

COMMONWEALTH OF MASSACHUSETTS
APPELLATE TAX BOARD

BELMONT COUNTRY CLUB, INC.

v.

**BOARD OF ASSESSORS OF
THE TOWN OF BELMONT**

Docket Nos. F343651, F343652
F343653, F343654
F345782, F345783
F345784, F345785
F348381, F348382
F348383, F348384

Promulgated:
February 6, 2026

These are appeals 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 Belmont (“appellee” or “assessors”) to abate taxes on certain real estate located in the Town of Belmont and assessed to Belmont Country Club, Inc. (“appellant” or “Belmont Country Club”) for fiscal years 2021, 2022, and 2023 (collectively, “fiscal years at issue”).

Commissioner Elliott heard these appeals. Chairman DeFrancisco and Commissioners Good, Metzger, and Bernier joined him in the decisions and revised decisions for the appellant.

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.

David Glod, Esq., and Danielle Justo, Esq., for the appellant.

Anthony Ambriano, Esq., for the appellee.

FINDINGS OF FACT AND REPORT

On the basis of testimony and exhibits entered into evidence at the hearing of these appeals, the Appellate Tax Board (“Board”) made the following findings of fact.

I. Introduction and jurisdiction

On January 1, 2020, January 1, 2021, and January 1, 2022, the appellant was the assessed owner of four separately assessed parcels of land in the Town of Belmont. The two parcels at 171-181 Winter Street and 181 Winter Street are non-contiguous parcels (“country club parcels”). Parcels at 155 Winter Street and 33 Country Club Lane are vacant land parcels (“vacant parcels”) (country club parcels and vacant parcels, collectively “subject property”).

The entirety of the Belmont Country Club comprises 197 acres of land across Belmont, Arlington, and Lexington (“entire country club”), with the land component of the country club parcels comprising approximately 135 acres out of the 197 acres.¹ The country club parcels feature an eighteen-hole golf course. Based on an aerial map of the subject property, holes three through five, nine, and ten are located entirely on 181 Winter Street; holes two, fourteen, fifteen, and eighteen are located entirely on 171-181 Winter Street; holes one and seventeen are located on both 171-181 Winter Street and in Arlington; hole thirteen is located entirely in Arlington; and holes six through eight, eleven, and twelve are located on both 181 Winter Street and in Lexington. The parcel at 171-181 Winter Street is improved with a clubhouse, pools, tennis courts, a driving range, and maintenance buildings. The land component of the country club parcels is subject to G.L.

¹ The acreage in Arlington and Lexington is not at issue in these appeals.

c. 61B (“61B”), and thus the land – but not the buildings - cannot be assessed at more than 25 percent of its fair cash value. The vacant parcels are not subject to 61B.

The following table details the jurisdictional information for each of the fiscal years at issue, exclusive of the Community Preservation Act (“CPA”) surcharge:

