

**COMMONWEALTH OF MASSACHUSETTS**

**APPELLATE TAX BOARD**

**THOMAS & CYNTHIA TINNEY**

**v.**

**BOARD OF ASSESSORS OF  
THE TOWN OF ADAMS**

Docket No. F347682

Promulgated:  
June 4, 2025

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 Adams ("appellee" or "assessors") to abate taxes on real estate owned by and assessed to Thomas and Cynthia Tinney ("appellants") for fiscal year 2023 ("fiscal year at issue").

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

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.

*Thomas and Cynthia Tinney, pro se, for the appellants.*

*Paula Wheeler, 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, 2022, the relevant valuation date for the fiscal year at issue, the appellants were the owners of a three-acre improved parcel of land located at 100 Walling Road in Adams ("subject property"). For the fiscal year at issue, the appellee valued the subject property at \$504,900 and assessed a tax thereon, at a rate of \$18.55 per \$1,000, in the total amount of \$9,365.90. The appellants timely paid the taxes due without incurring interest. On October 24, 2022, prior to the due date of the first installment of the semi-annual real estate tax bill, the appellants timely filed an abatement application for the subject property. On December 12, 2022, the appellee denied the appellants' abatement request. On December 21, 2022, the appellants seasonably filed their appeal with the Board. Based on the information in this paragraph, the Board found and ruled that it had jurisdiction to hear and decide this appeal.

The subject property is improved with a single-family, one-and-a-half-story modified Cape-Cod style home built in 2007 and containing 3,431 square feet of living area with a total of twelve rooms, including five bedrooms, as well as three full bathrooms and a one-half bathroom, plus a two-car detached garage ("subject

home"). This square footage includes an in-law apartment that contains five rooms, including two bedrooms and a kitchen, as well as one full bathroom. The subject home also has a 320-square-foot farmer's porch at the front, and a 264-square-foot wooden deck at the rear.

The appellants presented their case through their testimony and the submission of documents, including an appraisal report completed by Appraiser Norman S. Haas. The appraiser was not presented as a witness in these proceedings and thus was not available for cross-examination by the appellee or questioning by the Board. Therefore, the appraisal report was unsubstantiated hearsay and accordingly was not probative evidence of the fair cash value of the subject property.

The appellants provided several documents, including an assessment history of the subject property starting from 2014. Between 2018 to 2022, the assessed values for the subject property ranged from \$399,600 to \$437,700, with the increase to \$504,900 for the fiscal year at issue representing a 15% increase from the prior fiscal year, which the appellants argued was unusually high. The appellants' opinion of fair cash value for the subject property for the fiscal year at issue was \$470,000.

The appellee presented its case through the testimony of its witness, Assessor Paula Wheeler. Assessor Wheeler first presented a chart comparing the subject property to three purportedly

comparable properties from the same neighborhood to rebut the appellants' assessment history of the subject property. Her purportedly comparable properties ranged in size from 0.52 acres to 69 acres and were improved with homes with living areas ranging from 2,166 square feet to 2,777 square feet. Her chart indicated that, between 2010 and 2023, the subject property's assessed value increased by 6.23% while the average increase in assessed value of the other three properties was 33%.

The assessor also provided property record cards, maps, and a sales-comparison grid for three other purportedly comparable properties in the subject property's neighborhood. The grid provided a simple assessment-to-sales ratio but specified no adjustments to values for differences between the subject property and the three purportedly comparable properties for features that affect fair cash value. Moreover, the Board found that the purportedly comparable properties were so dissimilar from the much larger subject property that the analysis lacked persuasive value. Therefore, the Board found that the appellee's chart was not probative of the subject property's fair cash value.

Based on a review of the evidence presented by both parties, including the appellant's opinion of value, the Board found that \$480,000 reflected the fair cash value of the subject property for the fiscal year at issue.

Accordingly, the Board issued a decision for the appellants, granting abatement in the amount of \$461.90.

### 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 upon which a willing buyer and a willing seller will agree if both are fully informed and under no compulsion. ***Boston Gas Co. v. Assessors of Boston***, 334 Mass. 549, 566 (1956). The appellants have the burden of proving that the property has a lower fair cash value than that assessed. "The burden of proof is upon the petitioner to make out its right as [a] matter of law to 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 this Board, "[t]he 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)).

In reaching its opinion of fair cash value in these appeals, the Board could accept those portions of the evidence that the

Board determined had more convincing weight. ***Foxboro Assocs. v. Assessors of Foxborough***, 385 Mass. 679, 683 (1982); ***New Boston Garden Corp. v. Assessors of Boston***, 383 Mass. 456, 473 (1981); ***Assessors of Lynnfield v. New England Oyster House, Inc.***, 362 Mass. 696, 702 (1972). In evaluating the evidence before it, the Board selected among the various elements of value and formed its own independent judgment of fair cash value. ***General Electric Co.***, 393 Mass. at 605; ***North American Philips Lighting Corp. v. Assessors of Lynn***, 392 Mass. 296, 300 (1984).

Having considered the record in its entirety, the Board found and ruled that the fair cash value for the subject property for the fiscal year at issue was \$480,000. Accordingly, the Board issued a decision for the appellants, granting abatement in the amount of \$461.90.

THE APPELLATE TAX BOARD

By:   
Mark J. DeFrancisco, Chairman

A true copy,

Attest:   
Clerk of the Board