COMMONWEALTH OF MASSACHUSETTS

APPELLATE TAX BOARD

STEWART W. KEMP	**v.**	**BOARD OF ASSESSORS OF THE CITY OF BEVERLY**
Docket No. F351363		Promulgated: August 17, 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 City of Beverly ("assessors" or "appellee") to abate a tax on real estate owned by and assessed to Stewart W. Kemp ("appellant") under G.L. c. 59, §§ 11 and 38 for fiscal year 2024 ("fiscal year at issue").

Chairman DeFrancisco heard the appeal. Commissioners Good, Elliott, Metzer, and Bernier joined him 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 831 CMR 1.34.

Stewart W. Kemp, pro se, for the appellant.

Frank Golden, Assessor*,* for the appellee.

FINDINGS OF FACT AND REPORT

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

I. Introduction and jurisdiction

On January 1, 2023, the appellant was the owner of a 4,371-square-foot, Colonial-style home ("subject home") situated on an 18,198-square-foot parcel at 81 Lothrop Street in Beverly (together, "subject property"). The subject home was built in 1901 and has eleven rooms, including seven bedrooms, three bathrooms, one three-quarter bathroom, and one half bathroom. The subject property also features a garage and bath house. On the relevant property record card, the assessors assigned the subject property a B+ grade and denoted the subject property to be in fair condition. The appellant acquired the subject property for $1,225,000 in January 2012.

For the fiscal year at issue, the assessors valued the subject property at $1,888,000 and assessed a tax thereon at the rate of $11.23 per thousand, in the amount of $21,202.24, exclusive of the Community Preservation Act surcharge. The tax due was timely paid without incurring interest. On January 30, 2024, the appellant timely filed an abatement application with the assessors. On March 11, 2024, the appellee granted a partial abatement, reducing the assessed value to $1,778,200. Seeking a further reduction in assessed value, the appellant timely filed this appeal with the Board on June 6, 2024. Based on these facts, the Board found and ruled that it had jurisdiction to hear and decide this appeal.

II. The appellant's case

In addition to his own testimony, the appellant submitted several documents that were admitted into evidence to illustrate his claim that the assessors overvalued the subject property, including the following: photographs of the subject property, his abatement application submission for the subject property for fiscal year 2023, his abatement application submission for the subject property for the fiscal year at issue, several additional submissions to the assessors, an excerpt from Churchill Properties with median sale prices of homes in Beverly for 2023 and 2024, and a copy of the abatement certificate from the assessors for the fiscal year at issue.

The appellant testified that the assessors raised the value of the subject property's land by 74 percent in just two years and the total assessment by 26 percent. He claimed that the assessors based this "massive increase" in valuation of the subject property for the fiscal year at issue primarily upon the sale of 89 Lothrop Street on October 27, 2022, for $2.9 million, which he considered an inadequate sample size to establish a market price. He asserted that 89 Lothrop Street is a "magnificent property" that is "very different" from and "far superior to" the subject property, with a larger living space and land area, as well as greater ocean frontage.

The appellant pointed to nearby 79 Lothrop Street, which sold for $1,000,000 on August 2, 2021, and 110 Lothrop Street, which sold for $1,400,000 on October 14, 2022, as more appropriate comparable-sale properties. The appellant made no adjustments to these properties to account for differences between these properties and the subject property. While the appellant did not supply property record cards for these properties, one of his written submissions indicated that 79 Lothrop Street has four bedrooms and three bathrooms, and 110 Lothrop Street has four bedrooms and three-and-a-half bathrooms.

The appellant testified that he has not made improvements to the subject property, but has had to deal with various issues as the subject home ages. He stressed numerous issues with the condition of the subject home, among them outdated plumbing, heating, and electrical systems; wear and tear from the ocean; old kitchens and bathrooms; uninsulated, single-pane original windows that amplify the cost of heating the subject home and noise from nearby heavy traffic; and deterioration over the years. He estimated that addressing these issues will cost hundreds of thousands of dollars, but he admitted this was a self-estimate and not based on quotes from a contractor.

The appellant provided photographs depicting some of these alleged deficiencies. Though he admitted to a view of the ocean from the back of the subject home, the appellant asserted that his view was not as good as the view from other houses and that he does not have access to the ocean from the subject property, unlike other houses.

