Commonwealth of Massachusetts

DLS
DIVISION OF LOCAL SERVICES
MA DEPARTMENT OF REVENUE

Supporting a Commonwealth of Communities

"What's New in Municipal Law"

2026

Agenda for Today

9:00-10:15 DLS Updates & General Court Cases

10:15-10:35 Break

10:35-12:15 DLS Updates & General Court Cases

12:15-1:30 Lunch

1:30-3:00 Afternoon Workshops

Announcement: Ask DLS Law

As a complement to the Bureau's Attorney of the Day service, local officials can utilize a Zoom link every Wednesday between 10:00 AM and 12:00 PM to speak directly with the Bureau's legal counsel. Local officials only need to click the button on the DLS website and will then be placed in a waiting room and addressed in the order of arrival.

Expanded to include Tuesdays from 1030-1230!

DLS Updates

Other DLS Law Updates

- DLS Forms Project Update
- “Ask the ATB”
- FY 27 budget (H 5555): Post-retirement earning limits increased to plus $25,000 from the current plus $15,000 for both retirees working in the public sector (Section 91) and disability retirees (Section 91A)

Cases of Interest to Cities and Towns

Sunpin Energy Services, LLC v. Zoning Board of Appeals of Petersham

497 Mass. 794 (2026)

- ZBA denied special permit for solar project on conservation and climate grounds
- Solar energy generation is a protected use under Dover Amendment
- Municipalities have only "narrow ambit" to deny a special permit and cannot deny permit for hypothetical reasons
- ZBA must perform site-specific analysis and consider if there are other sites in town for it
- ZBA cannot create effective ban on solar
- Court struck down ZBA decision

Ascend Mass, LLC v. City of Newton

Middlesex Superior Court #2581CV00398
(August 4, 2026)

- **Three retail recreational marijuana stores in Newton signed Host Community Agreements with City in 2018 and 2019**
- **In 2025 businesses sued Newton for refund of Community Impact Fees paid to City**
- **Dispute governed by pre-2022 version of the law as discussed in 2024 Haverhill Stem case**
- **City expenditure of fees must be related to actual costs imposed on City by these marijuana establishments**
- **Judge issued Summary Judgment ordering City of Newton to refund $2.4 million**

Fitzmaurice v. City of Quincy

485 Mass. --- (2026)

- Quincy planned to install statues of saints outside City’s new public safety building
- City claimed statues symbolizing St. Michael and St. Florian were intended to beautify the building and to honor and inspire city’s first responders
- Plaintiffs alleged violation of Article 3 of the Massachusetts Declaration of Rights and sought to keep Church and State separate
- Superior Court Judge issued preliminary injunction to bar installation
- Supreme Judicial Court upheld injunction

Town of Nahant v. Northeastern University

Mass. (2026)

- Northeastern University has owned land in Nahant since the 1960s and operates there a Marine Science Center
- In 2018 Northeastern announced plans to expand its facilities by building a new Coastal Sustainability Institute
- Town joined an unsuccessful lawsuit claiming Northeastern had dedicated the property to conservation Nahant Preservation Trust, Inc. v. Northeastern University

Town of Nahant v. Northeastern University
Mass. (2026)

- While case on appeal, selectmen in September 2021 adopted order of intention to take and filed petition in Superior Court under G.L. c. 80A to establish its right for eminent domain for conservation purposes
- Town officials advised residents proposed project would cost town millions of dollars in capital and infrastructure costs
- Superior Court in summary judgment determined dominant purpose of the taking was to block the proposed development and awarded Northeastern a monetary judgment in excess of one million dollars and Nahant appealed

Town of Nahant v. Northeastern University
Mass. (2026)

- **Northeastern contended the use of eminent domain to block development to preserve scenic nature of town was in bad faith and contrary to the SJC decision in Pheasant Ridge Associates Ltd. Partnership v. Town of Burlington (1987)**
- **Northeastern also claimed blocking a project allowed under the Dover amendment would subvert public policy**

Town of Nahant v. Northeastern University
Mass. (2026)

- **Supreme Judicial rejects all of Northeastern's arguments**
- **Court upholds eminent domain taking and reverses Superior Court judgment**
- **Court sends case back to Superior Court for determination of just compensation for Northeastern**