Fiscal Year 2021	Docket No. F343652 (181 Winter Street)	Docket No. F343654 (171-181 Winter Street)	Docket No. F343653 (155 Winter Street)	Docket No. F343651 (33 Country Club Lane)
61B land	Y	Y	N	N
FCV per property record card	\$23,715,000	\$32,214,000	\$718,000	\$863,000
Assessed Value	\$5,963,250	\$18,326,250	\$718,000	\$863,000
Tax Rate	\$11.54	\$11.54	\$11.54	\$11.54
Tax Amount	\$68,815.91	\$211,484.93	\$8,285.72	\$9,959.02
Abatement Application Filed	1/26/21	1/26/21	1/30/21	1/28/21 (postmark)
Paid w/o Interest	Y	Y	Y	Y
Denial	4/30/21	4/30/21	4/30/21	4/30/21
Petition	7/7/21	7/7/21	7/7/21	7/7/21
Fiscal Year 2022	Docket No. F345782 (181 Winter Street)	Docket No. F345783 (171-181 Winter Street)	Docket No. F345784 (155 Winter Street)	Docket No. F345785 (33 Country Club Lane)
61B land	Y	Y	N	N
FCV per property record card	\$23,623,000	\$33,119,000	\$749,000	\$901,000
Assessed Value	\$5,913,750	\$18,631,250	\$749,000	\$901,000
Tax Rate	\$11.56	\$11.56	\$11.56	\$11.56
Tax Amount	\$68,362.95	\$215,377.25	\$8,658.44	\$10,415.56
Abatement Application Filed	1/26/22	1/26/22	1/26/22	1/26/22
Paid w/o Interest	Y	Y	Y	Y
Denial	4/8/22	4/8/22	4/8/22	4/8/22
Petition	6/13/22	6/13/22	6/13/22	6/13/22
Fiscal Year 2023	Docket No. F348381 (181 Winter Street)	Docket No. F348382 (171-181 Winter Street)	Docket No. F348383 (155 Winter Street)	Docket No. F348384 (33 Country Club Lane)
61B land	Y	Y	N	N
FCV per property record card	\$24,046,000	\$33,616,000	\$819,000	\$984,000
Assessed Value	\$6,046,000	\$18,883,750	\$819,000	\$984,000
Tax Rate	\$11.24	\$11.24	\$11.24	\$11.24
Tax Amount	\$67,957.04	\$212,253.35	\$9,205.56	\$11,060.16
Abatement Application Filed	1/27/23	1/27/23	1/27/23	1/27/23
Paid w/o Interest	Y	Y	Y	Y
Denial	3/17/23	3/17/23	3/17/23	3/17/23
Petition	5/31/23	5/31/23	5/31/23	5/31/23

Based upon this information, the Board found and ruled that it had jurisdiction to hear and decide these appeals for the fiscal years at issue.

II. The appellant's case

The appellant presented its case through numerous documents entered into evidence and the testimony of Andrew Coleman, the general manager/chief operating officer of the Country Club; the testimony of Kelly Durfee Cardoza, whom the Board qualified as an expert in wetlands and environmental regulatory matters; the testimony and appraisal reports of Stefan Sargeant, whom the Board qualified as an expert in commercial real estate appraisal; and the testimony and written analyses of Paul Ingram, a former appraiser who served in an advocacy capacity for the appellant.²

The appellant challenged the assessed values of the vacant parcels. For the country club parcels, the appellant challenged the fair cash values determined by the assessors prior to the application of 61B.

A. Testimony of Mr. Coleman

Mr. Coleman testified to the history of the Country Club, with origins dating back to 1918. He explained that the appellant is an I.R.C. § 501(c)(7) not-for-profit, a designation given to social clubs. To become a member, an individual pays an initiation fee and goes through a membership process, which includes interviews and letters of recommendation. At the time of his testimony, Mr. Coleman indicated that the initiation fee was \$95,000 per member and that the appellant was at capacity with 425 members. During relevant time periods, the initiation fee was in the \$70,000 to \$75,000 range. In terms of financials, Mr. Coleman testified that “our mission is to not have a profit, not have a loss, to come right

² The appellee objected to Mr. Ingram's testimony on numerous grounds.

in at zero at the end of the year.” According to Mr. Coleman, the appellant hosts various events on the country club parcels, including private events, golf events, weddings, bar mitzvahs, and member events. Mr. Coleman testified that the Country Club is a “premier boutique country club in the Boston area,” known for its rolling fairways and elevation changes. He noted that 171-181 Winter Street surrounds Belmont Springs, a landlocked neighbor with an easement to cart water from the Belmont Springs property to the street using twenty-six trucks that operate six days a week. He estimated thirty-five to forty cars belonging to Belmont Springs staff also enter and exit the Belmont Springs property continuously.

Mr. Coleman described the vacant parcels as narrow, long, thick wooded lots serving as a buffer between the appellant and neighbors.

