

How to file a Real Estate Tax Abatement Application in Massachusetts



John Ryder, Jr.
Managing Consultant
johnryder@mfpoer.com



Andrew Kerivan
Grenwold Real Estate Advisors LLC
52 Grenwold Road
Quincy, Massachusetts 02169-1733
617.784.3349
www.Grenwold.com

Before we begin:

- Why are we here
 - Most Massachusetts Municipalities issue their actual tax bill for January 1, with abatement applications due NO LATTER THAN February 1
 - From the top we must recognize that there is a tension between competing public policy goals when it comes to the assessment of affordable housing.
 - It is imperative that we all agree, you can appeal your assessment, not your taxes
- Ground rules
 - We ask that you please put your phone on mute.
 - All questions will be directed to the Moderator who will hold them until the end of the presentation. We ask that all questions be submitted in writing through the chat function or passed to Moderator if you are here.

Table of Contents

1. How to file an abatement application

- How to read the tax bill
- How to fill in an abatement application
- Important things to remember when filing an abatement application
 - You must file a timely application and pay all of the tax due
 - You must respond to any 61A Information Request
 - You are appealing your assessment not your taxes

2. Chapter 59 -

- Assessment Process for income producing properties
- Develop an opinion of the correct assessment
 - Project a stabilized Gross Income
 - Estimate vacancy and expenses
 - Estimate Cap Rates
- Income Approach Example
- Appeal process review

How to read a tax bill

1. Property Location
2. Parcel ID
3. Assessed owner and mailing address
4. Total Taxable Value
5. Tax Rates
6. Total Fiscal Year Real Estate Tax
7. CPA Surcharge
8. Taxes due and due date
9. Municipality levying the tax
10. Fiscal year
11. Bill Number
12. State property Class
13. Land area



City of Somerville
 Treasury Department
 93 Highland Ave.
 Somerville, MA 02143

City of Somerville Scholarship Donations
 Contribution Amount:
 \$25 ___ \$10 ___ \$5 ___ \$1 ___ Other ___
 If making a voluntary scholarship donation, please include a separate check made payable and mail to:
 City of Somerville Scholarship Fund
 c/o Collector's Office,
 93 Highland Ave., Somerville, MA 02143

THIS FORM APPROVED BY COMMISSIONER OF REVENUE

Collector of Taxes
Peter K. Forcellese, Jr., Collector of Taxes
Office Hours
 Monday - Wednesday 8:30 AM - 4:30 PM
 Thursday 8:30 AM - 7:30 PM
 Friday 8:30 AM - 12:30 PM
DO NOT MAIL CASH
Make Check Payable And Mail To:
 City of Somerville
 Office of the Tax Collector
 P.O. Box 197
 Somerville, MA 02143-0197
Telephone Numbers:
 Collector: (617) 625-6600 Ext. 3500
 Assessor: (617) 625-6600 Ext. 3100
Messages:
 Make this the last bill you get in the mail
 Sign up for Paperless Billing Today!
www.somervillema.gov

Payment made after 12/19/2014 may not reflect on this bill.

Based on assessments as of January 1, 2014, your Real Estate Tax for the fiscal year beginning July 1, 2014 and ending June 30, 2015 on the parcel of real estate described below is as follows:

PROPERTY DESCRIPTION				
Slate Class	1	112		
Land Area		1.100 SF		
Parcel ID	2			
Book/Page				
Assoc. Lot				
Tax Rate Per \$1,000				
5	Res.	OpenSpace	Comm.	Industrial
	\$12.61	\$20.38	\$20.38	\$20.38

Assessed owner as of January 1, 2014:

3

City of Somerville
 Fiscal Year 2015 Actual
 Real Estate Tax Bill

TAXPAYER'S COPY
 City of Somerville
 Fiscal Year 2015 Actual
 Real Estate Tax Bill

SPECIAL ASSESSMENTS			
Type	Amount	Type	Interest
Land Value	\$600,100		
Building Value	\$1,867,500		
Res. Exemption	\$0		
Total Taxable Value	\$2,467,600		
CPA	\$447.83		
TAX RES	\$31,116.44		

COLLECTOR'S COPY

Address Changes must be submitted in writing to the Assessor's office at 93 Highland Ave.