Kraft Sports and Entertainment LLC v. Town of Foxborough

Norfolk Superior Court (2026)

- Plaintiff alleged town can only charge by statute $100 to renew Gillette Stadium's entertainment license
- In April 2026 town allegedly violated due process and misused State-granted licensing authority by imposing almost one million dollars in new administrative fees
- Town contends the money is not a "fee for" but a "condition of" the entertainment license
- Plaintiff contends no contractual or other basis for these charges which constitute an illegal tax

Cases of Interest to Cities and Towns Continued

Shea v. City of Framingham

Appeals Court, 24-P-1401
(January 9, 2026)

- Pltf. Shea filed action against City claiming that City Council appropriation power in Charter did not allow it to defund his position
- Shea claimed that Council action conflicted with Charter provision that department directors “shall serve three-year terms”
- Trial Court and Appeals Court reasoned that Mayor’s letter appointing Shea neither stated a term of employment nor referenced Charter
- Shea had argued that charter gave rise to an expectation of a three-year contract
- Appeals Court concluded that Council had authority to defund Shea’s position

Cheryl Romeo v. William Gauthier, Jr.

Appeals Court 24-P-1266 (October 24, 2025)

Memorandum and Order Pursuant to Rule 23.0

- The pltf is a private person who had purchased the defendant's property from City of Worcester for the outstanding RE taxes
- Pursuant to 60:65, she seeks to foreclose the right of redemption for the deft to pay off the outstanding RE taxes
- Deft filed a motion to vacate the judgment foreclosing the right of redemption, claiming he was denied due process rights, including failure to name a party and defective notice
- Deft also brought claim seeking to provide them with equity lost in the sale, per *Tyler*
- Court held for pltf on all counts

Westwood v. Broderick

Appeals Court 25-P-1025 (May 13, 2026)
Memorandum and Order Pursuant to Rule 23.0

- **This case presents an interesting issue with regard to a tax foreclosure property, as it concerns a post-foreclosure eviction**
- **Town acquired property from final judgment entered in Land Court for unpaid taxes**
- **Broderick had claimed on appeal he was not given chance to defend against eviction action as he was hospitalized for a four-month period**
- **Appeals Court found he had adequate time**
- **After Broderick failed to perfect his appeal, the Appeals Court upheld Town's motion to dismiss the appeal**

Page Martineau v. Town of Nantucket
Superior Court, Docket No. 2575CV00015 (March 18, 2026)

- **The pltfs filed an action seeking declaratory relief that the Town must implement G.L. c. 175M, creating a Family Medical Leave Act, after Town Meeting had voted to accept the statute**
- **The pltfs are teachers in the town's school department, and members of a bargaining unit**
- **The pltf's union represents four bargaining units under G.L. c. 150E, and its contract sets the terms and conditions of the pltfs' employment and those of their fellow bargaining unit members**

Page Martineau v. Town of Nantucket Con't.

Superior Court, Docket No. 2575CV00015
(March 18, 2026)

- **Multiple unions declined implementation of 175M and implementation of fees for members**
- **The TM and the School Committee ultimately concluded, due to union resistance, they could not bargain re: implementation of 175M**
- **Superior Court agreed that all unions must agree on 175M before bargaining could begin**
- **Thus, the pltfs had no standing to pursue case**
- **Despite local adoption of 175M, statute provided it would not impede union rights**
- **Court concluded that it could not impose 175M w/o uniform adoption of 175M by all unions and impact bargaining on terms**

Pung v. Isabella County
609 U.S. ___ (2026), No. 25-95
Argued 2/25/2026, Decided 6/23/2026

- **Isabella County, Michigan foreclosed on the Pung family home, relative to a real property tax delinquency of $2,241.93**
- **The assessed value of the house was $194,400**
- **Isabella County conducted a tax foreclosure public auction, which yielded a final bid of $76,008**
- **When owner Scott Pung passed away, his property had a special residential exemption, which assessor later revoked**
- **Michigan Tax Tribunal ordered exemption be restored, assessor refused**

Pung v. Isabella County
609 U.S. ___ (2026), No. 25-95
Argued 2/25/2026, Decided 6/23/2026