B. Testimony of Ms. Cardoza

Ms. Cardoza testified that she has worked with the appellant since 1988 to help it design “projects in the manner that’s permissible on the land that they have under both wetlands regulation and zoning. . . [including] responding to wetland issues, seeking permits and approvals for maintenance and improvements to the golf course and cart paths.” Her work with the appellant has required an analysis of topography and an understanding of drainage and wetlands. For the country club parcels, she delineated 83 acres as not wetlands and 51 acres as wetlands or resource areas.³

She testified that flooding can be a problem on the country club parcels, and that “[i]t really does affect the operations of the club. They have to close these holes

³ Ms. Cardoza acknowledged that her figures totaled 134 acres and not 135 acres.

sometimes and the cart paths are flooded,” and approval for mitigation efforts – and other changes - required a lengthy process through the Conservation Commission.

In terms of the presence of wetlands impacting the utility of the country club parcels for a residential subdivision, Ms. Cardoza opined that “you need to construct roads for access. You would need to grade the site. I suspect that water level is so high that you wouldn't be able to put a foundation in for a house. You would have houses that would need to be above the floodplain.”

C. Testimony and appraisal reports of Mr. Sargeant

Mr. Sargeant prepared two appraisal reports for these appeals – one report for the time periods as of January 1, 2020, and January 1, 2021, and one report for the time period as of January 1, 2022 (“appeals reports”). His testimony and appeals reports did not include the vacant parcels. Mr. Sargeant conducted both a sales comparison approach and an income capitalization approach (using the direct capitalization method) in valuing the entire country club.

He described the Country Club as having “the traditional high-end golf amenities, including the driving range, the short game area, bag room, fitness center, locker rooms. It has [the] high-end amenities you would assume for a club of similar stature.” His appeals reports noted that the golf course is a par-71, 6,843-yard course designed by Donald Ross and that the entire country club includes eighteen buildings, including a 32,586-square-foot clubhouse, 13,800 square feet of maintenance/cart storage, a 1,755-square-foot pool cabana, and a 560-square-foot tennis building.

Concerning highest and best use, he found that “since the club has been in operation for 100 years, [and] it seems to be very popular with the membership base, with

some issues with potential redevelopment, . . . the highest and best use of course was for continued use as a golf course.” He identified the issues with potential redevelopment to include limitations due to wetlands, significant ledge that would need to be removed, some steep sites that would not be conducive to a residential subdivision, and payments that would have to be made under 61B if the parcels were redeveloped into a residential subdivision.

He utilized national golf course sales for his sales-comparison approach. In his appraisal report for the time periods as of January 1, 2020, and January 1, 2021, he relied upon twenty-one sales with sale dates ranging from October 2016 to July 2021. In his appraisal report for the time period as of January 1, 2022, he relied upon twenty-two sales with sale dates ranging from June 2017 to May 2022. He derived values for his sales-comparison approach using both a price-per-hole analysis and a gross-revenue-multiplier analysis, concluding values for the entire country club of \$23,000,000 as of January 1, 2020, or \$1,277,778 per hole; \$22,500,000 as of January 1, 2021, or \$1,250,000 per hole; and \$21,000,000 as of January 1, 2022, or \$1,166,667 per hole.

For his income-capitalization approach, Mr. Sargeant prepared forecasted revenues and expenses as of each of the relevant valuation dates, explaining that he relies upon forecasting “[b]ecause a course could be mismanaged heavily. It could be heavily dependent on payroll. There’s a lot of situations where a course’s financials may not match what’s actually going on in the market.” To develop a capitalization rate, he relied upon comparable sales, investor surveys, and a band of investment analysis, settling on a loaded capitalization rate of 10.15 percent for fiscal year 2021, 10.20 percent for fiscal year 2022, and 10.70 percent for fiscal year 2023. For his loaded capitalization

rates, Mr. Sargeant blended the tax rates of Belmont, Arlington, and Lexington for the fiscal years at issue.⁴

Under his income-capitalization approach, Mr. Sargeant determined an opinion of value for the entire country club of \$23,500,000 as of January 1, 2020, or \$1,305,556 per hole; \$21,800,000 as of January 1, 2021, or \$1,211,111 per hole; and \$21,500,000 as of January 1, 2022, or \$1,194,444 per hole.

