COMMONWEALTH OF MASSACHUSETTS

APPELLATE TAX BOARD

SCOTT & JANET WILSON	**v.**	**BOARD OF ASSESSORS OF THE TOWN OF STOW**

Docket No. F353061	Promulgated: August 17, 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 Stow (“appellee” or “assessors”) to abate a real estate tax assessed to Scott and Janet Wilson (“appellants”) for fiscal year 2024 (“fiscal year at issue”).

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

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

Scott and *Janet Wilson*, *pro se*, for the appellants.

Kristen Fox, 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 1.23-acre, improved parcel of real estate located at 32 Dunster Drive in Stow ("subject property"). For the fiscal year at issue, the appellee valued the subject property at $1,190,900 and assessed a tax thereon, at the rate of $16.97 per $1,000, in the amount of $20,209.57, plus a Community Preservation Act ("CPA") surcharge of $555.38. The appellants timely paid the tax due without incurring interest and timely filed an abatement application with the appellee.[1] On May 21, 2024, the appellee granted a partial abatement, reducing the subject property's assessed value to $1,082,900. Not satisfied with that reduction, on August 5, 2024, the appellants seasonably filed an appeal with the Board.[2] Based on these facts, the Board found and ruled that it had jurisdiction to hear and decide this appeal.

The subject property is improved with a single-family residence classified on the property record card as a Cape Cod-style home that was built in 1977 that contains 3,560 square feet of living area comprised of eleven rooms, including four bedrooms as well as two full bathrooms and one half bathroom ("subject home"). The interior of the subject

[1] Although the abatement application was stamped as received by the assessors on February 5, 2024, the Board found that the application was timely mailed. Where, as here, the assessors receive an abatement application after the due date, the date of postmark is deemed to be the date of filing. *See* G.L. c. 59, § 59. In the event that a postmark is missing, the Board may make such inferences concerning the postmark as are consistent with the purposes of statute. *See* 831 CMR 1.11(4). Accordingly, the Board ruled that the appellant's abatement application was timely filed.

[2] Pursuant to G.L. c. 59, § 64, an abatement application is deemed denied if not acted on within three months of filing unless the taxpayer consents in writing to an extension of time. There is no evidence in the record of the appellants' consent to an extension of time. Ordinarily, a petition to the Board is due within three months of the deemed denial of an abatement application. G.L. c. 59, §§ 64, 65. However, pursuant to G.L. c. 59, § 65C, if the assessors fail to send required notice to the appellants of their inaction within ten days, and the appellants fail to file an appeal within three months of the deemed denial, the appellants have an additional two months within which to file a petition with the Board. *See* ***Cardaropoli v. Assessors of Springfield***, Mass. ATB Findings of Fact and Reports 2001-913, 917.

home includes an open floor plan, vaulted ceiling, large walls of windows, and a catwalk. The subject home is equipped with central air conditioning. Other amenities include an attached two-story barn, an attached one-story structure assessed as a garage, and an inground pool.

The appellants presented their case through their testimony and the submission of documents. The appellants testified and submitted prior year property record cards to illustrate that the subject home had historically been classified as a Contemporary-style home. For the fiscal year at issue, the subject home was reclassified as a Cape Cod-style home. Along with this reclassification came a significant increase in the subject property's assessed value, jumping from $743,800 in the prior fiscal year to $1,190,900 in the fiscal year at issue before being partially abated to $1,082,900. The appellants contested the reclassification of the subject property, claiming that it should have remained classified as a Contemporary-style home as it fit within their knowledge of this style, particularly the open-concept floor plan, large windows, and skylights. The appellants also addressed what they believed to be errors on the property record card, including but not limited to: increases to the construction grade from B- to B with no improvements made; assessments for basement and attic space and a shed, which the subject property does not have; changing the depreciation code from good to very good with no improvements made; and an increase to the inground pool's valuation. The appellants noted that the appellee granted the partial abatement based on corrections to reflect the lack of basement area and shed at the subject property as well as decreases in the subject property's construction grade and the valuation of the inground pool.

The appellants next offered property record cards for purportedly comparable properties in the subject property's neighborhood. The appellants highlighted the property at neighboring 26 Dunster Drive, a property similar to the subject property in lot size and its improvement's style, age, and living area, but lacking the subject property's inground pool and two-story barn. For the fiscal year at issue, the improvement at 26 Dunster Drive remained classified as a Contemporary home, and the assessed value for this comparison property was $768,100. The appellants also pointed to the differences in unit cost in the "building sub-area summary" shown on the property record cards of their comparable properties.

Based on their evidence, particularly their reliance on 26 Dunster Drive, the appellants' opinion of value for the subject property was $768,100 for the fiscal year at issue.

