COMMONWEALTH OF MASSACHUSETTS

APPELLATE TAX BOARD

BOSTON TEA PARTY, INC **v.** **BOARD OF ASSESSORS OF THE CITY OF BOSTON**

Docket Nos. F339931
F344879
F348260

Promulgated:
July 30, 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 City of Boston ("appellee" or "assessors") to abate taxes on certain property located in the City of Boston and leased to Boston Tea Party, Inc. ("appellant") for fiscal years 2020, 2022, and 2023 (collectively, "fiscal years at issue").

Commissioner Elliott heard these appeals. Chairman DeFrancisco and Commissioners Good, Metzer, and Bernier joined him in the decisions 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.

David G. Saliba, Esq., for the appellant.

Ellen Hutchinson, Esq., for the appellee.

FINDINGS OF FACT AND REPORT

On the basis of testimony, an agreed statement of facts, 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, 2019, January 1, 2021, and January 1, 2022, the appellant was the assessed lessee of property leased from the Boston Redevelopment Authority ("BRA") and located at 306 Congress Street in Boston ("subject property"). The subject property comprises 16,825 square feet of land in the Fort Point Channel, improved with a pile-supported building; a floating barge; and a gangway leading to the floating barge.

For the fiscal years at issue, the appellee assessed the subject property, including the floating barge, as real property. The only question before the Board was whether the floating barge was properly assessed by the appellee as real property for the fiscal years at issue. The appellant contended that the barge was not upon or affixed to the land, that it floated on water, and thus should not be considered real property. The appellant maintained that it paid a corporate personal property excise tax on the floating barge pursuant to G.L. c. 63, § 39, and that the barge was personal property exempt from local taxation. The appellee, on the other hand, emphasized that the floating barge – despite harsh New England winters and storms - had remained in place in the years since it was floated into its current position, bracketed to mooring piles driven into the ocean floor of the Fort Point Channel.

The following table details the jurisdictional information for each of the fiscal years at issue:

	Fiscal Year 2020	Fiscal Year 2022	Fiscal Year 2023
Assessed Value	$11,952,500	$11,916,000	$12,245,300
Tax Rate	$24.92	$24.98	$24.68
Tax Amount[1]	$300,809.94	$300,613.32	$305,211.46
Abatement Application Filed	1/31/20	1/31/22	1/31/23
Paid w/o Interest	Yes	Yes	Yes
Denial	3/12/20	3/23/22	3/16/23
Petition	5/26/20	4/5/22	5/8/23

The parties agreed that the portion of the assessed value attributable to the floating barge for each of the fiscal years at issue was $4,032,000.

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

On or about September 18, 2007, the Commonwealth of Massachusetts, acting through its Department of Environmental Protection, granted the appellant a Special Waterways License that permitted the appellant “to construct and maintain a pile-supported[2] building (with a footprint of approximately 5,975 gross square feet) and two ticket booths and a plaza on the Congress Street Bridge (occupying approximately 1,425 square feet); install and maintain a pile-held barge (with a footprint of approximately 7,765 gross square feet), two sets of ramps (with a total footprint of approximately 1,660 square feet), three working historic replicas of tall-masted ships, and connections for water, sewer and electricity in and over the waters of Fort Point Channel in the City of Boston.” The Special Waterways License specified that the appellant “shall provide universal accessibility to both levels of the floating barge, in accordance with ADA standards, through two sets of ramps and an interior elevator that shall be available during all hours

[1] Tax amounts are inclusive of the applicable Community Preservation Act surcharge.
[2] Merriam-Webster Dictionary defines a pile as “a long slender column usually of timber, steel, or reinforced concrete driven into the ground to carry a vertical load.” https://www.merriam-webster.com/dictionary/pile (last visited 4/17/26).

of museum operation. The ramps shall provide wheelchair accessibility in all stages of the normal tide cycle and shall be covered with awnings to protect against inclement weather and to prevent snow accumulation."

Thereafter, in February 2011, the BRA and the appellant entered into a lease for the subject property ("BRA lease"), in which the "Leased Premises" are described as follows: "The waters of a portion of the Fort Point Channel in Boston, Massachusetts adjacent to the Congress Street Bridge, including the submerged land below such waters and the surface thereof." The surface is approximately 2,792 square feet. The Leased Premises include "all rights, benefits, easements, appurtenances and hereditaments attaching, belonging or pertaining thereto." "The Leased Premises is the entire 'RFP Property' referred to in the Partial Assignment (as hereinafter defined)."[3] The "Licensed Premises" are similarly described as "the waters of a portion of the Fort Point Channel in Boston, Massachusetts adjacent to the Congress Street Bridge, including the submerged land below such waters and the surface thereon."

