

**COMMONWEALTH OF MASSACHUSETTS**

**APPELLATE TAX BOARD**

**CASEY EATON**

**v.**

**BOARD OF ASSESSORS OF THE TOWN  
OF ACTON**

Docket No. F348548

Promulgated:  
March 17, 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 Acton ("assessors" or "appellee") to abate a tax on real estate owned by and assessed to Casey Eaton ("appellant") and Gerald Eaton for fiscal year 2023 ("fiscal year at issue").

Commissioner Metzger heard the 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 830 CMR 1.34.

*Casey Eaton, pro se, for the appellant.*

*Christopher Carroll, assessor, for the appellee.*

## **FINDINGS OF FACT AND REPORT**

Based on the testimony and evidence presented at the hearing of this appeal, the Appellate Tax Board ("Board") made the following findings of fact.

### **I. Introduction and jurisdiction**

On January 1, 2022, the appellant was the assessed owner of a two-story detached condominium located on 0.51 acres of land at 8 Settlement Way ("subject property") in the Bellow Farms condominium development, a complex consisting of individual, single-family homes in the Town of Acton. The subject property has a total living area of 3,646 square feet, comprised of three bedrooms, three full bathrooms, and a one-half bathroom. The subject property also features a patio, fireplace, and garage. According to the property record card, the subject property has an "excellent" grade and the bath style is "luxurious."

For the fiscal year at issue, the assessors valued the subject property at \$1,256,900 and assessed a tax thereon, at the rate of \$17.56 per thousand, in the total amount of \$22,071.16, exclusive of the Community Preservation Act surcharge. The appellant timely paid the tax due without incurring interest. On January 31, 2023, the appellant filed an application for abatement with the assessors, which the assessors denied on March 7, 2023. The appellant timely filed this appeal with the Board on June 6, 2023.

Based on these facts, the Board found and ruled that it had jurisdiction to hear and decide this appeal.

## **II. The parties' contentions**

### **A. The appellant's case**

The appellant maintained that pricing and valuation for Bellows Farm historically has been lower than other similar communities - such as Acorn Park, which she described as a similar complex located less than a mile away - but that the Town of Acton had begun to increase valuations within Bellows Farm disproportionately relative to other similar properties within the town. She claimed that disproportionate valuations by the Town of Acton of Bellows Farm properties resulted in a larger tax burden on Bellows Farm homeowners.

In support of her argument, the appellant testified on her own behalf and offered into evidence a self-prepared analysis consisting of statistical charts. The appellant provided a chart of seven properties in Bellows Farm, including the subject property, all but one of which increased in value by 38 percent from fiscal year 2022 to the fiscal year at issue, and most of which increased in the 51 percent range from fiscal year 2021 to the fiscal year at issue. The chart also included seven non-Bellows Farm properties located nearby, which increased on average 19.52 percent from fiscal year 2022 to the fiscal year at issue and on

average 28.38 percent from fiscal year 2021 to the fiscal year at issue.

Another chart offered into evidence by the appellant included six non-Bellows Farm properties derived from Town of Acton comparables.<sup>1</sup> These properties increased on average 9.3 percent from fiscal year 2022 to the fiscal year at issue and 28.92 percent from fiscal year 2021 to the fiscal year at issue. The appellant noted that these properties' assessed values were on average 11.72 percent below 2021 sale prices, while Bellows Farm properties were on average 11.35 percent above 2021 sale prices.

The appellant contended that the fair cash value for the subject property should fall within the range of \$998,018 to \$1,091,337 for the fiscal year at issue. She derived the upper range by applying a factor of 1.1952 (from the average fiscal year 2022 to 2023 percentage increase in the non-Bellows Farm properties that the appellant selected) to the subject property's fiscal year 2022 assessed value and the lower range by applying a factor of 1.093 (from the average fiscal year 2022 to 2023 percentage increase in the non-Bellows Farm properties that the assessors had selected but not introduced into evidence) to the subject property's fiscal year 2022 assessed value.

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<sup>1</sup> The assessors ultimately used some, but not all, of these comparables in their own chart entered into evidence. The assessors did not object to the appellant's use of this data.

