

**COMMONWEALTH OF MASSACHUSETTS
APPELLATE TAX BOARD**

MARK VINCENT

v.

**BOARD OF ASSESSORS OF
THE TOWN OF CONCORD**

Docket No. F352708

Promulgated:
March 6, 2026

This is an appeal originally filed under the informal procedure pursuant to G.L. c. 58A, § 7A and G.L. c. 59, §§ 64 and 65, from the refusal of the Board of Assessors of the Town of Concord (“assessors” or “appellee”) to abate a tax on real estate owned by and assessed to Mark Vincent (“appellant”) for fiscal year 2024 (“fiscal year at issue”).¹

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

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.

Mark Vincent, pro se, for the appellant.

Meredith Stone, assessor, for the appellee.

¹ The assessors elected to transfer the proceedings to the formal docket. See G.L. c. 58A, § 7A.

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.

On January 1, 2023, the appellant was the assessed co-owner² of a 3,353-square-foot, Colonial-style single-family home (“subject home”) located on a 35,682-square-foot lot at 36 Range Road in the Town of Concord (“subject property”). The subject home was built in 1996 and has four bedrooms and four and one-half bathrooms. The subject property also features an attached and enclosed 1,508-square-foot pool area with kitchen and patio (“enclosed pool area”) that was added in 2004. The appellant purchased the subject property for \$1,575,000 in December 2021.

For the fiscal year at issue, the assessors valued the subject property at \$1,787,000 and assessed a tax thereon, at the rate of \$13.13 per thousand, in the amount of \$23,463.31, exclusive of the Community Preservation Act (“CPA”) surcharge. The tax due was timely paid without incurring interest. On January 4, 2024, the appellant timely filed an abatement application, which the assessors denied on February 29, 2024. The appellant timely filed his statement under informal procedure with the Board on May 23, 2024.³ Based on these facts, the Board found and ruled that it had jurisdiction to hear and decide this appeal.

The appellant argued that the subject property was overvalued because the assessors wrongly categorized the enclosed pool area as an enclosed porch on the property record card, and because the assessors wrongly graded the subject property as

² The co-owner was Rebecca Karp, the appellant’s wife, though the abatement application and this appeal were filed solely in the name of the appellant.

³ The appellant’s statement under informal procedure was stamped as received by the Board on May 30, 2024, but the statement under informal procedure was mailed in an envelope postmarked May 23, 2024. Under G.L. c. 58A, § 7, the Board used the postmark date as the date of filing.

a six on the property record card. In support of his contentions, the appellant offered into evidence an analysis of nearby properties and corresponding property record cards.

Regarding the enclosed pool area, the appellant posited the notion that an enclosed porch categorization is assessed at a much higher amount per square foot compared to other categorizations. The appellant primarily relied upon properties at 315 Hunters Ridge and 210 Monument Farm Road, which both featured indoor pool areas. The appellant claimed that the indoor pool area at 315 Hunters Ridge was categorized by the assessors as an enclosed pool and assessed at \$69 per square foot, versus the subject property's, which was categorized by the assessors as an enclosed porch and assessed at \$154 per square foot. Similarly, the appellant claimed that the indoor pool area at 210 Monument Farm Road was categorized by the assessors as a greenhouse and assessed at \$19.39 per square foot – though the Board noted that the property record card for 210 Monument Farm Road in the record listed an enclosed pool at \$78.92 per square foot. The appellant also suggested that an indoor pool devalues a home by limiting potential buyers due to added costs to heat and operate, more equipment to maintain, more maintenance for the enclosure due to humidity, higher insurance premiums, and safety hazards.

Regarding the appellant's contention that the subject property was incorrectly graded, he relied upon four other properties on Range Road constructed by the same builder as the subject property, with similar features, square footage, and year of build, all of which were graded a five by the assessors, with assessed values ranging from \$1,320,100 to \$1,448,300 for the fiscal year at issue, compared to the subject property's assessment of \$1,787,000.

Based upon these contentions, the appellant concluded that \$1,625,000 reflected the fair cash value of the subject property for the fiscal year at issue.

The assessors provided jurisdictional documents and asserted that other properties had a lower assessed value due to lack of functioning pools. The appellant responded that the properties that he relied upon at 315 Hunters Ridge and 210 Monument Farm Road had functioning pools. The assessors did not otherwise present an affirmative case in support of the subject property's assessed value.

After consideration of the record in its entirety, the Board ruled that the appellant submitted sufficient evidence to meet his burden of proving that the subject property's assessed value was higher than its fair cash value for the fiscal year at issue. While the Board declined to adopt the appellant's contention that the assessors relied upon incorrect characterizations in the subject property's property record card for the fiscal year at issue, the Board found the appellant's testimony and analysis to be credible and persuasive concerning the assessments of similarly situated properties with indoor pools, as well as similarly situated properties from the same builder.

Based on a review of the evidence presented, the Board found that \$1,650,000 was the fair cash value of the subject property for the fiscal year at issue. Accordingly, the Board issued a decision for the appellant, granting an abatement in the amount of \$1,825.79, inclusive of the CPA surcharge.

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)).

In reaching its opinion of fair cash value in this appeal, the Board was not required to believe the testimony of any witness or to adopt any particular method of valuation that an expert witness suggested. ***Cummington School of Arts, Inc. v. Assessors of Cummington***, 373 Mass. 597, 605 (1977) (“The credibility of witnesses, the weight of the evidence, and inferences to be drawn from the evidence are matters for the board.”).

Rather, the Board could accept those portions of the evidence that the Board determined had more convincing weight. ***Foxboro Associates 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***, 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). The fair cash value of property cannot be proven with “mathematical certainty and must ultimately rest in the realm of opinion, estimate and judgment.” ***Assessors of Quincy v. Boston Consol. Gas Co.***, 309 Mass. 60, 72 (1941). See also ***New Boston Garden Corp.***, 383 Mass. at 473.

In the present appeal, the Board considered the record in the aggregate, which afforded the Board sufficient and probative evidence to derive the fair cash value of the subject property for the fiscal year at issue. The Board found the appellant’s testimony and analysis to be credible and persuasive concerning the assessments of similarly situated properties with indoor pools, as well as similarly situated properties from the same builder.

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In sum, based on all the evidence presented in this appeal, and reasonable inferences drawn therefrom, the Board ruled that the appellant met his burden of proving that the subject property was overvalued for the fiscal year at issue and determined a fair cash value of \$1,650,000 for the fiscal year at issue. Accordingly, the Board granted an abatement in the amount of \$1,825.79, inclusive of the CPA surcharge.

THE APPELLATE TAX BOARD

By: 
Mark J. DeFrancisco, Chairman

A true copy,

Attest: 
Clerk of the Board