Under the BRA lease, the permitted uses are "[t]o own, develop, construct, maintain, and operate a museum, gift shop, restaurant, exhibit and attraction centered upon the historical Boston Tea Party . . . on a pile supported structure, a floating barge, two or three historical tall-masted ships berthed to the floating barge, ramps and other improvements and appurtenances located in and over the Project Location." The appellant is responsible for payments for "water, gas, electricity, cable and telephone service" and to "procure any and all Necessary Permits required for the lawful and proper

[3] "Partial Assignment" is defined in the BRA lease as "[t]hat certain Partial Assignment (Transfer) of License and Deed of Bridge House by the City of Boston, acting by and through its Public Facilities Commission (the 'City'), to Landlord dated as of February __, 2011 and recorded with the Registry (as hereinafter defined) in Book ___, Page ___." (blank spaces in BRA lease).

installation and maintenance upon the Leased Premises or the Improvements of poles, wires, pipes, conduits, tubes and other equipment and appliances for use in supplying any utilities servicing the Leased Premises or the Improvements." The record did not explain how and whether any utilities were provided without physical attachment to land.

The BRA lease defines the term "Improvement" as "all foundations, pilings, buildings, structures, utility lines and other improvements at the Project Location from time to time, and any and all alterations, additions and replacements thereto or thereof from time to time, but excluding therefrom the Trade Fixtures, Furnishings, Equipment and Inventory." Title to any Improvement vests in the BRA upon the expiration or termination of the BRA lease.

The BRA lease defines the terms "Trade Fixtures, Furnishings, Equipment and Inventory" as "any items of movable machinery, trade fixtures, furnishings, equipment (including all kitchen equipment), inventory, chattels and other personal property at the Project Location from time to time, including" the floating barge and the tall-masted ships. Title to these items will remain with the appellant upon the expiration or termination of the BRA lease.

The BRA lease expires in 2051, with an optional extension. The appellant is responsible for all property taxes.

Videos in evidence follow the construction of the floating barge in Quincy, and its journey to its location as part of the subject property. Shawn Ford, the appellant's executive director who was featured in the videos, testified for the appellant. He distinguished the pile-supported building from the floating barge and the two current replica ships berthed to the floating barge – the Eleanor and the Beaver. He explained that the floating barge and the Eleanor and the Beaver[4] float up and down with the tide, and that the tide in the Fort Point Channel is one of the highest tides in the harbor with an average of thirteen feet and higher. He further explained that the floating barge "is not technically attached to anything. Because the way the barge works there are spud piles and the barge goes up and down with the tide. There's a fender system that allows it to go up and down with the tide. And then from the pier building, there's a gangway. It is on rollers that goes up and down. . . . So nothing is permanently attached. All these are designed to be removed."

According to Mr. Ford, the floating barge was constructed at the Fore River Shipyard in Quincy and then transported by tugboats to its place in the Fort Point Channel in 2011. The floating barge has no motor or sails. It has not been moved since then, though Mr. Ford indicated that it would need to be moved sometime in the future for preventative maintenance. Currently, divers inspect the floating barge yearly. Mr. Ford was unable to state when the floating barge would have to be moved, only that he's "been told by the people that built it [that] it will have to come out of the water at some point." He could not explain whether there was any other way to move the floating barge other than by a tugboat – "I don't have an answer to that. That would have to be answered by a marine specialist."

Mr. Ford acknowledged that when the floating barge was transported and put into place in the Fort Point Channel, the floating barge was only partially constructed, and that if it were "transported out," the upper half would need to be removed first – "Unfortunately, yes," he stated. He admitted that the floating barge is intended to stay in place and only

[4] The Eleanor and the Beaver are part of the museum exhibits, explained Mr. Ford. They are not Coast Guard certified and do not move to carry people. They do not have any engines.

move up and down with the tide, not horizontally. To that end, there are eight mooring (stud) piles driven into the floor of the harbor, with pile mooring brackets that allow the floating barge to rise up and down with the tides, but also to keep it in place. Mr. Ford also admitted that in 2016, after receiving permission from the Boston Conservation Commission to extend the surface of the floating barge, it was not towed away to make the extension. Instead, a crane-mounted barge was used to install the steel frames needed to extend the surface.