- **MI Court of Appeals held that Pungs did not owe add'l taxes - county foreclosed anyway**
- **County took title, auctioned property, kept $ it claimed was owed, gave remainder to Pungs**
- **Buyer at auction re-sold property for $195,000**
- **Overview of *Tyler v. Hennepin County* (2023)**
  - **Taxpayer has protected interest in equity**
  - **Left open question of how "just compensation" is to be measured**

Pung v. Isabella County
609 U.S. ___ (2026), No. 25-95
Argued 2/25/2026, Decided 6/23/2026

- Michael Pung sued Isabella County on multiple grounds: Eighth Amendment "Excessive Fines" and Fifth Amendment Takings Clause for inadequate compensation
- Federal trial court found for Pung on Fifth Amendment grounds, but left damages alone
- Add'l trial court found Pung not entitled to FMV, just auction surplus, sale $ minus tax $
- Federal Court of Appeals affirmed, holding that the auction price was best evidence of property's value, denied Excess Fines

Pung v. Isabella County
609 U.S. ___ (2026), No. 25-95
Argued 2/25/2026, Decided 6/23/2026

- **US Supreme Court unanimously held that with respect to Pung's claims for Fifth Amendment Takings Clause violation and Eighth Amendment Excessive Fines Clause, Court, by Justice Alito, ruled against Pung**
- **On the Takings Clause issue, the Court held that the proper measurement of "just compensation" was the auction $, NOT the $ buyer could obtain in arms-length RE sale**
- **Auction would have to be "fairly conducted," based on long history of tax property auctions**
- **Court reaffirmed from *Tyler* that a taking occurs when gov't keeps more $ than owed, but declined to require FMV $ for auction sale**

Pung v. Isabella County
609 U.S. ___ (2026), No. 25-95
Argued 2/25/2026, Decided 6/23/2026

- On Eighth Amendment issue (Excessive Fines), Court held Pung failed to demonstrate that a lesser auction $ is an Excessive Fine
- Court left open the question of whether County’s foreclosure auction procedure was “fairly conducted” – Court remanded that issue to the Sixth Circuit Court of Appeals
- Sotomayor concurred – agreed with result, emphasized poorly-run auction vulnerable to challenge on remand and in future cases
- Thomas, partial concurrence – just compensation requires paying FMV
- Conclusion – *Pung* appears to narrow *Tyler*

BREAK

Cases of Interest & Chapterland

Ducharme v. Mobile Home Rent Control Board of Chicopee

106 Mass. App. Ct. 767 (May 22, 2026)

- **Property owner went before Rent Control Board to increase rent for three mobile manufactured housing communities**
- **Rent Control Board approved rent increase**
- **Housing Court set aside the Board’s decision in its entirety due to Zoom audio issues during hearing**
- **Appellate Court set aside the vacated decision of the Housing Court, dismissed Ducharme’s actions in regards to the other mobile parks and determined the following:**
  - **Housing Court has jurisdiction**
  - **Ducharme only has standing as to where she resides**
  - **Zoom audio issues didn’t prejudice substantial rights**
  - **Using an alternate valuation of the property needed further explanation - remanded back to Board.**
  - **Due to the Board’s broad discretion, the reasonable operating expenses were left undisturbed**

Belmont Country Club, Inc. v. Belmont Board of Assessors

ATB 2026-77 (February 6, 2026)

- Belmont Country Club appealed assessment for FY21-FY23
- Evidence presented by BCC included testimony from general manager, environmental expert, and commercial real estate appraiser
- ATB determined highest and best use was a country club and golf course, not residential development due to wetlands, flooding, topography, conservation restrictions, and an easement
- After determining fair cash value, ATB applied the 25% 61B reduction to the new fair cash value of the parcels

Bonni & Barbara Z. Berkowitz, Trustees of The Maven Revocable Trust v. Rowley Board of Assessors

ATB2025-415 (November 14, 2025)

- **Taxpayers cleared over 11 acres of Ch. 61 land to construct solar arrays and leased it to a solar company**
- **Did not notify assessors of change of use (required under M.G.L. c. 61 § 8) - Instead, sought to reclassify entire property under 61A claiming agricultural/horticultural use - Assessors denied and imposed rollback taxes**
- **ATB upheld decision - Found taxpayer’s evidence of sales were not credible and after site visit, there was little evidence of active farming**

