COMMONWEALTH OF MASSACHUSETTS

APPELLATE TAX BOARD

THOMAS & MAUREEN F. STEINER	**v.**	**BOARD OF ASSESSORS OF THE TOWN OF EGREMONT**
Docket No. F351660		Promulgated: March 31, 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 Egremont ("appellee" or "assessors") to abate a real estate tax assessed against Thomas and Maureen F. Steiner ("appellants") for fiscal year 2024 ("fiscal year at issue").

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

These findings of fact and report are made at the request of the appellants pursuant to 831 CMR 1.34.

Dennis G. Egan, Jr., Esq., for the appellants.

Harald M. Scheid, *Regional Tax Assessor*, for the appellee.

FINDINGS OF FACT AND REPORT

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

On January 1, 2023, the valuation and assessment date for the fiscal year at issue, the appellants were the owners of a 144.5-acre, improved parcel of real estate located at

109 Baldwin Hill Road ("subject property"). The subject property is primarily valued under G.L. c. 61A except for the one-acre prime residential site and its improvement. For the fiscal year at issue, the appellee valued the subject property at $5,653,700 and assessed a tax thereon, at the rate of $6.16 per $1,000, in the total amount of $34,826.80. The appellants timely paid the tax due. On January 25, 2024, the appellants timely filed an abatement application with the appellee. On March 19, 2024, the appellee partially granted the abatement application, reducing the subject property's assessed value to $4,892,400. Not satisfied with that reduction, on June 18, 2024, the appellants seasonably filed an appeal with the Board. Based on these facts, the Board found and ruled that it had jurisdiction to hear and decide the instant appeal.

The subject property is improved with a single-family, Colonial-style home built in 2016 ("subject home"). The property record card on file with the appellee originally reported the subject home as containing 9,232 square feet of above-grade living space, but after an inspection conducted in conjunction with the abatement application, the appellee reduced the living space to 9,000 square feet and also reduced the construction grade from A+ to A. The subject home is comprised of twelve rooms, including six bedrooms, as well as seven full bathrooms and two half bathrooms. The subject home features high ceilings, a "luxury" grade kitchen, "modern" grade bathrooms, three fireplaces, and 3,200 square feet of finished basement area.

The appellants' main contention was that the subject property's assessment had increased at a greater percentage over the last few years as compared with comparably sized homes in Egremont. The appellants submitted a comparable-assessment analysis using five purportedly comparable properties, which compared the relative percentage

increases in assessed value among these properties and the subject property for fiscal years 2021 through the fiscal year at issue. According to their analysis, the subject property experienced a 127.5-percent increase in assessed value during this period while the other purportedly comparable properties experienced increases from 46.1 percent to 97.9 percent for an average of 74.7 percent in comparison. The appellants also continued to dispute the accuracy of the square footage reported on the property record card. Mr. Steiner testified that he served as the architect for the subject home (although he admitted to not being a professional architect), and he believed that the above-grade living area of the subject home was 8,400 square feet. Finally, the appellants disputed the characterization of 3,200 square feet of the basement area as "finished basement," claiming that while the area was painted and had flooring, it lacked windows and was used only for storage, so in their opinion, it was not living area.

A review of the underlying data of the five purportedly comparable properties in Egremont[1] revealed the subject property to be not only one of the largest in parcel size as well as living area, but also the newest construction, with the next youngest being nearly two decades older.

The appellee presented its case through the testimony and valuation report of Regional Tax Assessor Harald Scheid. Assessor Scheid described the subject property as located in one of Egremont's premiere locations with sweeping views of the Berkshire Mountains. Assessor Scheid further described the subject home as extraordinary, with high ceilings and dramatic finishes. Assessor Scheid opined that the subject property's

[1] The appellants' original chart listing these comparison properties did not provide any data for comparison, including size, age, living area, and amenities. The presiding Board member kept the hearing record open to allow the appellants to supplement their information. As agreed to by the parties, the appellee subsequently provided the property record cards for the comparison properties.

large parcel size and the grandeur of the subject home together create a showcase property that is not comparable to other properties in Egremont. He did, however, create a comparable-assessment analysis with information for nine other properties improved with sizeable homes in Egremont. These properties ranged in lot size from 5.42 acres to 62.6 acres, as compared with the subject property's 144.55 acres, and were improved with homes ranging in living area from 6,092 square feet to 8,945 square feet, as compared with the subject home's 9,000 square feet. These large properties yielded assessed values ranging from $2,385,700 to $4,312,800, which Assessor Scheid believed supported the subject property's assessed value as abated of $4,892,400.