In reconciling his valuation methodologies, Mr. Sargeant gave the most weight to his income-capitalization approach and ascertained a going concern value of \$23,500,000, as of January 1, 2020; \$21,800,000, as of January 1, 2021; and \$21,500,000, as of January 1, 2022. These values were inclusive of furniture, fixtures, and equipment (“FFE”). Mr. Sargeant deducted FFE - using depreciated book values provided by the appellant - to arrive at real estate values for the entire country club of \$22,257,220, or \$113,113 per acre, as of January 1, 2020; \$20,594,503, or \$104,663 per acre, as of January 1, 2021; and \$20,319,110, or \$103,263 per acre, as of January 1, 2022.

In Mr. Sargeant’s opinion, it would not have been feasible to separately appraise just the property in Belmont. “It’s a unique situation,” he testified, “but I’ve never heard of anybody buying an incomplete golf course.” He believed that “[t]he only way we could provide an accurate value is to value the club as a whole” and that it was justifiable to assign the overall value across all the acreage equally.

When Mr. Sargeant’s per-acre values were applied to the acreage of the country club parcels, they resulted in values of \$6,843,337, \$6,332,112, and \$6,247,412,

⁴ Mr. Sargeant’s appraisal reports appear to use the prior fiscal year’s tax rates in calculating his capitalization rates, *i.e.*, the fiscal year 2020 tax rate for fiscal year 2021.

respectively, for fiscal years 2021, 2022, and 2023, for 181 Winter Street, and in values of \$8,370,362, \$7,745,062, and \$7,641,462, respectively, for fiscal years 2021, 2022, and 2023, for 171-181 Winter Street. These values were not inclusive of 61B reductions.

On cross-examination, the assessors introduced an appraisal report that Mr. Sargeant had prepared of the entire country club for Citizens Bank, NA, with an effective date of value as of April 21, 2020 ("Citizens appraisal report"). As with his appeals reports, Mr. Sargeant employed a sales-comparison approach and an income-capitalization approach, but his income-capitalization approach in his Citizens appraisal report involved both direct-capitalization and discounted-cash-flow methodologies. His sales-comparison approach yielded a value of \$29,000,000 for the entire country club as of April 21, 2020, or \$1,611,111 per hole. His income-capitalization approach yielded a value of \$27,200,000 under the discounted-cash-flow methodology and \$28,500,000 under the direct-capitalization methodology, for an average of \$28,000,000, or \$1,555,556 per hole. His reconciliation of a going concern value was \$28,000,000 as of April 21, 2020, or \$1,555,556 per hole. After deduction of FFE, he arrived at a real estate value for the entire country club of \$26,757,220 as of April 21, 2020.

Mr. Sargeant attributed the difference in values between his appeals reports and his Citizens appraisal report to numerous factors. He highlighted the use of a loaded capitalization rate in the appeals reports versus the Citizens appraisal report; the use of a discounted-cash-flow methodology in the Citizens appraisal report; and access to additional comparable sales when preparing the appeals reports. He also noted the timing of when the reports were prepared, stating that the Citizens appraisal report was prepared prior to understanding the impact that Covid was going to have on golf courses, whereas

with the appeals reports “we were lucky enough to go back to the past and more appropriately capture the overall impact that Covid had on the property.”

Mr. Sargeant also admitted to some discrepancies in the narrative discussions in his appeals reports, such as whether the appellant had a stable financial history and that it was not a private equity club, but he stressed that these errors did not impact his valuation analyses and were not part of any numerical calculations in his reports.

D. Testimony and analyses of Mr. Ingram

Mr. Ingram testified that he was retained by the appellant and hired on the basis whereby he receives 25 percent of the tax savings for both the country club parcels and the vacant parcels. He receives no payment in the absence of any tax savings. While he previously held an appraisal license, he testified that he “gave up my license” in 2004 or 2005. Pursuant to an engagement agreement with the appellant, his role was to act as an advocate for the appellant.

