

COMMONWEALTH OF MASSACHUSETTS

APPELLATE TAX BOARD

**CHESTER A. OGULEWICZ JR.
& NANCY A. OGULEWICZ**

v.

**BOARD OF ASSESORS OF
THE CITY OF EASTHAMPTON**

Docket No. F353920

Promulgated:
September 15, 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 Easthampton (“assessors” or “appellee”) to abate a tax on real estate in Easthampton owned by and assessed to Chester A. Ogulewicz, Jr. and Nancy A. Ogulewicz (“appellants”) under G.L. c. 59, §§ 11 and 38 for fiscal year 2025 (“fiscal year at issue”).

Commissioner Good (“Presiding Member”) heard this appeal and issued a single-member decision for the appellee pursuant to G.L. c. 58A, § 1A and 831 CMR 1.32.

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

Chester A. Ogulewicz, Jr. and Nancy A. Ogulewicz, pro se, for the appellants.

Martha Leamy, Assessor, for the appellee.

FINDINGS OF FACT AND REPORT

On the basis of the testimony and exhibits admitted into evidence at the hearing of this appeal, the Presiding Member made the following findings of fact.

On January 1, 2024, the valuation and assessment date for the fiscal year at issue, the appellants were the assessed owners of real property located at 157 Hendrick Street in the City of Easthampton (“subject property”). The subject property consists of a 1.29-acre parcel of land improved with a Colonial-style residence containing 1,837 square feet of living area, including three bedrooms as well as two full bathrooms and one half bathroom.

The assessors valued the subject property at \$498,800 for the fiscal year at issue and assessed a tax thereon at the rate of \$13.67 per \$1,000 in the total amount of \$6,982.15, inclusive of the Community Preservation Act surcharge. The appellants paid the tax due without incurring interest. The appellants timely filed an abatement application with the assessors on January 6, 2025, which the appellee denied on February 25, 2025. The appellants seasonably filed a petition with the Appellate Tax Board (“Board”) on April 10, 2025. Based upon these facts, the Presiding Member found and ruled that the Board had jurisdiction to hear and decide this appeal.

The appellants presented their case through testimony and documentary evidence. The appellants’ contention was that the subject property’s fair cash value was negatively impacted as the result of an abutter who permitted individuals to park and live illegally in a dilapidated RV trailer at the rear of their property. The appellants testified to the condition of the abutting property, specifically citing the proximity of the RV trailer and the plain visibility of the RV trailer over the chain link fence separating the two properties.

The appellants stated that the RV trailer was initially parked on September 9, 2024, and that individuals lived in the RV trailer until June 2025.

The appellants testified that considering their status as elderly individuals and the alleged unsavory criminal histories of the individuals living in the RV trailer, they lost the peace and enjoyment of their property. The appellants offered into evidence various photographs of the RV trailer on the abutting property, as well as emails exchanged between them and the Easthampton Board of Health officials, to document the presence and occupation of the trailer at the abutting property.

While the Presiding Member found the appellants' testimony and evidence to be credible concerning the conditions at the abutting property, she found that the pertinent factors could not be considered for the fiscal year at issue because they did not arise until almost nine months after the relevant valuation and assessment date of January 1, 2024. Consequently, and as will be explained further in the following Opinion, the Presiding Member found and ruled that the appellants did not meet their burden of proof in establishing that the fair cash value of the subject property was lower than its assessed value for the fiscal year at issue.¹ Accordingly, the Presiding Member issued a decision for the appellee in this appeal.

¹ Even if the factors raised by the appellant had occurred during relevant time periods, the record lacked any quantifiable impact from the alleged nuisance on the subject property's fair cash value. *See e.g. Raymond F. Sidor, Trustee Corinthian R.T. v. Board of Assessors of the City of Taunton*, Mass. ATB Findings of Fact and Reports 2025-129, 136-37 (finding that the taxpayer failed to advance evidence to directly attribute the condition of the neighboring properties to a decrease in fair cash value of the subject property) (contrasting *Pistorio v. Assessors of Boston*, Mass. ATB Findings of Fact and Reports 2010-206, 215-16 (taxpayer credibly established that "the increase in activity at [a neighboring property] led to increased vacancies and decreased rental values at the subject property").

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 in a free and open market 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 its assessed value. “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)). In this appeal, the appellants claimed that a nuisance - specifically an occupied RV trailer parked in the rear of the abutting yard - was affecting the subject property’s fair cash value.

The pertinent factors in this appeal, however, arose on September 9, 2024, almost nine months after the relevant valuation and assessment date for the fiscal year at issue.

As the Appeals Court explained in ***Turners Falls L.P. v. Assessors of Montague***, 54 Mass. App. Ct. 732, 733 n.1 (2002):

The date on which assessors determine the fair cash value of real property is January 1st of each year. G.L. c. 59, § 2A. Real property is assessed to its owner as of January 1st. G.L. c. 59, § 11. Taxes are then billed on the basis of a tax year or fiscal year that runs from the following July 1st to June 30th. G.L. c. 44, § 56.

The Board has previously held that factors occurring after the relevant valuation and assessment date are not persuasive evidence of a property's fair cash value for the fiscal year at issue. See, e.g., ***Briarwood Thirteen, LLC v. Assessors of Springfield***, Mass. ATB Findings of Fact and Reports 2018-520, 524-25 (finding that the release of a map that mistakenly portrayed the subject properties as slated for demolition and road closures caused by construction were not factors as of the relevant valuation and assessment date, and therefore not persuasive evidence of the property's valuation). Given that the conditions alleged by the appellants in this appeal did not arise until almost nine months after the relevant valuation and assessment date, they are not persuasive evidence as to the subject property's fair cash value for the fiscal year at issue.

Based upon the above, the Presiding Member found and ruled that the appellants failed to establish that the fair cash value of the subject property was less than its assessed value for the fiscal year at issue.

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

THE APPELLATE TAX BOARD

By: 
Patricia M. Good, Commissioner

A true copy,

Attest: 
Clerk of the Board