The appellee presented its case through the testimony of Kristen Fox, Assessor for Stow, and the submission of documents, including the requisite jurisdictional documents. Assessor Fox presented a sales-comparison analysis together with supporting property record cards. The appellee also presented additional property record cards for both Cape Cod and Contemporary-style homes located in the subject property's neighborhood together with additional photographs to demonstrate the difference between Cape Cod and Contemporary-style homes.

With respect to the sales-comparison analysis, the appellee presented three purportedly comparable properties – two from the subject property's neighborhood - that sold from March 2022 to October 2024 for prices ranging from $640,000 to $975,000. After adjustments for differences between the subject property and the comparison property for features including, but not limited to, lot size, condition, grade, living area, air conditioning, and inground pool, the appellee arrived at adjusted sale prices ranging from $1,071,893 to $1,162,000. Noting that the subject property's assessed value as abated fit within this range, the appellee opined that the subject property's assessment as abated did not exceed its fair cash value for the fiscal year at issue.

In reviewing the evidence of record, the Board found the comparable-sale property at 39 Kirkland Drive, which was part of the appellee's analysis, to be informative regarding the subject property's fair cash value as it was located in the same neighborhood and it was improved with a home that was highly comparable in style, living area, lot size, and age to the subject property. This property also had an inground pool and attached garage. However, 39 Kirkland Drive had five full bathrooms as compared with the subject property's two full and one half bathrooms, as well as 1,488 square feet of additional living space in its basement. This comparison property sold for $975,000 in September 2022.

The Board also looked to 109 Kirkland Drive, another property located in the subject property's neighborhood and whose property record card the appellee offered into evidence. This property was improved with a home of a similar age and with similar layout as the subject home, consisting of seven rooms with four bedrooms and three full bathrooms, but with a smaller living area of 2,100 square feet. The property also had a drive-under garage along with an unfinished basement. This comparison property sold for $761,000 in late August 2021. The property record card noted several updates to this property prior to its sale.

After making appropriate adjustments to the above comparable properties, and considering the record in its entirety, the Board found that the fair cash value for the subject property was $950,000 for the fiscal year at issue.

Accordingly, the Board issued a decision for the appellants and ordered abatement in the amount of $2,322.97, which includes the appropriate portion of the CPA surcharge.

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)).

Sales of comparable realty in the same geographic area and within a reasonable time of the assessment date generally contain probative evidence for determining the value of the property at issue. ***Graham v. Assessors of West Tisbury***, Mass. ATB Findings of Fact and Reports 2007-321, 399-400 (citing ***McCabe v. Chelsea***, 265 Mass.

494, 496 (1929)), *aff'd*, 73 Mass. App. Ct. 1107 (2008)). Properties are "comparable" to the subject property when they share "fundamental similarities" with the subject property. *See* ***Lattuca v. Robsham***, 442 Mass. 205, 216 (2004). Once appropriate comparable-sale properties are selected, "[a]djustments must be made to . . . sales data to account for differences between the subject property and the properties offered for comparison." ***Doherty v. Assessors of Lee***, Mass. ATB Findings of Fact and Reports 2013-174, 181.

In addition to comparable-sale properties, evidence of comparable assessments can also be instructive. General Laws c. 58A, § 12B provides in pertinent part that "[a]t any hearing relative to the assessed fair cash valuation or classification of property, evidence as to the fair cash valuation or classification of property at which assessors have assessed other property of a comparable nature or class shall be admissible." "The introduction of ample and substantial evidence in this regard may provide adequate support for abatement." ***Chouinard v. Assessors of Natick***, Mass. ATB Findings of Fact and Reports 1998-299, 307-8 (citing ***Garvey v. Assessors of West Newbury***, Mass. ATB Findings of Fact and Reports 1995-129, 135-36; ***Swartz v. Assessors of Tisbury***, Mass. ATB Findings of Fact and Reports 1993-271, 279-80). The assessments in a comparable-assessment analysis, like the sale prices in a comparable-sales analysis, must also be adjusted to account for differences with the subject property. *See* ***Heitin v. Assessors of Sharon***, Mass. ATB Findings of Fact and Reports 2002-323, 334.

In the present appeal, the Board reviewed the properties offered by the parties for comparison with the subject property. After making appropriate adjustments to their values, the Board arrived at $950,000 as the fair cash value for the subject property for the fiscal year at issue.

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). In reaching its opinion of fair cash value in this appeal, the Board was not required to believe the testimony of any particular witness or to adopt any particular method of valuation. Rather, the Board could accept those portions of the evidence that it 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, 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).

Accordingly, the Board issued a decision for the appellants and ordered abatement of $2,332.97, which includes the appropriate portion of the CPA surcharge.

THE APPELLATE TAX BOARD

By: ______________________________
Mark J. DeFrancisco, Chairman

A true copy,

Attest: ______________________________
Clerk of the Board