Thomas & Maureen F. Steiner v. Egremont Board of Assessors

ATB 2026-154 (March 31, 2026)

- **Taxpayers owned 144.5 acre property all under 61A with the exception of one acre including a luxury 9,000 sqft home**
- **Assessors reduced their assessment from $5.65 million to $4.89 million but taxpayer argued assessment was still too high relying solely on their assessment increasing higher than other comparable homes, square footage being overstated, and a portion of the basement being treated as livable**
- **ATB upheld assessment - The relevant inquiry is the fair cash value not whether assessment increased at a higher percentage than neighbors**
- **Additionally, failed to show that other errors resulted in increase of fair cash value**
- **If using other properties as comparison, they need to be substantially similar**

Banevicius v. Town of Barnstable
497 Mass. 585 (May 20, 2026)

- Chapterland 61A (Agricultural/Horticultural Land)
  - Agricultural = raising animals/animal products
  - Horticultural = raising fruits or vegetables
- Right of First Refusal (ROFR) before conversion from 61A land. *See* G.L. c. 61A, s. 14
  - Under the ROFR, the land cannot be sold or converted unless the landowner gives notice to specified officials
  - Within 30 days, if notice insufficient town must notify owner
  - Within 120 days, town must exercise option to match a bona fide offer

Banevicius v. Town of Barnstable (Cont.)

497 Mass. 585 (May 20, 2026)

- Owner notified town manager of plan to convert cranberry bog – 61A Horticultural land – to residential housing
- Town manager notified owner that she had to notify the relevant boards - Owner did not!
- Town manager told owner that town did not intend to exercise ROFR
- Owner completed the transaction
- A non-profit sued claiming that transaction was invalid for failure to seek notice
- Superior Court declined to invalidate transaction
- Supreme Judicial Court affirmed on basis that non-profit could not bring a lawsuit

Watermark LLC v. R H Benea Cranberry

2026 WL 1699683 (June 12, 2026)

- **On Feb. 9, 2021, seller of 61A classified land informed town of Duxbury that purchaser intended to convert some of the land to non-61A use**
  - **Seller satisfied all notice requirements, unlike seller in *Benevicius***
- **This triggered 120-day period for Duxbury to exercise its right of first refusal**
- **Approximately 6 weeks later, the buyer and seller sent a letter to Duxbury stating that, in fact, there would be no conversion of the land**
  - **Notice sent before expiration of the 120-day period**

Watermark LLC v. R H Benea Cranberry (Cont.)

2026 WL 1699683 (June 12, 2026)

- Despite attempted withdrawal, Duxbury nonetheless exercised its option to purchase assigning its right to its Affordable Housing Trust
- Purchaser sued town to void Duxbury's ROFR
- Superior Court sided with Duxbury
- Purchaser appealed to SJC
- The SJC affirmed the decision of the Superior Court

Watermark LLC v. R H Benea Cranberry (Cont.)

2026 WL 1699683 (June 12, 2026)

- **So what did the court say?**
- **It stated that "the statute does not provide any withdrawal mechanism where … the town has received its notice to sell."**
- **"The option to purchase vests as soon as the municipality receives a notice of intent … any purported subsequent withdrawal can have no effect."**
- **SJC observed that a seller may withdraw a notice of intent to convert. *See* G.L. c. 61A, s. 14, ¶ 13.**

Municipal Empowerment Act

Filing & Status

<u>Bill v. Law</u>

- The word “Act” can be used to describe a law or a proposed law.
  - Municipal Modernization <u>Act</u> of 2016 (MuniMod)
  - Municipal Empowerment <u>Act</u> (MEA)
  - Mass Ready <u>Act</u>
- MuniMod is an enacted law. Its provisions must be followed.
- The MEA and Mass Ready Act remain proposals. Their provisions should not be followed.

Legislative Process

- In January 2025, Governor Maura Healey filed the Municipal Empowerment Act (H. 56)
- In July 2025, House Clerk divided the Municipal Empowerment Act into three committees by subject matter
  - Joint Committee on Revenue
  - Joint Committee on Municipalities and Regional Government
  - Joint Committee on Public Service

Legislative Process (Cont.)