Mr. Ingram did not conduct an appraisal of the subject property. He provided two PowerPoint analyses – one for the country club parcels and one for the vacant parcels. His analysis of the country club parcels included the appraised and assessed values of the entire country club for Belmont, Arlington, and Lexington. Also included in this analysis were appraised values for what he considered similar golf clubs in Massachusetts.

His testimony and written analysis of the vacant parcels noted that each of the vacant parcels individually – with a square footage of 11,037 square feet for 155 Winter Street and 23,037 square feet for 33 Country Club Lane - did not meet the minimum 25,000-square-foot requirement for a buildable lot under Belmont zoning laws, and that their only reasonable use would be as additional land for properties abutting the vacant

parcels. He relied upon various unadjusted neighborhood land comparisons and unadjusted comparable sales to suggest “reasonable assessments” of \$396,000 for 155 Winter Street for each of the fiscal years at issue and \$576,000 for 33 Country Club Lane for each of the fiscal years at issue.

III. The appellee’s case

The appellee presented its case through the introduction of jurisdictional documents and other documents. Apart from cross-examination of the appellant’s witnesses and challenging numerous aspects of the appellant’s case, the appellee otherwise rested on the presumed validity of the assessments.

IV. The Board’s findings

On the basis of the record in its entirety, the Board found and ruled that the appellant met its burden of proving that both the country club parcels and the vacant parcels were overvalued for each of the fiscal years at issue.

In making its findings, the Board found Mr. Coleman, Ms. Cardoza, and Mr. Sargeant to be credible witnesses, but the Board gave little weight to Mr. Ingram’s testimony. Even if the Board were to ignore his lack of an appraisal license and the inherent bias in the exclusively contingent nature of his compensation agreement with the appellant, Mr. Ingram’s simplistic analyses of the subject property served a limited purpose.⁵

⁵ Though these appeals are distinguishable from *New England Telephone and Telegraph Company v. Assessors of Boston*, 392 Mass. 865, 873 (1984), which involved the issue of whether an expert witness had or believed he had a contingent fee arrangement with the taxpayer, the Court noted that “[e]ven if [the expert] held such a belief, the board in its opinion and the assessors in their brief have cited no case holding, or even stating, that a trier of fact may, as a matter of law, totally disregard evidence presented by an expert witness who had a contingent fee arrangement” and “the testimony was presented to an experienced administrative agency accustomed to dealing daily with expert witnesses and their testimony concerning rates of return, rents imputed to premises, allowances for vacancies, and similar issues.”

A. Country club parcels

The Board agreed with Mr. Sargeant that the highest and best use of the country club parcels was their continued and long-term historical use as a country club with a golf course. The Board found that conversion of the country club parcels into residential developments was too speculative, with myriad overshadowing impediments such as topography and wetlands.

The Board found numerous factors in support of a reduction in fair cash value, from the Belmont Springs easement that would require any potential buyer to accommodate this high-traffic delivery operation, to flooding concerns, to the lengthy approval process through the Conservation Commission to implement any changes.

The Board, however, did not find any reasonable explanation for the significant disparity between the appeals reports and the Citizens appraisal report. Taking the \$28,000,000 generated in the Citizens appraisal report as a starting point,⁶ the Board deducted FFE and a nominal percentage to account for the Citizens appraisal report's valuation date as of April 20, 2020, instead of January 1, 2020. The resulting figure was \$26,676,948 for fiscal year 2021 for the entire country club. To arrive at figures for fiscal years 2022 and 2023, the Board increased its fiscal year 2021 value by 1 percent and 1.5 percent, respectively, for values of \$26,943,718 and \$27,347,874, for the entire country club.