## **B. The assessors' case**

Assessor Christopher Carroll testified on behalf of the assessors. Apart from jurisdictional documents, the assessors offered into evidence a chart featuring nine unadjusted comparable properties located in Acton that sold in 2021 and 2022, with sale prices ranging from \$953,000 to \$1,335,000, and assessed values ranging from \$907,800 to \$1,235,700. The chart included four properties located in Bellows Farm. Assessor Carroll testified that the properties were close to equal grade and depreciation as the subject property, the neighborhoods were similar, and the non-Bellows Farm properties were located in North Acton, within a three-mile radius of the subject property. He also explained that all the Bellows Farm properties were in the same condominium main parcel, which he analogized to a neighborhood factor, *i.e.*, when adjustments are made within the condominium parcel, adjustments are made together.

## **III. The Board's findings**

Based on the above and all the evidence of record, and as discussed further in the Opinion, the Board found that the appellant failed to establish that the fair cash value of the subject property was less than the assessed value for the fiscal year at issue. While the appellant provided a statistical analysis, there was no basis from which the Board could glean a reduced assessment for the subject property. The appellant failed to

establish the requisite intentional scheme by the assessors to prove disproportionate assessment. She also offered no comparable sales in support of a reduction in assessed value. While Assessor Carroll's testimony affirmed that values for individual properties in Bellows Farm increased at a similar rate in recent years, the unadjusted comparables offered by the assessors in their chart neither supported nor undermined the contested assessment.

Accordingly, the Board issued a decision for the appellee.

#### OPINION

The 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 property at issue 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 [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)). "[T]he board is entitled to 'presume that the valuation made by the assessors [is] valid unless the taxpayer[] sustain[s] the burden of proving the contrary.'" ***General Electric Co. v. Assessors of***

**Lynn**, 393 Mass. 591, 598 (1984) (quoting **Schlaiker**, 365 Mass. at 245).

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.**, 393 Mass. at 600 (quoting **Donlon v. Assessors of Holliston**, 389 Mass. 848, 855 (1983)). In the present appeal, the appellant provided no evidence of flaws or errors in the assessors' method of valuation and failed to present affirmative evidence of overvaluation.

The appellant contended that the assessors disproportionately assessed properties in the Bellows Farm condominium complex, including the subject property, compared to other similar properties in Acton. "[T]o obtain relief on the basis of disproportionate assessment, a taxpayer must show that there is an 'intentional policy or scheme of valuing properties or classes of property at a lower percentage' of fair cash value than the taxpayer's property." **Brown v. Assessors of Brookline**, 43 Mass. App. Ct. 327, 328 (1997) (quoting **Shoppers' World, Inc. v. Assessors of Framingham**, 348 Mass. 366, 377 (1965)). See also **Wardwell v. Assessors of Wellesley**, Mass. ATB Findings of Fact and Reports 2021-160, 165-66; **Scullane v. Assessors of Wellesley**, Mass. ATB Findings of Fact and Reports 2001-85, 95. The appellant

offered no such evidence in this appeal. The evidence was simply nonexistent to demonstrate, or even suggest, that the assessors engaged in an "intentional widespread scheme of discrimination."

***Stilson v. Assessors of Gloucester***, 385 Mass. 724, 728 (1982).

The Board has consistently found comparable sales to be probative of fair cash value, but the record also lacked any evidence of any comparable sales or assessments in support of the appellant's case. See ***Graham v. Assessors of West Tisbury***, Mass. ATB Findings of Fact and Reports 2007-321, 399 ("The fair cash value of property may often best be determined by recent sales of comparable properties in the market."), *aff'd*, 73 Mass. App. Ct. 1107 (2008) (decision under Rule 1:28). Further, the appellant failed to offer other probative evidence that the subject property's assessed value exceeded its fair cash value for the fiscal year at issue. Finally, the evidence presented by the assessors neither supported nor undermined the contested assessment.

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Accordingly, the Board issued a decision in favor of the appellee.

THE APPELLATE TAX BOARD

By:   
Mark J. DeFrancisco, Chairman

A true copy,

Attest:   
Clerk of the Board