Based on the evidence of record, the Board found that the appellants failed to produce sufficient evidence to prove that the subject property was over assessed for the fiscal year at issue. The appellants presented no market evidence to suggest that the subject property was assessed for more than its fair cash value. As will be further explained in the following Opinion, a complaint about relative percentage increases in value of the subject property as compared with others is not informative of the subject property's fair cash value. Moreover, even if there were an error in the square footage of the subject home's assessment, the appellants failed to meet their burden of proving that such error actually led to an assessed value that exceeded the subject property's fair cash value.

Furthermore, as compared with the properties advanced by the appellants for comparison, the subject property is one of the largest in living area and the largest in lot size, and the subject home is the newest by nearly two decades. The appellants' analysis was lacking in properties that were more appropriately comparable to the subject

property. The appellants additionally failed to consider and adjust for any differences between their comparison properties and the subject property that could impact fair cash value. Without making appropriate adjustments to the assessed values of their comparison properties, the appellants failed to meet their burden of proving that the subject property was over assessed. Therefore, the Board found that the appellants failed to meet their burden of proving their entitlement to an abatement for the fiscal year at issue.

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

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).

"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)). 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. v. Assessors of Lynn***, 393 Mass. 591, 600 (1984) (quoting ***Donlon v. Assessors of Holliston***, 389 Mass. 848, 855 (1983)).

The appellants' case was based primarily on their claim that the assessed value of the subject property increased by a higher percentage than those for other properties in the community. However, the appellants did not demonstrate that any such deviation resulted in an assessed value for the subject property that was greater than its fair cash value for the fiscal year at issue. "The fact that appellant's assessment may have increased at a percentage greater than the percentage increase in the assessments of other houses is not determinative of the issue. ... The test is fair cash value or market value." ***Loomis v. Assessors of Boston***, Mass. ATB Findings of Fact and Reports 2023-18, 24-25 (quoting ***Burke et al. v. Assessors of Peru***, Mass. ATB Findings of Fact and Reports 1983-1, 6).

Additionally, even if the appellants proved an error in the square footage of the subject home's assessment, this alone does not carry the appellants' burden of proof. The appellants failed to demonstrate any errors on the property record card that adversely affected the appellee's assessment of the subject property's fair cash value. *See, e.g.*, ***Allia v. Assessors of West Newbury***, Mass. ATB Findings of Fact and Reports 2021-369, 373.

The appellants presented evidence consisting of the assessed values of several purportedly comparable properties in Egremont. The fair cash value of property may be determined by evidence of assessed values of comparable properties. *See* G.L. c. 58A, § 12B; *see also* ***Chouinard v. Assessors of Natick***, Mass. ATB Findings of Fact and Reports 1998-299, 307-308. However, a persuasive comparable-assessment analysis will include properties sufficiently similar to the subject property. *See* ***Sterling v. Assessors of Arlington***, Mass. ATB Findings of Fact and Reports 2021-76, 93-4

(appellant bears the burden of establishing that comparable assessment properties share fundamental similarities with the subject property). As credibly noted by Assessor Scheid, the properties advanced by the appellants for comparison were not sufficiently comparable with the subject property to provide reliable indicators of its fair cash value.

Moreover, the appellants failed to account for any differences between their purportedly 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 the appropriate adjustments, . . . the assessed values of [comparable] properties [do] not provide reliable indicator[s] of the subject's fair cash value.").

Based on the foregoing, the Board found and ruled that the appellants failed to meet their burden of proving a fair cash value for the subject property that was less than its assessed value for the fiscal year at issue.

Accordingly, the Board issued a decision for the appellee upholding the subject property's assessment for the fiscal year at issue.

THE APPELLATE TAX BOARD

By: _____
Mark J. DeFrancisco, Chairman

A true copy,

Attest: _____
Clerk of the Board