Mr. Ford also discussed the layout of the floating barge. It was constructed with 360 tons of steel and has several levels, including elevator shafts, a generator, and dressing rooms and costume rooms. The floating barge houses the museum experience and tearoom, along with a fireplace, restrooms, and exhibition space. Signs are posted to warn people that the floating barge moves.

Photos in the record show little room between the moorings and the piles, signifying continuous physical contact between the moorings and the piles to keep the floating barge from drifting away.

Based on the above and the testimony and evidence in the record, and as explained more extensively in the Opinion below, the Board found and ruled that the floating barge was appropriately assessed as real property. Several facts support this conclusion, including the floating barge's integration with land-based elements, the extensive on-site construction to the barge at its location as part of the subject property, as well as the conduct of the appellant over more than a decade since the floating barge's installment in the Fort Point Channel. The Board ruled that the appellant's inclusion of the floating barge in computing its corporate excise and the language in the BRA lease concerning retention of title to the floating barge by the appellant were not determining factors in ruling that the barge was properly assessed as real estate.

Consequently, the assessed value of the subject property for real estate tax purposes appropriately included the value of the floating barge for the fiscal years at issue and the Board issued decisions for the appellee in these appeals.

OPINION

"All property, real and personal, situated within the commonwealth, and all personal property of the inhabitants of the commonwealth wherever situated, unless expressly exempt, shall be subject to taxation." G.L. c. 59, § 2. "Real property for the purpose of taxation shall include all land within the commonwealth and all buildings and ***other things thereon or affixed thereto***, unless otherwise exempted from taxation under other provisions of law." G.L. c. 59, § 2A (emphasis added).[5]

Numerous cases have considered the meaning of the phrase "thereon or affixed thereto." In ***Franklin v. Metcalfe***, 307 Mass. 386, 389 (1940), the Supreme Judicial Court determined that a "lunch cart properly was assessed as part of the real estate involved. Land and the buildings 'erected thereon or affixed thereto' are properly taxed as a unit and this rule is not affected by private agreements or by the degree of physical attachment to the land." The court found this to be so even though relevant leases

[5] Prior to its repeal, G.L. c. 59, § 3 - the predecessor to G.L. c. 59, § 2A – was not as broad. As explained in ***Boston Edison Co. v. Board of Assessors***, 402 Mass. 1, 8, n.8 (1988): "These definitions present specific definitions of real estate for tax purposes. There were three definitions of 'real estate for the purpose of taxation' successively applicable to the tax years (1977-1982) involved here. For fiscal years 1977, 1978, and 1979, the definition (G.L. c. 59, § 3, as appearing in St. 1913, c. 636, and repealed by St. 1978, c. 580, § 16) included 'all land within the commonwealth and all buildings and other things erected thereon or affixed thereto.' For fiscal year 1980, the definition (G. L. c. 59A, § 2, inserted by St. 1978, c. 580, § 38, and repealed by St. 1980, c. 261, § 16) provided that real estate included 'all land and all buildings and improvements thereon or affixed thereto.' For fiscal years after 1980, G. L. c. 59, § 2A (1986 ed.) (inserted by St. 1979, c. 797, § 11), refers to land 'and all buildings and other things thereon or affixed thereto.' "

described the lunch cart as personal property and provided that the lunch cart could be removed at any time by the lessees. ***Id***. at 387-88. The court pointed to permanence features of the lunch cart, stating:

> The cart stands "on its own wheels on abutments which are four cement poles . . . [which] go two feet into the ground." A brick veneer wall was built around three sides of the lunch cart in 1925. The rear end of the cart is "up against" the wall of another building but is not attached thereto.

Id. *See also* ***Ellis v. Assessors of Acushnet***, 358 Mass. 473, 475 (1970) (ruling that a completely fabricated mobile home shipped to the taxpayers by road from Baltimore is properly taxable as real estate, citing ***Franklin***).

Similarly in the appeals at issue here, even though the BRA lease considers the floating barge to be "Trade Fixtures, Furnishings, Equipment and Inventory" that the appellant will retain title to upon the expiration or termination of the lease, this is not a determining factor under G.L. c. 59, § 2A.