In making its determination of value, the Board acknowledged the difficulty in separately evaluating each of the parcels comprising the entire country club, each of which relies upon the totality of the amenities and improvements thereon, and thus found

⁶ The Board did not endorse any specific methodology, particularly the discounted-cash-flow methodology, used in the Citizens appraisal report in adopting the \$28,000,000 figure.

the appellant’s utilization of a per-acre approach to be practical under the factual circumstances presented. To derive a per-acre figure for the entire country club, the Board first deducted the full improvement values of the country club parcels as itemized on their property record cards for each of the fiscal years at issue.⁷ The Board reached a per-acre value based upon the entire country club, which it then applied to the separate acreage of 171-181 Winter Street and 181 Winter Street, to reach a fair cash value for each of the country club parcels for each of the fiscal years at issue after the addition of the improvement values for each parcel as listed on the property record cards. To account for 61B, the Board took 25 percent of its fair cash value for the land, noting that per the property record cards, the assessors did not attribute a 25 percent value to certain portions of the parcels’ underlying improvements (“primary site @ 5 acres”) for the parcel at 171-181 Winter Street.⁸

The following table details the Board’s numerical findings for the country club parcels:

171-181 Winter Street	Fiscal Year 2021	Fiscal Year 2022	Fiscal Year 2023
FCV per property record card	\$32,214,000	\$33,119,000	\$33,616,000
Assessed value	\$18,326,250	\$18,631,250	\$18,883,750
FCV per Board for country club parcels	\$26,676,948	\$26,943,718	\$27,347,874
FCV per acre per Board	\$81,586	\$83,048	\$85,262
FCV per Board @70.5 acres	\$5,751,834	\$5,854,871	\$6,010,971
61B value per Board	\$1,437,959	\$1,463,718	\$1,502,732
FCV per Board for primary site @ 5 acres	\$407,932	\$415,239	\$426,310
Improvement value	\$11,739,000	\$11,739,000	\$11,739,000

⁷ The appellant did not distinguish between land and buildings in its opinion of value to account for application of 61B, and hence the Board took improvements at full value as listed on the property record cards for the country club parcels.

⁸ As stated in its reply brief, the appellant has not argued that the appellee misapplied 61B, but rather only the valuation of the country club parcels prior to the application of any 61B reduction.

FCV per Board of 171-181 Winter Street (w/ 61B adjustment)	\$13,584,890	\$13,617,957	\$13,668,053
Rounded to	\$13,600,000	\$13,600,000	\$13,700,000
Overvaluation	\$4,726,250	\$5,031,250	\$5,183,750
Abatement (w/CPA)	\$55,359.04	\$59,033.67	\$59,139.33

181 Winter Street	Fiscal Year 2021	Fiscal Year 2022	Fiscal Year 2023
FCV per property record card	\$23,715,000	\$23,623,000	\$24,046,000
Assessed value	\$5,963,250	\$5,913,750	\$6,046,000
FCV per Board for country club parcels	\$26,676,948	\$26,943,718	\$27,347,874
FCV per acre per Board	\$81,586	\$83,048	\$85,262
FCV per Board @ 59.5 acres	\$4,854,385	\$4,941,345	\$5,073,089
61B value per Board	\$1,213,596	\$1,235,336	\$1,268,272
Improvement Value	\$46,000	\$46,000	\$46,000
FCV per Board of 181 Winter Street (w/ 61B adjustment)	\$1,259,596	\$1,281,336	\$1,314,272
Rounded	\$1,250,000	\$1,300,000	\$1,300,000
Overvaluation	\$4,713,250	\$4,613,750	\$4,746,000
Abatement (w/CPA)	\$55,206.77	\$54,134.97	\$54,145.22

B. Vacant parcels

The Board found that the vacant parcels individually did not meet Belmont zoning requirements, and consequently they could not be used for residential development during the fiscal years at issue. While future treatment as a combined parcel could elevate the utility of the vacant parcels, the Board found that the limited uses of the parcels as separately assessed warranted a reduction in value. In considering the record and making its own adjustments, the Board determined that an appropriate value for fiscal year 2021 for 33 Country Club Lane was \$640,000, with approximate increases of 4 percent and 9 percent, respectively, for fiscal years 2022 and 2023, consistent with the percentage increases by Belmont, for values of \$690,000 for fiscal year 2022 and \$750,000 for fiscal year 2023. The Board determined that an appropriate value for fiscal year 2021 for 155 Winter Street was \$540,000, with approximate increases of 4 percent and 9 percent,

respectively, for fiscal years 2022 and 2023, consistent with the percentage increases by Belmont, for values of \$560,000 for fiscal year 2022 and \$610,000 for fiscal year 2023.