- In February 2026, the Municipalities Committee advanced its assigned provisions
- In April 2026, the Public Service Committee advanced its assigned provisions
- In May 2026, the Revenue Committee voted to further study its assigned provisions

Municipal Empowerment Act & Mass Ready Act

Legislative Rules

Legislative Rules Background

- The Massachusetts Constitution authorizes the House and the Senate to “determine [their] own rules of proceedings.”
- The House and Senate have their own rules and the chambers together have Joint Rules

Legislative Rules Reform Overview

- During the current two-year session (2025-2026), the Legislature made significant changes to the rules
- Changes include –
  - Advance notice for legislative hearings increased from 72 hours to 10 days
  - Plain-language bill summaries posted to website
  - Adjustments to the legislative calendar

Legislative Calendar Adjustments

- Deadline for joint committees to act on timely-filed bills moved forward from February of the second year of session to December of the first year of session
  - Joint Rule 10 Day
- Significant amendment to end-of-formal session rule
  - Previously formal sessions needed to be completed by July 31

Proposed: Mass Ready Act

Status & Key Provisions

Mass Ready Act Overview

- Mass Ready Act is also known as the environmental bond bill
- *Primary purpose:* authorize state borrowing authority for environmental and conservation initiatives, including DCR land acquisition, upgrades for DCR owned properties and facilities, PFAS remediation, hazardous waste clean up, among other borrowing authority
- Contains provisions related to environmental policy and land conservation, including chapterland provisions

Chapterland Provisions

- Grants state agencies option to purchase conversion with sale OR conversion without sale
  - DCR: forest land (61) and recreational land (61B)
  - MDAR: agricultural and horticultural (61A)
- State Right of First Refusal is “subordinate” to municipal

Chapterland Provisions (Cont.)

- "Forest Product" Definitions (G.L. c. 61, s. 1)
  - Current law: wood, timber Christmas trees, other tree forest growth and any other product produced by forest vegetation
  - Amendment: wood, timber, Christmas trees, other tree forest growth, **carbon sequestration and storage** and any other product produced by forest vegetation

Mass Ready Act Status

- In June 2025, Governor Healey filed the Mass Ready Act
- In April 2026, passed by the Senate
- In June 2026, passed by the House
- In late June/early July, a conference committee was assembled to reconcile the differences between the House and Senate versions of the bill

Legislation Continued

Mass Ready Act Continued

- Requires a registry of sorts for chapterland
- Department of Agricultural Resources would be in charge of it with assistance in formation from DLS
- Requires the registry be built within one year of passage
- Potential reach out to you: complexities in chapterland parcel identification that will need to be updated by hand to separate out the chapterland components – mainly for those that are mixed use parcels that have some combination of chapterland and commercial/residential
- DLS does not currently don't have that breakdown and would need to work with each community individually on each parcel to isolate the chapterland

Proposed: Economic Development Bill (Mass Wins)

- Another exception to rule against prepayment for: "(iii) the payment of estimates issued by utilities for make-ready work to facilitate access to utility poles, conduits, ducts or rights-of way related to broadband infrastructure projects."
- New G.L. c. 59, § 5Q: allows communities to give a rebate to taxpayers who received a residential exemption in the prior year, meet certain income, asset and other eligibility thresholds they set and apply by a date they set; the amount has to be uniform based on the amount appropriated by the community to fund the rebates. The rebate is in addition to any exemptions the taxpayer is otherwise eligible
- Amends G.L. c. 59, § 59 and would extend the abatement application deadline from the day the 1st installment of the actual bill is due to not more than 45 days after it is due

Proposed: Economic Development Bill (Mass Wins)

- Amends G.L. c. 59, § 5 Clause 41C to allow local options to increase income thresholds (to 50% AMI), increase the exemption amount ($500 to $1500) and the whole estate amount (to not more than $80,000/$110,000)
  - No further state reimbursement
- Amends G.L. c. 59, § 5 to allow for an increase in the local option for minimum personal property exemption from $10,000 to $30,000
- New G.L. c. 59, § 5P: would allow communities to adopt a property tax exemption equal to between 10% and 100%, for between 5 and 20 years, of new value attributable to the residential portion of by-right adaptive reuse zoning

