

COMMONWEALTH OF MASSACHUSETTS
APPELLATE TAX BOARD

CHARLES & LISA GRACE

v.

**BOARD OF ASSESSORS OF
THE TOWN OF DUXBURY**

Docket No. F351583

Promulgated:
March 25, 2026

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 Duxbury (“appellee” or “assessors”) to abate a real estate tax assessed against Charles and Lisa Grace (“appellants”) for fiscal year 2024 (“fiscal year at issue”).

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

These findings of fact and report are made at the request of the appellants pursuant to 831 CMR 1.34.

Charles and Lisa Grace, pro se, for the appellants.

Stephen J. Dunn, Director of Assessing, for the appellee.

FINDINGS OF FACT AND REPORT

Based on testimony and documents admitted into evidence during the hearing of this appeal, the Appellate Tax Board (“Board”) made the following findings of fact.

On January 1, 2023, the valuation and assessment date for the fiscal year at issue, the appellants were the owners of a 0.92-acre, improved parcel of real estate located at

52 Sunset Road in Duxbury (“subject property”). For the fiscal year at issue, the appellee valued the subject property at \$3,695,900 and assessed a tax thereon, at the rate of \$10.06 per \$1,000, in the total amount of \$38,265.99, inclusive of a Community Preservation Act surcharge. The appellants timely paid the tax due without incurring interest. On January 30, 2024, the appellants timely filed an abatement application with the appellee. On April 2, 2024, the appellee partially granted the abatement application, reducing the subject property’s assessed value to \$3,375,000. Not satisfied with that reduction, on June 20, 2024, the appellants seasonably filed an appeal with the Board. Based on these facts, the Board found and ruled that it had jurisdiction to hear and decide this appeal.

The subject property is located in Duxbury’s “Neighborhood 9” and is improved with a single-family, Colonial-style home, built in 1930 with an effective year built of 2003 (“subject home”). The subject home contains 4,248 square feet of living area, which is comprised of nine rooms, including four bedrooms, as well as three full bathrooms and one half bathroom. The subject home features mainly hardwood floors throughout (two rooms have pine floors), a stone fireplace, an attached two-car garage, a finished room over the garage containing one of the full bathrooms, a large patio, and a screened-in porch. Amenities of the subject home include a generator and central air conditioning. The subject property also has a detached structure classified on the property record card as a pool house, although there is no pool at the subject property.

The subject property enjoys views of the Blue Fish River. The original property record card for the fiscal year at issue rated the subject property’s view as “V200.” After the appellants filed their abatement application, the assessors adjusted the view factor to

“V175,” resulting in the subject property’s land valuation being reduced by \$320,900, from \$2,567,600 to \$2,246,700.

The appellants argued that the subject property as abated was overvalued for the fiscal year at issue, claiming they have been aggrieved by an approximately 85-percent increase in assessed value over the last four fiscal years, yet they had not made any improvements to the subject property since their purchase in 2015 aside from replacing the subject home’s roof.

While they acknowledged that the view of the Blue Fish River marsh was a factor contributing to the subject property’s value, the appellants claimed that the subject property’s views have been significantly impacted by the recent construction of a pool house on the abutting parcel to the north as well as a new home to the west. The appellants provided photographs depicting the neighboring pool house and neighboring home to demonstrate the subject property’s views. Mr. Grace testified that the picture showing the view of the neighboring pool house was taken from the subject property’s driveway.

The appellants contended that several properties in Duxbury had better marsh views and yet those comparison properties’ assessed land values were less than that of the subject property. The appellants presented an analysis comparing the subject property’s land-assessment value to those of other properties in different neighborhoods that the appellants claimed to be of equal or better stature than the subject property’s neighborhood. Maintaining that their selected properties had lower view factors yet better marsh views than the subject property, the appellants claimed that the subject property’s view factor of “V175” should be further reduced.

