

**COMMONWEALTH OF MASSACHUSETTS**  
**APPELLATE TAX BOARD**

**KENNETH H. MCCRACKEN, JR.  
& BETH A. MCCRACKEN**

v.

**BOARD OF ASSESSORS OF  
THE TOWN OF BOXBOROUGH**

Docket No. F350869

Promulgated:  
April 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 Town of Boxborough (“assessors” or “appellee”) to abate a tax on real estate owned by and assessed to Kenneth H. McCracken Jr. and Beth A. McCracken (“appellants”) for fiscal year 2024 (“fiscal year at issue”).

Commissioner Good heard the appeal. Chairman DeFrancisco and Commissioners Elliott, Metzger, and Bernier joined her in the decision for the appellee.<sup>1</sup>

These findings of fact and report are made pursuant to a request by the appellants under G.L. c. 58A, § 13 and 831 CMR 1.34.

*Kenneth H. McCracken, pro se*, for the appellants.

*Kelly Szocik, Assessor*, for the appellee.

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<sup>1</sup> Initially, a single-member decision was issued in this appeal. Due to the amount of the assessment in this appeal, a full-member decision is contemporaneously issued with these findings of fact and report.

## **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, 2023, the appellants were the owners of a 2,511-square-foot, Colonial-style home (“subject home”) on a 1.38-acre parcel at 987 Depot Road in Boxborough (together, “subject property”). The subject home was built in 1999 and has ten rooms, including four bedrooms, two bathrooms, and a half bathroom, as well as a two-car garage.

For the fiscal year at issue, the assessors valued the subject property at \$953,700, and assessed a tax thereon at the rate of \$14.99 per thousand, in the total amount of \$14,295.96, exclusive of the Community Preservation Act surcharge. The tax due was timely paid without incurring interest. On January 30, 2024, the appellants timely filed an abatement application with the assessors, which was denied on February 6, 2024. The appellants timely filed this appeal with the Board on May 6, 2024. Based on these facts, the Board found and ruled that it had jurisdiction to hear and decide this appeal.

### **II. The appellants’ case**

In addition to their testimony, the appellants introduced a presentation in support of their case and a response to the appellee’s comparable properties. The appellants did not dispute the subject property’s land value for the fiscal year at issue, only arguing that the building value was “disproportionately assessed” compared to other nearby properties.

The appellants’ presentation in support of their case noted that the subject home was largely unchanged since 1999, with its original kitchen, bathrooms, and flooring. It

included numerous charts and graphs that analyzed building information for the appellants' comparable Colonial-style homes, specifically building-assessment figures for the fiscal year at issue, age of the homes, square footage of the homes, and the building assessment per square foot of the homes. Additionally, the presentation compared the subject property's Zillow estimate of \$1,079,500 as of January 4, 2023, to the Zillow estimates of the appellants' comparison properties on Depot Road, which ranged from \$1,041,800 to \$1,362,200. This information was offered in an attempt to show that the assessment percentage differential between these properties and the subject property was greater than the Zillow value percentage differential between these properties and the subject property.<sup>2</sup>

In their response to the appellee's comparable properties, as discussed further below, the appellants contended that the properties selected by the assessors were much further away from the subject property and that the subject home still had the highest per-square-foot building value amongst the comparables submitted by the assessors.

The appellants concluded an opinion of value of \$823,957 for the fiscal year at issue, determined by retaining the subject property's assessed land value and applying a \$210 per-square-foot rate to the subject home, a rate that the appellants believed was more in line with properties closer in age to the subject home.

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<sup>2</sup> The appellants stated, for instance, that 983 Depot Road was assessed by the town at only 12 percent higher than the subject property, but that Zillow valued 983 Depot Road at 19 percent higher than the subject property, and that since Zillow is updated more frequently it is a better representation of actual property value and demonstrates that the subject property is valued higher than it should be relative to these neighboring properties.

### **III. The appellee's case**

The appellee presented jurisdictional documents as well as a chart of five comparable sales of properties located in Boxborough. These properties sold in August and September 2022, with lot sizes ranging from 0.92 acres to 2.29 acres and homes ranging from 2,881 square feet to 3,968 square feet. After adjustments, the sale prices for these properties ranged from \$998,000 to \$1,066,000.

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

Based upon the record in its entirety, the Board found that the appellants failed to establish that the fair cash value of the subject property was lower than its assessed value for the fiscal year at issue.

Though they asserted that the subject property was "disproportionately assessed," the appellants introduced no evidence of any intentional scheme by the assessors of valuing comparable properties or classes of properties at a lower percentage of fair cash value than the subject property, as discussed in the Opinion below.

In concentrating almost exclusively on the building value, the appellants provided no explanation as to why the assessed value as a whole exceeded the fair cash value. Further, the appellants' focus on per-square-foot values lacked any adjustments for economies of scale, ignoring the well-established principle that as size increases, unit prices decrease. The subject home's square footage was lower than most of the comparable properties in the appellants' presentation. The appellants made no adjustments to their comparable properties to take into account differences between these properties and the subject property.

Conversely, the Board found that the assessors' comparable-sales analysis comfortably supported the subject property's assessed value. The assessors selected

comparable properties and made appropriate adjustments to account for differences between these properties and the subject property.

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).

The appellants contended that the assessors disproportionately assessed the subject property, compared to the purportedly comparable properties selected by the appellants. “[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. There was no evidence offered by the appellants in this appeal to demonstrate that the assessors engaged in such a policy or scheme.

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 appellants provided no evidence of flaws or errors in the assessors’ method of valuation and failed to present affirmative evidence of overvaluation.

“[R]eliance on unadjusted assessments of assertedly comparable properties . . . [is] insufficient to justify a value lower than that” assessed. See **Antonino & DiMare v. Assessors of Shutesbury**, Mass. ATB Findings of Fact and Reports 2008-54, 70. The appellants made no attempt at adjusting their comparable properties, including for economies of scale. See Appraisal Institute, *THE APPRAISAL OF REAL ESTATE* 172 (15th ed., 2020) (“Generally, as size increases, unit prices decrease.”).

In challenging the assessments, the appellants focused almost exclusively on the building value. However, a taxpayer “does not conclusively establish a right to an abatement merely by showing that his land or building 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.’” **Hinds v. Assessors of Manchester-by-the-Sea**, Mass. ATB Findings of Fact and Reports 2006-771, 778 (quoting **Assessors of Brookline v.**

***Prudential Insurance Co.***, 310 Mass. 300, 316-17 (1941)). In abatement proceedings, “the question is whether the assessment for the parcel of real estate, including both the land and the structures thereon, is excessive. The component parts, on which that single assessment is laid, are each open to inquiry and revision by the appellate tribunal in reaching the conclusion whether that single assessment is excessive.” ***Massachusetts General Hospital v. Belmont***, 238 Mass. 396, 403 (1921); 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, 49.

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The Board found that the appellee's comparable-sales properties were persuasive indicators of the subject property's fair cash value for the fiscal year at issue. 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 appellee's analysis provided properties in Boxborough that were sufficiently similar to the subject property and then applied appropriate adjustments to those properties to account for differences with the subject property. The subject property's assessed value of \$953,700 was within the range of the average adjusted sale prices of those properties. In contrast, the appellants provided no such evidence in their favor, thereby supporting the Board's conclusion that the subject property's assessed value for the fiscal year at issue did not exceed its fair cash value for the fiscal year at issue.

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