Proposed: Economic Development Bill (Mass Wins)

- 61A (farm/agriculture) chapterland converted for a renewable energy generating source not subject to general ROFR, rollback and conveyance taxes
  - Instead subject to 50% rollback due and payable at the time parcel commences serving as the site of a renewable energy generating source
  - If re-sold for non-qualifying use then subject again to ROFR and subject to remaining rollback/conveyance
  - Only applicable if converted areas is less than 10% of the overall land value of the parcel and is under 15 acres

Proposal: Eliminate Marking at the RMV

- Background: A tax collector may collect the excise by placing ("marking") the delinquent taxpayer's vehicle registration and operating license in non-renewal status at the Registry of Motor Vehicles (RMV). G.L. c. 60A, § 2A.
- Demand, 14 days, issue warrant to collect to deputy, notice of warrant to taxpayer, wait 30 days, serve notice, then mark at RMV
- Other Collection Remedies:
- Lawsuit against the delinquent taxpayer, G.L. c. 60, § 35
- Withholding from any amount payable to the taxpayer ("set-off"), G.L. c. 60, § 93
- Could also deny, revoke, suspend or not-renew a permit or license sought or held by the taxpayer if the municipality has accepted G.L. c. 40, § 57 and adopted an implementation bylaw or ordinance
- Section 28 of H2 (appropriations bill for FY27) proposes to eliminate the ability to mark
- Update: Neither the House or Senate version of the bill included this provision

Recent ATB Cases

HS 148SST LLC v. Boston
Superior Court Docket No. 25-3505-BLS1 (May 11, 2026)

- **Plaintiff filed lawsuit in Superior Court; Alleging that for the past two fiscal years, the City has punitively increased its tax assessment on commercial property owners that sought tax abatements from the ATB**
- **Boston filed Motion to Dismiss (avenue must be through ATB where these cases are currently pending)**
- **Court says "while a party ordinarily must exhaust its administrative remedies before seeking judicial relief...Under limited circumstances a taxpayer may seek direct recourse from the courts…Whether such an action for equitable relief may proceed is a matter within the court's discretion" Leto v. Board of Assessors of Wilmington, 348 Mass. 144, 148 (1964)**
- **Say enough is alleged here to satisfy Leto and "At a minimum, some limited discovery is required to determine the existence and extent of the alleged Add-Back Policy before a final determination can be made about whether equitable relief is appropriate"**
- **Discovery can proceed, no final determination on this matter (dismissed federal claim)**

Mandelbraut v. Board of Assessors of Boston

Appeals Court 25-P-859 (July 29, 2026)

- Fountain Square, LLC owned condominium unit in Boston; Mandelbraut was sole member of LLC
- Applied for residential exemption, denied by Boston, overturned by ATB
- ATB: as property was principal residence, taxpayer made payments in connection with ownership, and was the sole member of a disregarded entity for income tax purposes meant he was the "taxpayer" for purposes of § 5C
- DLS has consistently and historically advised this is not the case and stand by our prior guidance
- Case was overturned by the Appeals Court

Cambridge v. DOR & Kendall Green Energy LLC
Cambridge v. Vicinity Energy LLC
ATB (January 30, 2026)

- **Cambridge challenges Commissioner designation of Manufacturing Corporation**
- **Kendall is single member LLC, sole member is Vicinity Energy, treated as corp. for federal taxes**
- **ATB: single-member LLC elected to be taxed federally as a corporation and that was classified as a manufacturing corporation was eligible for property tax exemption under G.L. c. 59, § 5, Clause 16(3)(i) because is a manufacturing corp. or a research and development corp., per section 42B of chapter 63**

Egypt House v. Kelley
US District 1st Circuit (April 3, 2026)