More recently the Board considered the issue of whether forty-nine storage structures were properly assessed as real estate pursuant to G.L. c. 59, § 2A in ***Hasco Associates v. Assessors of Wareham***, Mass. ATB Findings of Fact and Reports 2000-178. "[T]he Board found that the [structures] constituted 'real property' for purposes of G.L. c. 59, § 2A(a)" and "[t]he fact that the [s]tructures were portable and lacked foundations or physical attachment to the land was not a controlling factor, because the Board ruled that the degree of physical attachment to land does not conclusively determine whether property is taxable as 'real property' under § 2A." ***Id***. at 2000-182. In making its decision, the Board was not persuaded by the taxpayer's contention that the structures were not erected on the site but were manufactured off site and then transported. ***Id***. at 2000-183. The Board noted:

> Under the prior version of this provision, § 3, "real estate" included land and "buildings and other things erected thereon or affixed thereto." However, § 3 was repealed in 1978 and replaced in 1979 by § 2A. . . . Under § 2A, the word "erected" was deleted, indicating a legislative intent to broaden the real property classification to include buildings and "other things" regardless of whether or where they were erected, so long as the buildings or "other things" are located on the land as of the relevant date of assessment.

Id. at 2000-183-184. The Board was also not persuaded by "inclusion of the value of the [s]tructures on [the taxpayer's] corporate excise return filed with the Department of Revenue," finding that "[c]lassification of property as real estate for purposes of G.L. c. 59 'is not affected by private agreements' as to the ownership of property, nor by its treatment by that owner." ***Id***. at 2000-185 (citations omitted).

Similarly, the Board was not persuaded by the appellant's contentions concerning the floating barge in these appeals. Construction of the floating barge in Quincy and its transportation by tugboats to its current location was not relevant under the language of G.L. c. 59, § 2A. Regardless, only a portion of the floating barge was erected[6] in Quincy; the remainder was built at its current location. Extension of the deck in 2016 was also implemented at the current location. Further, the Board found that the floating barge was corralled horizontally by square moorings surrounding piles that were driven into the ocean floor (thus deeply imbedded into a foundation, contrary to the structures in ***Hasco***). Photos in the record establish minimal space between the moorings and the piles, indicating constant physical contact between the moorings and the piles to keep the floating barge from drifting away. Additionally, as the party responsible for the costs of utilities – water, sewer, and electricity - the appellant failed to explain how these utilities could be furnished to the floating barge without some degree of physical attachment to

[6] Merriam-Webster Dictionary defines "erect" as "to put up by the fitting together of materials or parts: build" https://www.merriam-webster.com/dictionary/erect (last visited 4/23/26).

land. That the appellant included the value of the floating barge in computing its corporate excise for the fiscal years at issue pursuant to G.L. c. 63, § 39 was also not a determining factor.

The Board distinguished ***Hasco*** in ***Perma, Inc. v. Assessors of Billerica***, Mass. ATB Findings of Fact and Reports 2001-805. The property at issue in ***Perma*** consisted of eight underground storage tanks located approximately fifteen feet from the site of the main plant. ***Id***. at 2001-807. The Board stated:

> Each tank rests on a concrete pad located about twelve feet underground, to which it is joined by removable straps. The tops of the tanks are located about three feet from the surface. Sand or peastone is placed around the tanks so that they can be removed quickly in case of an emergency.

Id. at 2001-808-809. "The Board found that the tanks were not affixed to Perma's property with any real permanence. They were, in fact, designed to be easily removed from the property and did not cause any material damage to Perma's property when so removed." ***Id***. at 2001-810. The Board also found that the tanks were sufficiently distinct from the storage units in ***Hasco***, finding them to be shaped less like buildings and more similar to "thermoses, containers or other items that resemble pieces of equipment and are, therefore, more akin to personal property than to real estate." ***Id***. at 2001-817-818.

Conversely in the current appeals, the floating barge would need to be dismantled in part to be moved. Significantly, the barge – which serves as the most important part of the museum experience - has not left its current location in the Fort Point Channel since its installment in 2011, strongly supporting an inference of permanent affixation. The BRA lease - with its forty-year term plus option to extend – also contemplates permanence.

