

COMMONWEALTH OF MASSACHUSETTS

APPELLATE TAX BOARD

**STEPHEN J. AND AGNES E.
PATROWICZ**

**v. BOARD OF ASSESSORS OF THE
TOWN OF STOW**

Docket No. F348519

Promulgated:
July 9, 2025

This is an appeal 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 Stow ("assessors" or "appellee") to abate a tax on certain real estate owned by and assessed to Stephen J. and Agnes E. Patrowicz ("appellants") for fiscal year 2023 ("fiscal year at issue").

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

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

Stephen J. Patrowicz, pro se, for the appellants.

Kristen Fox, assessor, for the appellee.

FINDINGS OF FACT AND REPORT

Based on the testimony and exhibits entered 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, 2022, the relevant date of valuation and assessment for the fiscal year at issue, the appellants were the assessed owners of property located at 3 Middlemost Way in the Town of Stow, improved with a single-family home featuring three bedrooms and three bathrooms, with a living area of 2,803 square feet ("subject property").

The assessors valued the subject property at \$695,000 for the fiscal year at issue. A tax was assessed thereon in the amount of \$18.13 per \$1,000, for a tax due of \$12,923.97, inclusive of the Community Preservation Act surcharge. The appellants paid the tax due without incurring interest. The appellants filed an abatement application on January 27, 2023, which the assessors denied on March 27, 2023. The appellants filed a petition with the Board on June 5, 2023.

Based on these facts, the Board found and ruled that it had jurisdiction to hear and decide this appeal.

II. The appellants' case

The appellants presented their own testimony and a written analysis. They chiefly argued that the assessment for the fiscal

year at issue had risen dramatically from the prior fiscal year, an approximately 22 percent increase, and that such an increase imperils their ability to afford the property taxes.

The appellants maintained that the subject property had not been renovated in the past thirty years; that the bathrooms were forty-three years old and dated; and that the kitchen, floors, and walls had not been updated since 1989. The appellants included numerous photographs of the subject property to support their contentions as to the subject property's condition.

The appellants offered three sales of properties located within a few miles of the subject property, but they did not include property record cards or adjustments to account for differences with the subject property. Additionally, on cross-examination the appellants conceded that they had mistakenly used assessed values and not sale prices for these three properties. The purchase prices of these three properties were \$526,000, \$530,000, and \$700,000, with all three sales occurring in 2021.

The appellants also offered three assessments of properties located in the neighborhood of the subject property. These properties were assessed at \$501,700, \$546,200, and \$562,600 for the fiscal year at issue. As with the three sale properties, the appellants did not include property record cards or adjustments to account for differences with the subject property.

Based on their comparable sales and comparable assessments analysis, the appellants contended that the fair cash value of the subject property was \$585,000 for the fiscal year at issue.

III. The appellee's case

The appellee presented jurisdictional documents, testimony, and a written analysis. The appellee testified that the various items raised by the appellants concerning the condition of the subject property had been taken into account on the property record card.

The appellee used the appellants' sale and assessment comparables to support the assessed value. The appellee adjusted the sale prices to account for differences between the three sale properties and the subject property to derive indicated sale prices ranging from \$750,500 to \$782,000. Similarly, the three assessment properties were adjusted by the appellee to derive indicated values ranging from \$711,000 to \$747,000. The appellee provided property record cards for these sale and assessment properties, as well as a grid detailing the adjustments to the sale prices and assessment values.

The appellee also noted that several amenities added significant value to the subject property compared to the sale and assessment properties, including a detached garage with a finished area located above, an in-ground pool, and several outbuildings.

IV. The Board's findings

Based on the evidence presented, the Board found and ruled that the appellants failed to establish that they were entitled to an abatement.

The Board found that the appellants' comparable properties - with no adjustments and no property record cards provided - lacked probative worth. The appellants' chief concern was affordability, an equitable request for which the Board cannot grant relief. Conversely, the appellee presented credible adjusted values using the appellants' own comparables, which supported values even higher than the subject property's assessed value for the fiscal year at issue.

Accordingly, the Board found and ruled that the appellants did not meet their burden of proving that the fair cash value of the subject property was lower than the assessed value for the fiscal year at issue and issued a decision for the appellee in this appeal.

OPINION

The 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)).

The Board considered the information and comparable properties submitted by the appellants 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 appellants failed to account for any differences between the comparable properties and the subject property. See **Graham v.**

Assessors of West Tisbury, Mass. ATB Findings of Fact and Reports 2007-321, 402 ("The assessments in a comparable assessment analysis, like the sale prices in a comparable sales analysis, must . . . be adjusted to account for differences with the subject."), *aff'd*, 73 Mass. App. Ct. 1107 (2008) (Rule 1:28 Decision); **Lupacchino v. Assessors of Southborough**, Mass. ATB Findings of Fact and Reports 2008-1253, 1269 ("[W]ithout appropriate adjustments . . . the assessed values of [comparable] properties did not provide reliable indicator[s] of the subject's fair cash value."). Moreover, the assessors made relevant adjustments to the appellants' comparable properties and credibly arrived at indicated values for the subject property that were higher than its assessed value.

Further, the relief sought by the appellants was ultimately of an equitable nature, based upon their argument as to affordability concerns. The Board is not authorized to grant equitable relief; rather, it may act only to the extent that it has express or implied statutory authority to do so. See, e.g., **Commissioner of Revenue v. A.W. Chesterton Co.**, 406 Mass. 466, 467-68 (1990); see also **Commissioner of Revenue v. Marr Scaffolding Co., Inc.**, 414 Mass. 489, 494 (1993). The Board's jurisdiction in this matter was limited to whether the assessed value of the subject property exceeded its fair cash value for the fiscal year at issue. See **Black Rock Golf Club**,

LLC v. Assessors of Hingham, 81 Mass. App. Ct. 408, 413 (2012) (holding that "[m]unicipal assessors carry 'a statutory and constitutional obligation to assess all real property at full and fair cash value'" and that "[a] taxpayer may challenge an assessment as excessive by petition to the municipal assessors for an abatement" and "[i]f the assessors deny the abatement, the aggrieved taxpayer may appeal to the Appellate Tax Board").

Accordingly, the Board found and ruled that the appellants failed to meet their burden of proving that the subject property was overvalued for the fiscal year at issue and 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