**COMMONWEALTH OF MASSACHUSETTS**

**APPELLATE TAX BOARD**

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| **EKATERINA KEHL** | **v.** | **BOARD OF ASSESSORS OF THE TOWN OF WELLESLEY** |
| Docket No. F351869 | | Promulgated: July 13, 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 Wellesley ("appellee" or "assessors") to abate a real estate tax assessed against Ekaterina Kehl ("appellant") for fiscal year 2024 ("fiscal year at issue").

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

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

*Ekaterina Kehl*, *pro se*, for the appellant.

*Ellen Muller*, Assessor, 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 appellant was the owner of a 22,096-square-foot parcel of real estate ("subject land") and improvements, located at 30 Dunedin Road (together "subject property"). For the fiscal year at issue, the appellee valued the subject property at $2,126,000 and assessed a tax thereon, at the rate of $10.41 per $1,000, in the total amount of $22,342.57, which includes a Community Preservation Act ("CPA") surcharge. The appellant timely paid the tax due without incurring interest. On January 31, 2024, the appellant timely filed an abatement application with the appellee. On March 29, 2024, the appellee denied the appellant's abatement request. On June 25, 2024, the appellant seasonably filed an appeal with the Board. Based on these facts, the Board found and ruled that it had jurisdiction to hear and decide this appeal.

The subject property is improved with a two-story, single-family residence, custom built in 2022 by the appellant with an A+ construction grade and containing 3,362 square feet of above-grade living area, which is comprised of eleven rooms, including four bedrooms as well as four full bathrooms and one half bathroom ("subject home"). The subject home includes an additional 1,299 square feet of below-grade living area. Other amenities include central air conditioning, one fireplace, and an attached two-car garage. The subject home is valued at $1,227,000 and the subject land is valued at $899,000. The property record card includes a notation that the subject property is encumbered by an easement over the property for neighboring 26 Dunedin Road's driveway.

The appellant presented her case through her testimony and the submission of documents. The appellant testified that she was contesting only the assessed value of the subject land, not of the subject home. The appellant purchased the subject property in 2017 for $831,000. The appellant testified that shortly after moving into the original home, she discovered sewer problems that caused waste to backup into the home. She testified that she tried selling the subject property to developers, but that no developer would make an offer because of the easement, which she testified was both a right-of-way for the next-door neighbor's driveway as well as a utility easement.

The appellant further testified that the easement, which she stated to encompass about a third of the subject land, was a great expense to her because she was responsible for its upkeep, including clearing the snow for the driveway and maintaining trees for the utility lines. The appellant opined that the value for the subject land should be $647,280, which would reduce the subject property's total assessed value to $1,874,280.

Upon cross examination, the appellant admitted that, while she was unaware of the sewer issue, she was aware of the easement when she purchased the subject property in 2017. The appellant further admitted on cross examination that the easement was not a hindrance to building the larger subject home. The appellant also stated on cross examination that she had not sought reimbursement from her neighbor for the upkeep of the easement for the driveway, although the appellee indicated that reimbursements are common and acceptable.

The appellee presented its case through the testimony of Ellen Muller, Assessor for the Town of Wellesley, who also presented documents, including the requisite jurisdictional documents, as well as a comparable-sales analysis. Assessor Muller's analysis used five purportedly comparable properties in Wellesley that sold from January 2022 to October 2022. The properties varied in parcel size from 10,005 square feet to 20,000 square feet and were improved with homes with living areas from 3,112 square feet to 3,612 square feet. None of these properties was encumbered by an easement. Assessor Muller opined that the sale prices of her purportedly comparable properties -- which ranged from $2,200,000 to $2,650,000, with an average price of $2,355,600 – supported the subject property's total assessed value of $2,126,000. However, the appellee made no adjustments to the purportedly comparable properties to account for differences between those properties and the subject property that affect fair cash value; thus, the Board did not rely on the appellee's comparable-sales analysis in reaching its decision.

Assessor Muller explained that the subject property's land value included an adjustment of five percent of the land's assessed value, which she explained was the appellee's standard deduction for an easement. According to the appellee's schedule of values for land in the town, the subject property's 22,096 square feet of land had a base value of about $946,000, and the five-percent discount amounted to a reduction of $47,000, resulting in a land value of $899,000 for the subject property.