Based on their analysis, the appellants concluded that the subject property was overvalued because the land portion of the assessment was excessive. The appellants opined that the appropriate assessed value of the subject property's land was \$1,530,000, which would reduce the subject property's total assessed value to \$2,600,000 for the fiscal year at issue. Mr. Grace acknowledged that the appellants' presentation was not focused on the total assessed value of the subject property in comparison to the purportedly comparable properties, as the appellants' focus was entirely on the subject property's assessed land value.

The appellee cross-examined Mr. Grace and advanced an affirmative case through the testimony and appraisal report of Assessor Stephen J. Dunn. Assessor Dunn first challenged the appellants' characterization of their marsh view. He asserted that, as confirmed by Mr. Grace, the photograph of the neighbor's pool house was taken from the driveway of the subject property, which Assessor Dunn credibly maintained was not the vantage point from which a property owner enjoys a scenic view.

Assessor Dunn next asserted that several of the appellants' purportedly comparable properties were from different neighborhoods and inferior locations on a main road and thus were not sufficiently comparable to the subject property to provide credible evidence of the subject property's fair cash value. Assessor Dunn further disputed the quality of several of the comparison properties' marsh views, testifying that, based on his observation, several of those properties viewed the marsh from over a road, unlike the subject property's direct view. Assessor Dunn further defended the view factors of the subject property and the comparison properties, testifying that Duxbury's view factors

have been historically established by the town based on actual sales data that is reviewed periodically by the Department of Revenue.

Assessor Dunn also credibly undermined the appellants' claim that the percentage increase in the subject property's assessed value was inappropriate. Assessor Dunn offered a chart outlining the average increases in Duxbury properties' assessed values since 2015, the year the subject property was purchased, to the fiscal year at issue. According to Assessor Dunn, overall property values increased by 80 percent for the town and by 93 percent for the subject property's "Neighborhood 9." Assessor Dunn testified that, were he simply to use those percentages, the subject property's assessed value would be \$3,458,500 using the town average or \$3,712,600 using the neighborhood average. Assessor Dunn pointed out the abated assessed value of \$3,375,000 was well below either of these two values.

Assessor Dunn testified that the decision to grant the partial abatement for the subject property was based primarily on the sale of 33 Anchorage Lane, a property located in the same neighborhood as the subject property. This comparison property, located across from the subject property, had a view grading of "V190" for the fiscal year at issue. Assessor Dunn credibly maintained that, being similarly situated to the subject property, this comparison property enjoyed comparable marsh views. This comparison property sold on September 14, 2023, for \$2,300,000. At the time of the sale, 33 Anchorage Lane was improved with a home, but the buyers obtained a \$35,000 permit to raze the structure. Assessor Dunn thus considered the September 2023 transaction to represent a sale of land. Having established that the marsh view from 33 Anchorage Lane was substantially similar to that of the subject property, Assessor Dunn concluded that

the sale of this comparison property for \$2,300,000 supported the subject property's updated view factor used to determine the subject property's fair cash value as abated.

Finally, Assessor Dunn credibly testified, and provided aerial photographs as evidence, that the subject property's view has been enhanced since the appellants purchased the property in 2015 because several trees had been removed from the subject property.¹

Based on the evidence submitted, and as will be explained more fully in the following Opinion, the Board ultimately found that the appellants failed to meet their burden of proving that the subject property's assessed value as abated exceeded its fair cash value for the fiscal year at issue. The Board was not persuaded by the appellants' focus on the percentage increase of the subject property's assessment, as percentage increases are not indicative of fair cash value. In addition, Assessor Dunn's evidence on this point undermined the appellants' claim.

The Board further found that the appellants failed to advance evidence of the value of the subject property as a whole. The appellants' evidence, which focused solely on land values of the subject property and comparison properties, lacked sufficient detail to allow comparison of the various features of the subject property with the comparison properties. Thus, the appellants failed to establish whether the overall assessment of the subject property was excessive.

Moreover, having found credible Assessor Dunn's testimony that view factors are established by sales data, and further finding support from the sale of neighboring 33

¹ Mrs. Grace clarified that the trees were removed by storms, not by the appellants' actions. Assessor Dunn noted that, whether by action or "the grace of God," the subject property's marsh view had nonetheless been improved by the removal of the trees.