Further, the Board noted that numerous aspects of the appellant's case remained speculative, such as the nebulousness of whether and when the floating barge would be moved at some point in the future. The degree of difficulty and actual process of moving the floating barge were not adequately explained. Though the appellant implied that detaching and moving the floating barge would be an easy process, Mr. Ford admitted that "unfortunately" the upper half would need to be removed first. He did not have the requisite expertise to explain the process required to move the floating barge. *See* ***Kabat and Mullins v. Assessors of Cummington***, Mass. ATB Findings of Fact and Reports 2008-397, 401 (finding that a "trailer had been on the site for several years and had been utilized by appellants as temporary housing" and "that the ability to move the trailer from the site did not mean that it could not be taxed as real estate.").[7]

Though outside the Commonwealth's jurisdiction and not binding, several cases from Connecticut and New York bear similarities to the facts in the appeals at issue here. In ***Vallerie v. Town of Stonington***, 253 Conn. 371, 373 (2000), the plaintiffs "appeal[ed] from the judgment of the trial court denying their application for relief . . . and affirming the determination of the tax assessor of the town of Stonington that the floating docks and finger piers at a marina . . . were real, rather than personal, property." In affirming the trial court's determination, the Supreme Court of Connecticut cited to the following facts:

> The docks have fresh water and electricity available to boats using the slips. The river has a depth of ten feet at the subject premises. The docks and the slips remain in the water throughout the year. The docks are used to get to the [finger piers] which contain the boat slips. The slips are on open water. The docks and slips float up and down with the tide but are kept in place with seventy to eighty pilings in the river. The docks are attached to bulkheads which are imbedded in concrete. The docks contain utility

[7] Cases involving conversion of chattels to realty provide some guidance as well. In the case of ***In re United Chevrolet, Inc.***, 21 B.R. 934, *937 (Bankruptcy D. Mass. 1982), the United States Bankruptcy Court for the District of Massachusetts stated that "to summarize the law in Massachusetts, unless an item of personalty affixed to the realty is so clearly realty or so clearly personalty that it can be determined as a matter of law, the question is one of intent to be determined by the outward manifestations or acts of the one who affixed the item to the realty." Similarly, in ***Bay State York Co. v. Marvix, Inc.***, 331 Mass. 407, 411 (1954), the Supreme Judicial Court held that "[i]t is the rule in this Commonwealth that the conversion of chattels to realty by reason of annexation depends, as between owner and mortgagee, on the intent of the owner when he puts the chattels in place" and "[i]t is not his undisclosed purpose which controls, but his intent as objectively manifested by his acts and implied from what is external and visible."

> stanchions with lights that act as street lights. The stanchions also contain lines for water, electricity and telephone service. The water lines are turned off in the winter. There are a total of 133 slips attached to four docks. The docks are periodically removed, repaired and replaced. The economic life of a dock is about fifteen years.

Id. at 373.

The court noted that "[t]he assessor considered the docks to be an improvement to the real estate, and, therefore, part of the real estate, not personal property." ***Id***. at 374. The court additionally noted that "[t]here was also no evidence presented that the annexer meant the docks and piers to be temporary structures" and that

> [t]he marina business at the premises [was] structured on having docks and finger piers attached to the land by bulkheads and concrete walks, running out into the Pawcatuck River, containing stanchions providing amenities such as electricity and water to the slips, supported by pilings driven into the bed of the river.

Id. The court determined that "[a]ll of these factors cause us to conclude that the intent of the annexer was to make the docks and [finger piers] a permanent fixture to the land." ***Id***.

The case of ***Gulia v. City of Bridgeport***, 2010 Conn. Super. LEXIS 60, at *2 (Superior Court of CT), *aff'd,* 126 Conn. App. 902 (2011), *appeal denied*, 300 Conn. 923 (2011), concerned "four floating docks with 59 finger docks providing 136 boat slips." The court found that

> the slips appear to be on open water; the docks are connected to the bulkheads imbedded in concrete; stanchions for utilities are located on the finger docks. Furthermore, there was no evidence that the finger docks and boat slips were ever removed during the off-season, nor was there any indication from the testimony of the plaintiff . . . or the appraisers, that the docks and boat slips were taken out of the water during the winter season.

Id. at *11. Citing to the precedent in ***Vallerie v. Town of Stonington***, the court concluded that the "docks and boat piers are fixtures attached to the land, and therefore, are part of the realty." ***Id***. at *12.