The following table details the Board’s numerical findings for the vacant parcels:

33 Country Club Lane	Fiscal Year 2021	Fiscal Year 2022	Fiscal Year 2023
Fair cash value per Board	\$640,000	\$690,000	\$750,000
Assessed value	\$863,000	\$901,000	\$984,000
Overvaluation	\$223,000	\$211,000	\$234,000
Abatement (w/CPA)	\$2,612.02	\$2,475.75	\$2,669.61

155 Winter Street	Fiscal Year 2021	Fiscal Year 2022	Fiscal Year 2023
Fair cash value per Board	\$540,000	\$560,000	\$610,000
Assessed value	\$718,000	\$749,000	\$819,000
Overvaluation	\$178,000	\$189,000	\$209,000
Abatement (w/CPA)	\$2,084.93	\$2,217.61	\$2,384.40

Based on the above findings, the Board issued decisions for the appellant, with abatements (inclusive of the CPA surcharge) for each of the fiscal years at issue, respectively, of \$55,359.04, \$59,033.67, and \$59,139.33, for 171-181 Winter Street; \$55,206.77, \$54,134.97, and \$54,145.22, for 181 Winter Street; \$2,612.02, \$2,475.75, and \$2,669.61, for 33 Country Club Lane; and \$2,084.93, \$2,217.61, and \$2,384.40, for 155 Winter Street.⁹

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). A taxpayer has the burden of proving that the

⁹ The abatement figures detailed in these findings result in a larger abatement for the appellant for the country club parcels. The Board has contemporaneously issued revised decisions for the country club parcels reflecting these increased amounts.

property at issue has a lower value than its assessed value. “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)). The assessment is presumed valid until the taxpayer sustains its burden of proving otherwise. **Schlaiker**, 365 Mass. at 245.

In determining fair cash value, all uses to which the property was or could reasonably be adapted on the relevant assessment dates should be considered. **Irving Saunders Trust v. Assessors of Boston**, 26 Mass. App. Ct. 838, 843 (1989). “In determining the property’s highest and best use, consideration should be given to the purpose for which the property is adapted.” **Peterson v. Assessors of Boston**, Mass. ATB Findings of Fact and Reports 2002-573, 617 (citation omitted), *aff’d, in relevant part*, 62 Mass. App. Ct. 428 (2004). In the present appeals, the Board found that the highest and best use of the country club parcels was their continued and historical use as a country club with a golf course. The Board found that as separately assessed, the vacant parcels were disqualified from residential development under Belmont zoning laws due to individual parcel size, and thus of limited utility.

Generally, real estate valuation experts, Massachusetts courts, and the Board rely upon three approaches to determine the fair cash value of property: income capitalization, sales comparison, and cost reproduction. **Correia v. New Bedford Redevelopment Auth.**, 375 Mass. 360, 362 (1978). “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). In reaching its opinion of fair cash value in these appeals, the Board was

not required to believe the testimony of any witness or to adopt any particular method of valuation suggested. **Cumington School of Arts, Inc. v. Assessors of Cumington**, 373 Mass. 597, 605 (1977) (“The credibility of witnesses, the weight of the evidence, and inferences to be drawn from the evidence are matters for the board.”). Rather, the Board can accept those portions of the evidence that the Board determined had more convincing weight. **Foxboro Associates v. Assessors of Foxborough**, 385 Mass. 679, 683 (1982); **New Boston Garden Corp. v. Assessors of Boston**, 383 Mass. 456, 473 (1981); **Assessors of Lynnfield v. New England Oyster House, Inc.**, 362 Mass. 696, 702 (1972).