Anchorage Lane within the fiscal year at issue, the Board found that the subject property's updated view factor was not inaccurate.

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

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)).

First, the appellants’ claim that the assessed value of the subject property increased by a purportedly inappropriate percentage did nothing to demonstrate that the assessed value for the subject property exceeded its fair cash value. The Board has repeatedly found that percentage increases in assessed values from one year to the next are not, standing alone, persuasive indicators of a property’s fair cash value. See, e.g., ***Loomis v. Assessors of Boston***, Mass. ATB Findings of Fact and Reports 2023-18, 24-

25 (critiquing evidence of percentage increases in assessments as not instructive of a property's fair cash value); see also **Burke et al. v. Assessors of Peru**, Mass. ATB Findings of Fact and Reports 1983-1, 6 (same). Even so, the Board found that the appellants' claim of an inappropriate percentage increase was undermined by Assessor Dunn's credible testimony.

The appellants presented a comparable-assessment analysis focusing only on the assessed land value of the purportedly comparable properties within "Neighborhood 9" as well as other neighborhoods and with varying grades of marsh views. The fair cash value of property may be determined by evidence of assessed values of comparable properties. See G.L. c. 58A, § 12B; see also **Chouinard v. Assessors of Natick**, Mass ATB Findings of Fact and Reports 1998-299, 307-08. However, the appellants' singular focus on the land component of the subject property was unpersuasive, because taxpayers do not conclusively establish a right to an abatement merely by showing that their land is overvalued. "The tax on a parcel of land and the building thereon is one tax . . . although for statistical purposes they may be valued separately." **Assessors of Brookline v. Prudential Insurance Co.**, 310 Mass. 300, 316-317 (1941). While the component parts of an assessment are each open to inquiry by the Board (see **Massachusetts General Hospital v. Belmont**, 238 Mass. 396, 403 (1921)), a singular focus on one of the components misses the mark, because "the question is whether the assessment for the parcel of real estate, including both the land and the structures thereon, is excessive. See also **Buckley v. Assessors of Duxbury**, Mass. ATB Findings of Fact and Reports 1990-110, 119; **Jernegan v. Assessors of Duxbury**, Mass. ATB Findings of Fact and Reports 1990-39, 48-49. Various factors inform an analysis of a

property's fair cash value, including the quality, age, size, and style of a property's improvements. See, e.g., **English v. Assessors of Winthrop**, Mass. ATB Findings of Fact and Reports 2009-1302, 1309 (finding that the appellants' reliance on purportedly comparable land values alone, and failure to analyze their building and overall valuation data, failed to meet their burden of proving their right to abatement).

Although the appellants introduced evidence challenging the value of the land component of the subject assessment, they introduced insufficient credible evidence to show that the overall assessment of the subject property exceeded its fair cash value as of the relevant assessment date. The appellants offered no evidence of comparable sales in their entirety and only limited data as to elements of their comparable assessments to substantiate their claim of overvaluation for the subject property. Their evidence, which focused solely on assessed land values and did not at all address the improvements made to the subject property, failed to draw a sufficient comparison between their comparison properties and the subject property to support the appellants' claim of over assessment for the subject property as a whole. See, e.g., **Ecker v. Assessors of Chatham**, Mass. ATB Findings of Fact and Reports 2003-81, 90.

Additionally, while the appellants disagreed with the view grade of the subject property, Assessor Dunn credibly testified that view grades are based on actual sales data, including the most recent sale of neighboring 33 Anchorage Lane, which evidence the Board found undermined the appellants' claim that the view factor led to an inappropriate assessed value for the subject property. See **McCabe v. Chelsea**, 265 Mass. 494, 496 (1929) (sales of comparable realty in the same geographic area and

within a reasonable time of the assessment date contain credible data and information for determining the value of a property at issue).

Based on the evidence presented, the Board found and ruled that the appellants did not meet their burden of proving that the subject property's overall assessment was excessive. On this basis, 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