In ***Capri Marina & Pool Club v. Assessors of the County of Nassau***, 84 Misc. 2d 1096, 1097 (1976), the Supreme Court of New York addressed the question of whether "a barge moored to a bulkhead and utilized as a restaurant [was] assessable as real property." The court found that

> [t]he barge sits on water, the land under which is owned by the Town of North Hempstead. It is locked in place by steel bands or rings fastened to the hull of the barge, and wrapped around a series of pilings implanted in the bay floor that surround the barge. This type connection permits the barge to rise and fall with the tide. Three gangplanks, one of which is covered, permit ingress and egress to the barge and electrical, telephone, and water utilities are supplied through wires and hoses connected to the dock. Sewage from the sink and bathroom facilities on board the barge is disposed of through a pipeline running from the barge to a public sewage system on the upland property.

Id. at 1097-1098.

The relevant New York statute defined real property to include "[b]uildings and other articles and structures, substructures and superstructures erected upon, under or above the land, or affixed thereto." ***Id***. at 1098. The court noted that "[u]nder this definition, the criterion for designating a structure as real property is the existence of conditions of affixation and permanency." ***Id***. The court stated that

> [t]he circumstance that the barge, in the case at hand, floats on the water and rises and falls with the tide, does not put the structure outside the pale of the statute. The barge is secured to pilings by steel bands, rather than hawsers or ropes, which lock it in a fixed position or location; is connected to the upland municipal sewerage system; and is serviced by electric, telephone, and water lines on the adjacent dock. These factors provide irrefutable proof that the barge constitutes a structure affixed to land within the meaning of the statute, and possesses all the connections and accoutrements incident to a permanent building.

Id. at 1098-1099. Moreover, the court observed that

> [t]he barge has been moored in its present site for over 11 years, and the restaurant business conducted therefrom has been in operation for a similar period of time. . . . Considering the terms and duration of the lease; the

> length of time the barge has been operated as a restaurant; and the manner, mode, and period of time in which the barge has been moored; the paramount intention of the petitioner to adapt the barge so that it is permanently affixed is apparent.

Id. at 1099. In conclusion, the court found that in its opinion the barge was legally assessed as real property. ***Id***. at 1100 (holding that "[t]he permanency of the attachment does not depend so much upon the degree of physical force with which the thing is attached as upon the motive and intention of the party in attaching it" and "[t]he intent which is regarded as controlling is not the initial intention at the time the chattel is acquired, nor the secret or subjective intention of the party making the attachment, but rather the intention which the law will deduce from all the circumstances"). The court also addressed the petitioner's analogy to yachts moored to the piers, finding that "[a]lthough these may be secured by tielines and have electric and water connections, there are no steel bands, sewer or other connections which would evidence an intention for permanent annexation. From the very nature of these vessels, their use and purpose, the contrary is true." ***Id***. at 1100.

Turning to the present appeals, after consideration of the record in its entirety and in light of the statutory and case law as detailed above, the Board found and ruled that the appellant failed to establish that the floating barge was personal property. Despite the appellant's contentions concerning the lack of affixation to land and treatment of the floating barge as personal property by the appellant on its corporate excise returns, the facts and law support the conclusion that the floating barge was "[ ] on or affixed [ ] to" land as contemplated by G.L. c. 59, § 2A. The floating barge has never left its current location in the Fort Point Channel, where it is kept secured by moorings and piles driven into the ocean floor. And while it was partly constructed in Quincy before being transported to the Fort Point Channel, the remainder of the floating barge - as well as further construction in 2016 – occurred at its current location. Removal of the floating barge would entail detachment of its upper half, a process not explained in any detail by the appellant. Further, the retention of title as described in the BRA lease and the treatment by the appellant on its corporate excise returns were determined not to be facts relevant to an inquiry of whether the floating barge was "[ ] on or affixed [ ] to" land for purposes of G.L. c. 59, § 2A.

Accordingly, the assessed value of the subject property for real estate tax purposes appropriately included the value of the floating barge for the fiscal years at issue and decisions were issued for the appellee in these appeals.

THE APPELLATE TAX BOARD

By: ______________________________
Mark J. DeFrancisco, Chairman

A true copy,

Attest: ______________________________
Clerk of the Board