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 Consol. Gas Co.**, 309 Mass. 60, 72 (1941). In **Boston Consol. Gas Co.**, 309 Mass. at 72, the Supreme Judicial Court ruled that “the conclusion reached by the board . . . did not coincide with the figure given by any witness, but it does not follow . . . that this conclusion was, therefore, unsupported by the evidence.” The Court noted that “[t]he board was not required to believe the testimony of any particular witness but it could accept such portions of the evidence as appeared to have the more convincing weight. . . . The board could select the various elements of value as shown by the record and from them form, as it properly did, its own independent judgment.” *Id.* See also **New Boston Garden Corp.**, 383 Mass. at 473 (“The essential requirement is that the board exercise judgment.”).

In evaluating the evidence before it in these appeals, the Board considered the documents and testimony offered. The record in the aggregate afforded the Board with

sufficient and probative evidence to form its own judgment as to the fair cash values of the subject property for each of the fiscal years at issue. ***Liberty Norfolk Dev. II, LLC v. Assessors of Norfolk***, 90 Mass. App. Ct. 1110 (2016) (decision under Rule 1:28).


For the country club parcels, the Board additionally applied a 61B reduction to its determined fair cash value for the land.¹⁰ General Laws c. 61B, § 2 states that “[t]he value of land classified under the provisions of this chapter shall be determined under section thirty-eight of chapter fifty-nine solely on the basis of its use. The board of assessors shall assess such land at valuations based upon the guidelines established under the provisions of chapter fifty-eight, but in no event shall such valuation exceed twenty-five per cent of its fair cash value as determined pursuant to chapter fifty-nine.” In construing this provision, the Board has implemented a four-step process: “(1) determine the value of the parcel at its present use; (2) determine the value of the parcel at its highest and best use; (3) calculate 25 percent of the value of the parcel's highest and best use; (4) compare the values under step one and step three, with the parcel's value under Chapter 61B being the lesser of these two values.” ***320 Fall River, LLC v. Assessors of Seekonk***, Mass. ATB Findings of Fact and Reports 2019-631, 646 (citing ***Lanster Corp. v. Assessors of Lancaster***, Mass. ATB Findings of Fact and Reports 1998-714, 720-21).

¹⁰ Pursuant to G.L. c. 59, § 59, “[a] person upon whom a tax has been assessed . . . if aggrieved by such tax, may . . . apply in writing to the assessors . . . for an abatement thereof, and if they find him taxed at more than his just proportion or upon an improper classification, or upon an assessment of any of his property in excess of its fair cash value, they shall make a reasonable abatement . . .” Pursuant to G.L. c. 59, §§ 64 and 65, “[a] person aggrieved by the refusal of assessors to abate . . . a tax on a parcel of real estate, may . . . appeal therefrom” to the Board, and if on hearing the Board “finds that the property has been overrated and that the complainant has complied with all applicable provisions of law, it shall make a reasonable abatement . . .” Consequently, it was within the Board’s purview and duty to determine not only the appropriate fair cash valuation of the country club parcels, but also their appropriate 61B value for purposes of abatements.

As the appellant did not contend a separate value for present use, the Board took 25 percent of the fair cash value of the land as determined by the Board for the country club parcels, with modifications as explained in the findings, above, for certain portions of the parcels' underlying improvements, consistent with the property record cards.

On the basis of the record in its entirety, the Board found and ruled that the appellant met its burden of proving that both the country club parcels and the vacant parcels were overvalued for each of the fiscal years at issue. Accordingly, the Board is issued decisions for the appellant, with abatements (inclusive of the CPA surcharge) for each of the fiscal years at issue, respectively, of \$55,359.04, \$59,033.67, and \$59,139.33, for 171-181 Winter Street; \$55,206.77, \$54,134.97, and \$54,145.22, for 181 Winter Street; \$2,612.02, \$2,475.75, and \$2,669.61, for 33 Country Club Lane; and \$2,084.93, \$2,217.61, and \$2,384.40, for 155 Winter Street.

THE APPELLATE TAX BOARD

By: 

Mark J. DeFrancisco, Chairman

A true copy,

Attest: 

Clerk of the Board