Highlighting the increased oceanic vulnerability of coastal properties such as the subject property due to climate change, the appellant noted that the subject property's seawall, though not the subject home, was badly damaged during a storm several years ago, with nine out of ten granite slabs, each weighing thousands of pounds, strewn about on the beach.

The excerpt from Churchill Properties listed a median price for Beverly single-family home sales of $695,000 for 2023, based upon eighty-one properties sold, and of $705,000 for 2024, based upon eighty-five properties sold.

The appellant's opinion of value for the fiscal year at issue was $1,421,300.

III. The appellee's case

In addition to their own testimony, the assessors offered the requisite jurisdictional documents into evidence.[1] According to the assessors, the subject property receives a permanent 10-percent land adjustment to account for repairs to the seawall and the subject property's location in an area prone to parking disruptions due to ocean gazers. They noted that the subject property has already received a reduction in assessed value for the fiscal year at issue and is listed as in fair condition, bringing the value down to $109 per square foot of living area.

IV. The Board's findings

Based upon the record in its entirety, 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.

The comparable properties referenced by the appellant lacked critical adjustments to account for differences between those properties and the subject property, just as the excerpt from Churchill Properties provided no constructive details from which the Board could glean an overassessment. Likewise, the appellant's speculative assertions of cost for deficiencies and the impact of climate change provided no useful information from which the Board could determine a reduction in assessed value.

Testimony and photographs concerning the condition of the subject property failed to establish any correlation with a reduction in fair cash value for the subject property for the fiscal year at issue. The absence of any other photographs of the subject property and its view of the ocean was informing in itself, underscoring the appellant's reluctance

[1] The assessors offered an appraisal report into evidence, but this was disallowed by the Board due to the absence of the appraisal report's author at the hearing.

to acknowledge the subject property's prime waterfront location. Conversely, the assessors have provided the appellant with an ongoing 10-percent land adjustment and previously granted a reduction in value for the subject property for the fiscal year at issue.

Accordingly, 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).

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)). Here, the appellant provided no evidence of flaws or errors in the assessors' method of valuation and failed to present affirmative evidence of overvaluation. *See* ***Fox v. Assessors of Longmeadow***, Mass. ATB Findings of Fact and Reports 2021-479, 483 (finding that evidence "of any quantifiable impact on the subject property's fair cash value was critically lacking").

Sales of comparable realty in the same geographic area and within a reasonable time of the assessment date generally contain probative evidence for determining the fair cash value of the property at issue. ***Graham v. Assessors of West Tisbury***, Mass. ATB Findings of Fact and Reports 2007-321, 400, *aff'd*, 73 Mass. App. Ct. 1107 (2008) (Rule 1:28 decision).

The Board considered the information and purportedly comparable properties submitted by the appellant but found that this evidence was not useful for determining the fair cash value of the subject property. *See* ***North American Philips Lighting Corp. v. Assessors of Lynn***, 392 Mass. 296, 297-299 (1984). Critically, the appellant failed to account for differences between the comparable properties and the subject property or even provide property record cards for the comparable properties. "Adjustments must be made to . . . sales data to account for differences between the subject property and the properties offered for comparison." ***Doherty v. Assessors of Lee***, Mass. ATB Findings of Fact and Reports 2013-174, 181 (citing ***Lareau v. Assessors of Norwell***, Mass. ATB Findings of Fact and Reports 2010-879, 889-90).

Additionally, the appellant did not establish a connection between alleged inferior amenities of the subject property compared to neighboring properties and a consequent reduction in fair cash value of the subject property. The speculative costs for deficiencies and the impact of climate change were similarly unpersuasive. *See, e.g.,* ***Abuzahra v. Assessors of Rowley***, Mass. ATB Findings of Fact and Reports 2008-1514, 1522 (finding that taxpayers failed to meet their burden of proving overvaluation "because they failed to quantify the effects of wetlands or topographical issues on the value of their lots"); ***Durgin and Chojnacki-Durgin v. Assessors of Dudley***, Mass. ATB Findings of Fact and Reports 2021-469, 477 ("The appellants relied upon speculation, unadjusted sales comparisons, and hearsay.").

Accordingly, the Board found and ruled that the appellant failed to sustain his burden of proving that the fair cash value of the subject property was lower than its assessed value for the fiscal year at issue and 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