	**v.**	**BOARD OF ASSESSORS OF THE TOWN OF DRACUT**

Docket No. F351736

Promulgated:
December 11, 2025

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 Dracut ("appellee" or "assessors") to abate a real estate tax assessed against Raed Y. Balbesi ("appellant" or "Mr. Balbesi") for fiscal year 2024 ("fiscal year at issue").

Commissioner Metzer heard this appeal. Chairman DeFrancisco and Commissioners Good, Elliott, and Bernier joined her in the decision for the appellee.

These findings of fact and report are made pursuant to a request by the appellant under G.L. c. 58A, § 13 and 831 CMR 1.34.

Raed Y. Balbesi, pro se, for the appellant.

Karen Golden, Assessor, for the appellee.

FINDINGS OF FACT AND REPORT

Based on testimony and documents admitted into evidence during the hearing of this appeal, as well as shortly thereafter, the Appellate Tax Board ("Board") made the following findings of fact.

On June 30, 2023, the appellant acquired title to a 20,759-square-foot parcel of newly developed land located at 68 Hayfield Road in Dracut ("subject property").[1]

For the fiscal year at issue, the appellee valued the subject property at $739,100 and assessed a tax thereon, at the rate of $10.45 per $1,000, in the total amount of $7,878.07, inclusive of a Community Preservation Act surcharge. The appellant timely paid the tax due without incurring interest. On January 11, 2024, the appellant timely filed an abatement application with the appellee. On April 3, 2024, the appellee denied the abatement application. On June 26, 2024, the appellant seasonably filed an appeal with the Board. Based on these facts, the Board found and ruled that it had jurisdiction to hear and decide the instant appeal.

The subject property is improved with a newly constructed Colonial-style home with a total living area of 2,509 square feet consisting of seven rooms, including four bedrooms, as well as two full bathrooms and a half bathroom ("subject home"). The occupancy permit for the subject home was issued on June 28, 2023, and the appellant purchased the subject property on June 30, 2023, for $730,000.

The appellant presented his appeal through his testimony and the submission of documents. Mr. Balbesi protested the assessed value of the subject home as part of the subject property's overall assessment for the fiscal year at issue. He explained that as of January 1, 2023, the statutory valuation and assessment date for the fiscal year at issue, the subject property was a vacant plot of land. The appellant offered into evidence a picture of the subject property taken in March 2023 that showed the subject home in a

[1] As he was "a person who acquire[d] title to real estate after January first in any year," the appellant was "treated as a person upon whom a tax has been assessed," and therefore had standing to bring this appeal. G.L. c. 59, § 59.

state of partial construction with only some siding attached. Mr. Balbesi testified that he was in Florida at the time this picture was taken by his neighbor. The appellant argued that the subject property should have been assessed for $170,000, the value ascribed to the land for the fiscal year at issue.

The appellee presented its case through the testimony of Assessor Karen Golden and the submission of documents, including the requisite jurisdictional documents. Assessor Golden testified that, after the building permit was issued on December 16, 2022, the assessors visited the subject property to monitor the subject home's progress and observed the following development:

- January 3, 2023 – the foundation was poured
- March 17, 2023 – the framing installation had begun
- April 12, 2023 – siding, roof, windows and HVAC system had been installed
- April 27, 2023 – electricity and drywall had been installed; assessors conducted a walk through
- May 16, 2023 – subject home was about 85% complete; painting was in progress
- June 28, 2023 – certificate of occupancy was issued
- June 29, 2023 – property was complete; assessors conducted a site visit

Assessor Golden testified to her belief that the photo on the property record card, which showed the completed subject home, was taken on June 29, 2023, during the assessors' site visit. Assessor Golden further testified that, having concluded that the subject property was fully completed on June 29, 2023, the appellee assessed the subject property at $739,300, which the assessors deemed to be the subject property's full fair cash value as of June 29, 2023.

The appellee subsequently provided a copy of Article 12 from the Warrant for the Dracut Town Meeting that occurred on June 4, 1990.[2] Article 12 provides in relevant part: "To see if the Town will vote to accept the provisions of Section 40, Chapter 653 of the Acts of 1989 ["Section 40 of Chapter 653"] regarding assessment date changes for new growth." The copy of the Warrant further provides that Section 40 of Chapter 653 was accepted by majority vote at the Dracut Town Meeting.

As will be explained in the following Opinion, as a community that accepted the provisions of Section 40 of Chapter 653, the Town of Dracut is allowed to assess growth in the town that occurs during the timeframe of January 2 through June 30 prior to the commencement of a fiscal year.

The Board found that the appellee established that the Town of Dracut had accepted the provisions of Section 40 of Chapter 653. The Board further found that the subject home was completed before June 30, 2023. The Board thus found and ruled that the subject property was properly assessed as fully developed for the fiscal year at issue. Moreover, the appellant did not contest the fair cash value ascribed to the subject property as fully developed. The Board thus found that the appellant failed to meet his burden of proving that the subject property was improperly assessed for the fiscal year at issue.

Accordingly, the Board issued a decision for the appellee.

[2] The record was left open at the conclusion of the hearing to allow the appellee to supplement with additional documentation requested by the Board.

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 are fully informed and under no compulsion. ***Boston Gas Co. v. Assessors of Boston***, 334 Mass. 549, 566 (1956).

"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)). 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. v. Assessors of Lynn***, 393 Mass. 591, 600 (1984) (quoting ***Donlon v. Assessors of Holliston***, 389 Mass. 848, 855 (1983)). In the instant appeal, the appellant attempted to meet his burden by contesting the assessment of the subject property as developed. He contended that, by law, a property is valued and assessed as it exists on January first preceding the fiscal year at issue.

The appellant correctly observed that G.L. c. 59, § 2A ("§ 2A") provides that "[t]he assessors of each city and town shall determine the fair cash valuation of such real property for the purpose of taxation on the first day of January of each year." However, the next sentence of § 2A reads as follows:

> Notwithstanding the foregoing, in any city or town which accepts the provisions of this sentence, buildings and other things erected on or affixed to land during the period beginning on January second and ending on June thirtieth of the fiscal year preceding that to which the tax relates shall be deemed part of such real property as of January first.

This sentence was added to § 2A by Section 40 of Chapter 653. As explained above, the appellee established that the Town of Dracut adopted Section 40 of Chapter 653 by majority vote at its town meeting on June 4, 1990, and therefore "accept[ed] the provisions" of the referenced sentence.

The subject home was completed prior to the June 30 preceding the start of the fiscal year at issue, which began on July 1, 2023. Therefore, the subject property was properly assessed at its completed value for the fiscal year at issue. Furthermore, the appellant did not challenge the appellee's valuation of the subject property as completed. "[T]he board is entitled to 'presume that the valuation made by the assessors [is] valid unless the taxpayers . . . prov[e] the contrary.'" ***General Electric Co.***, 393 Mass. at 598 (quoting ***Schlaiker v. Assessors of Great Barrington***, 365 Mass. 243, 245 (1974)).

The Board found and ruled that the provisions of Section 40 of Chapter 653, which have been adopted by the Town of Dracut, support the valuation of the subject property as completed. The Board further found that the appellant failed to meet his burden of proving that the valuation of the subject property by the appellee exceeded the property's fair cash value for the fiscal year at issue.

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

THE APPELLATE TAX BOARD

By: _____
Mark J. DeFrancisco, Chairman

A true copy,

Attest: _____
Clerk of the Board