- This action arises out of a dispute before the Massachusetts Appellate Tax Board concerning Plaintiff Egypt House's entitlement to tax abatement on religious grounds
- Facts: Sought religious exemption, was denied, ATB ordered inspection of property, Plaintiff sued everyone – 17 counts - (Town of Marblehead Town Administrator; individuals serving as counsel to the Town; the Board of Assessors for the Town (current and former members) and the Chairman of the ATB
- Plaintiff's claims are barred by the Tax Injunction Act of 1937 which directs that "district courts shall not enjoin, suspend or restrain the assessment, levy or collection of any tax under State law where a plain, speedy and efficient remedy may be had in the courts of such State" for Counts 1-6, 8, 9, and 14-16 and other counts dismiss for failure to state a claim

Davenport v. Town of Reading (24-2055) Court of Appeals for the First Circuit

- **Any updates?**
  - **Nope!**

Recent ATB Cases Continued

Lowe's Home Centers LLC v. Board of Assessors of Town of West Bridgewater

ATB (December 3, 2026)

- **138,053 sq. ft. big-box anchor space, with garden center, a restaurant space, a bank space and a cell phone tower all situated on a 26.44-acre parcel**
- **Fiscal years at issue 2016, 2021 and 2018 & retail use = highest and best use of property**
- **Income capitalization to determine fair cash value**
- **8% vacancy and collection loss rate; 8.41% capitalization rate; market rent 8.50 per sq ft.; expenses to be deducted $200,000**
- **No rent attributed to the garden center**
- **Abatements granted to Lowe's in each FY**

Macy's Retail Holdings Inc. v. Burlington Assessors
ATB (January 12, 2026)

- **254,712 square feet of space on a 17.40 acre parcel of land improved with 3 story retail space & small portion leased as outdoor seating**
- **Fiscal years at issue 2020, 2021 and 2022**
- **Highest and best use property = retail use**
- **Income capitalization to determine fair cash value**
- **0 value attributed to excess land - too speculative**
- **3.75% vacancy and collection loss rate; 3.75% management fee; 6.75% capitalization rate; market rent 6.50 per sq. ft.**
- **Board can use various elements of value presented by parties & Macy's met burden that subject property overvalued; abatements granted**

McCracken v. Board of Assessors of Town of Boxborough
ATB (April 17, 2026)

- **2,511 sq. ft. Colonial home on 1.38 acre parcel**
- **Valued at $953,700 for FY24 & argued bldg. value disproportionally assessed compared to other nearby properties**
- **Sales of comparable realty in same area & within reasonable time of the assessment date - evidence for determining the fair cash value of the property at issue**
- **Taxpayer use of Zillow values – not proper comps for appeals**
- **No evidence of scheme/policy nor overvaluation – decision for Assessors**

Gericke v. Board of Assessors of Town of Shrewsbury

ATB (June 5, 2026)

- **3,483 sq. ft. Colonial home on 22,646 sq. ft. parcel - valued at $1,291,300 for FY24**
- **Overvaluation appeal - assessment up from FY23 to FY24 seemed high & value/sq. ft. higher.**
  - **Taxpayer provided Zillow links to various other homes considered comparable**
  - **No adjustments to account for differences between their property & their comparable sales & assessments properties**
- **No overvaluation – decision for Assessors**

North v. Board of Assessors of Town of Belmont
ATB (April 30, 2026)

- **2,028 sq. ft. Colonial home on 8,200 sq. ft. lot**
- **Valued at $1,311,00 for FY24 at issue**
- **Norths presented testimony, photographs & comparable assessments analysis (all but four of the 12 assessments had smaller living areas) & a comparable-sales analysis (majority of 13 sales not Colonial style) - critically lacked adjustments to comps to adjust for differences**
- **PRC characterized the condition of the subject property as poor – assessors took into account when determining FCV**
- **Valuation case where taxpayer failed to establish that fair cash value of property was lower than its assessed value for FY24 – decision for assessors**

Randall v. Board of Assessors of Town of Concord
ATB (April 30, 2026)

- 1,654 sq. ft. 1 story ranch home on approx. 2.60-acres
- Randall I presented last yr. FY23 FCV $830,000
- Valued property at $969,900 for FY24
- Burden shifted to assessors to show that value was justified.
  - Assessment falls within the 2 yr period set forth in G.L. c. 58A, § 12A
- Assessors failed to meet their burden
- Randall failed to offer evidence to support FCV less than that determined by Board for FY23
- Board found FCV was $830,000 for FY24
- Decision for Randall; granted abatement