Assessor Muller further explained that when valuing properties, the appellee considers a property's total assessed value, not merely the value of the land or building component. Citing the amenities of the subject home, including its age, construction grade, and customization, Assessor Muller opined that the assessed value of $2,126,000 reflected the fair cash value for the subject property as a whole for the fiscal year at issue.

In consideration of all the evidence, and as will be explained more fully in the following Opinion, the Board found and ruled that the appellant failed to meet her burden of proving that the assessed value of the subject property exceeded its fair cash value for the fiscal year at issue. The Board found that the appellant did not advance evidence sufficient to show that the subject property's total assessed value was excessive. The appellant argued that the sewer issue depressed the value of the subject property. However, this evidence related to the subject property prior to the construction of the subject home, and it thus was not probative of the fair cash value of the subject property for the fiscal year at issue. With respect to the easement issue, the Board found credible Assessor Muller's testimony that the five-percent deduction to the subject property's land value sufficiently compensated any potential diminution in value to the subject property associated with the easement at issue in this appeal, particularly given the fact that the easement did not impair the appellant's ability to construct the larger subject home at the subject property.

Furthermore, as will be explained in further detail in the following Opinion, the appellant's singular focus on the land portion of the subject property's assessed value failed to address whether the overall assessed value of the subject property exceeded its fair cash value.

Having found that the appellant failed to prove that the subject property's total assessed value exceeded its fair cash value, the Board issued a decision for the appellee.

## OPINION

Assessors are required to assess real estate at its fair cash value. G.L. c. 59, § 38. Fair cash value is defined as the price on which a willing seller and a willing buyer will agree if both are fully informed and under no compulsion. ***Boston Gas Co. v. Assessors***

***of Boston***, 334 Mass. 549, 566 (1956). "The burden of proof is upon the petitioner to make out its right as [a] matter of law to [an] abatement of the tax." ***Schlaiker v. Assessors of Great Barrington***, 365 Mass. 243, 245 (1974) (quoting ***Judson Freight Forwarding Co. v. Commonwealth***, 242 Mass. 47, 55 (1922)). In appeals before the Board, a taxpayer "may present persuasive evidence of overvaluation either by exposing flaws or errors in the assessors' method of valuation, or by introducing affirmative evidence of value which undermines the assessors' valuation." ***General Electric Co. v. Assessors of Lynn***, 393 Mass. 591, 600 (1984) (quoting ***Donlon v. Assessors of Holliston***, 389 Mass. 848, 855 (1983)).

In the present appeal, the appellant tried to show that the assessed value of the subject property exceeded its fair cash value by demonstrating that the land value ascribed by the assessors was excessive. With respect to the sewer issue, this evidence did not relate to the subject property as it existed on the relevant assessment date, and therefore, the Board found it inapposite to this instant appeal. *See, e.g.*, ***Bostonian Realty, LLC v. Assessors of Boston***, Mass. ATB Findings of Fact and Report 2008-634, 641-42.

With respect to the easement issue, the Board found that the five-percent deduction applied by the appellee provided adequate compensation. The Board thus found and ruled that the subject property's assessed land value had already captured any potential diminution in value associated with its easement.

Furthermore, a taxpayer does not establish a right to abatement merely by showing that her land is overvalued. In an abatement appeal, the relevant inquiry is whether the overall assessment, which includes both the land and building components, is excessive.

***Massachusetts General Hospital v. Belmont,*** 238 Mass. 396, 403 (1921). *See also* ***Guernsey v. Assessors of Williamstown,*** Mass. ATB Findings of Fact and Reports 2006-158, 168-69; ***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. Although the two components may be valued separately for statistical purposes, and both are individually open to inquiry and revision by the Board, the tax assessed on real estate is one tax, so a taxpayer is only eligible for an abatement if that single tax is excessive. ***Assessors of Brookline v. Prudential Insurance Co.,*** 310 Mass. 300, 317 (1941). In this appeal, the appellant focused solely on the assessment of the subject land, merely one component part of the total assessment. By failing to consider how the subject property's other components added to its overall value, the appellant failed to demonstrate that the subject property's total assessment, which reflected the sum of the components, was excessive.

Thus, the Board found and ruled that the appellant failed to meet her burden of proving that the subject property was overvalued for fiscal year at issue. Accordingly, the Board issued a decision for the appellee in this appeal.

**THE APPELLATE TAX BOARD**

**By:** ______________________________
**Mark J. DeFrancisco, Chairman**

**A true copy,**

**Attest:** ______________________________
**Clerk of the Board**