

**COMMONWEALTH OF MASSACHUSETTS**

**APPELLATE TAX BOARD**

**MARKO LABUDOVIC &  
NATASA VUCETIC**

**v.**

**BOARD OF ASSESSORS OF  
THE TOWN OF BELMONT**

Docket No. F345090

Promulgated:  
October 19, 2023

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 Belmont ("appellee" or "assessors") to abate a tax on certain real estate in Belmont, owned by and assessed to Marko Labudovic and Natasa Vucetic ("appellants") under G.L. c. 59, §§ 11 and 38, for fiscal year 2022 ("fiscal year at issue").

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

These findings of fact and report are made pursuant to a request by the appellants under G.L. c. 58A, § 13 and 831 CMR 1.32.

*Marko Labudovic, pro se*, for the appellants.

*Daniel Dargon*, Assessor, for the appellee.

## **FINDINGS OF FACT AND REPORT**

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

On January 1, 2021, the relevant date of valuation and assessment for the fiscal year at issue, the appellants were the assessed owners of a 4,909-square-foot parcel of real estate located at 61 Carleton Road in Belmont ("subject property"). The subject property is improved with a single-family Colonial-style dwelling built circa 1920 ("subject dwelling"). The subject dwelling has a finished living area of 1,985 square feet and contains seven rooms, including three bedrooms as well as two full bathrooms and one half bathroom. Additional features include an enclosed front-entry porch, a fireplace, and central air conditioning. According to the property record card for the fiscal year at issue, the subject property is graded "C+" and the condition is "Average."

For the fiscal year at issue, the assessors valued the subject property at \$1,172,000 and assessed a tax thereon, at the rate of \$11.56, in the total amount of \$13,548.32, exclusive of the Community Preservation Act ("CPA") surcharge of \$185.88. The appellants timely paid the tax due without incurring interest. On January 20, 2022, the appellants timely filed an application for abatement with the assessors. The assessors granted a partial

abatement on April 15, 2022, reducing the assessed value to \$1,088,000. On May 3, 2022, the appellants seasonably filed a petition 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 the same property that was before the Board for fiscal year 2021. See ***Labudovic v. Assessors of Belmont***, Mass. ATB Findings of Fact and Reports 2022-9 (***Labudovic I***). For fiscal year 2021, the Board found that the subject dwelling had “too many imperfections to support a construction grade of ‘B’ and an ‘above average’ condition rating” and, based on the totality of the evidence and the conclusions drawn from it, the Board found that the subject property had a fair cash value of \$1,020,000 for fiscal year 2021. *Id.* at 2022-12. At the hearing of this appeal, the assessors acknowledged the Board’s prior decision in ***Labudovic I*** and agreed that the subject property’s fair cash value should be reduced to the value determined by the Board for fiscal year 2021.

However, the appellants sought a further reduction in assessed value for the fiscal year at issue. The appellants acknowledged that changes had been made to the subject property’s property record card but argued that these changes were still inaccurate and therefore the subject property was overvalued. In support of their argument, the appellants offered into evidence numerous pictures of the subject property and excerpts from the Town of Belmont Data Collection Manual, which included definitions

for the various grade and condition codes. Based on the subject property's existing condition, the appellants argued that it should be given a grade of "D" and a condition of "Fair."

Based on the evidence presented, the Board found that the appellants provided no evidence in support of their contention beyond Mr. Labudovic's assertions of inaccuracies in the subject property's property record card for the fiscal year at issue. More particularly, the Board found that the appellants failed to offer credible evidence to support a fair cash value less than that determined by the Board for fiscal year 2021. The Board therefore found and ruled that the fair cash value of the subject property was \$1,020,000 for the fiscal year at issue.

Accordingly, the Board granted an abatement in the amount of \$797.86, inclusive of the CPA surcharge.

[This space intentionally left blank.]

## 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).

Generally, the burden of proof is upon the taxpayer to prove that the subject property has a lower value than that assessed. ***Schlaiker v. Assessors of Great Barrington***, 365 Mass. 243, 245 (1974) (quoting ***Judson Freight Forwarding Co. v. Commonwealth***, 242 Mass. 47, 55 (1922)). The assessment is presumed valid unless the taxpayer proves otherwise. ***General Electric Co. v. Assessors of Lynn***, 393 Mass. 591, 598 (1984) (quoting ***Schlaiker***, 365 Mass. at 245).

If, however, the assessment at issue exceeds the Board's prior determination of the subject property's fair cash value for either of the two immediately preceding fiscal years, then "the burden shall be upon the [assessors] to prove that the assessed value was warranted." G.L. c. 58, § 12A ("Section 12A"). In the present appeal, the assessment at issue falls within the two-year period set forth in Section 12A. Therefore, the assessors bear the burden of proving that the increase in the assessment from fiscal year 2021 was warranted. ***Boudreau v. Assessors of Eastham***, ATB Findings

of Fact and Reports 2019-138, 144-45; **Johnson v. Assessors of Lunenburg**, Mass. ATB Findings of Fact and Reports 1992-1, 8. See also **Cressey Dockham & Co., Inc. v. Assessors of Andover**, Mass. ATB Findings of Fact and Reports 1989-72, 87 (If, for one of the prior two fiscal years, a determination of the fair cash value of the same property was made by the Board, "the statute requires the [assessors] to produce evidence to 'satisfy the [B]oard that the increased valuation was warranted.'" ).

Further, regardless of the burden imposed by Section 12A upon assessors, the burden of proof remains with the taxpayer who claim that a property's fair cash value is less than the Board's prior determination. See **Boudreau**, ATB Findings of Fact and Reports at 2019-145. To support their claim of overvaluation, taxpayers "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 **Labudovic I**, the Board found that the fair cash value of the subject property for fiscal year 2021 was \$1,020,000. At the hearing of this appeal, the assessors acknowledged the Board's prior decision and agreed that the subject property's fair cash value should be reduced to the value determined by the Board for

fiscal year 2021. The appellants, however, sought a further reduction. Based on the evidence presented in this appeal, the Board found that the appellants, having only made assertions regarding claimed inaccuracies the subject property's property record card, failed to present sufficient evidence to support their contention that a further reduction in the subject property's assessed value was warranted.

Based on all the evidence, the Board found and ruled that the subject property's fair cash value for the fiscal year at issue was \$1,020,000. Accordingly, the Board issued a decision for the appellants in this appeal and granted an abatement in the amount of \$797.86, inclusive of the CPA surcharge.

**THE APPELLATE TAX BOARD**

By: /s/ Mark J. DeFrancisco  
Mark J. DeFrancisco, Chairman

A true copy,

Attest: /s/ William J. Doherty  
Clerk of the Board