3rd Quarter Receipt
 Keep this portion as your receipt

Bill Date	12/31/2014	Bill No.	
Total Real Estate Tax			\$31,116.44
Total CPA			\$447.83
Special Assessments			\$0.00
Less Abatements			\$0.00
Total Tax/Assessments			\$31,564.27
Preliminary Tax			\$13,632.95
Preliminary Payments			\$13,632.95
4th Qtr. Tax			\$8,965.66
Past Due			\$0.00
Interest			\$0.00
3rd Qtr. Tax			\$8,965.66
AMOUNT DUE			
02/02/2015			\$8,965.66

Interest at the rate of 14% per annum will accrue on over-due payments from the due date until payment is made.

Abatement applications must be received by the Assessors no later than 02/02/2015 4:30pm.

3rd Quarter Payment
 Return This Portion With Your Payment

Bill Date	12/31/2014	Bill No.	
AMOUNT DUE			
02/02/2015			\$8,965.66

How to fill out an Abatement Application

- 1. Property Location
- 2. Parcel ID
- 3. Assessed owner and mailing address
- 4. Total Taxable Value
- 9. Municipality levying the tax
- 10. Fiscal year
- 11. Bill Number
- 12. State property Class
- 13. Land area

State Tax Form 128
Revised 7/2009

The Commonwealth of Massachusetts

_____ 9 _____
Name of City or Town

Assessors' Use only

Date Received
Application No.

APPLICATION FOR ABATEMENT OF REAL PROPERTY TAX
 PERSONAL PROPERTY TAX

FISCAL YEAR 10
General Laws Chapter 59, § 59

THIS APPLICATION IS NOT OPEN TO PUBLIC INSPECTION (See General Laws Chapter 59, § 60)

Return to: Board of Assessors
Must be filed with assessors not later than due
date of first actual (not preliminary) tax payment
for fiscal year.

INSTRUCTIONS: Complete BOTH sides of application. Please print or type.

A. TAXPAYER INFORMATION.

Name(s) of assessed owner: 3 _____
Name(s) and status of applicant (if other than assessed owner) _____
 Subsequent owner (acquired title after January 1) on _____
 Administrator/executor. Mortgagee.
 Lessee. Other. Specify.
Mailing address _____ Telephone No. () _____
No. Street City/Town Zip Code
Amounts and dates of tax payments _____

B. PROPERTY IDENTIFICATION. Complete using information as it appears on tax bill.

Tax bill no. 11 _____ Assessed valuation \$ 4 _____
Location _____
No. Street
Description _____
Real: Parcel ID (map-block-lot) 2 _____ Land area 13 _____ Class 12 _____
Personal: _____ Property type(s) _____

C. REASON(S) ABATEMENT SOUGHT. Check reason(s) an abatement is warranted and briefly explain why it applies.
Continue explanation on attachment if necessary.

Overvaluation Incorrect usage classification
 Disproportionate assessment Other. Specify.
Applicant's opinion of: Value \$ _____ See Next Slide _____ Class _____
Explanation See Next Slide _____

How to fill out an Abatement Application (Cont.)

Section C –Reasons abatement sought

- **Applicants opinion of value:** Since you are challenging your assessment and not your taxes it is important to let the assessor know what you think your property is worth. You can leave this section blank but it is in your best interest to fill this in.
- **Explanation of your opinion of value:** Since the assessor uses their own model to value your property it is important to let them know why you think your property is over assessed and present evidence that supports your opinion of value. For example if you prepared an Income Capitalization Approach to Value and it shows a lower value than the assessment you could say that the Income does not support the assessment.

Signature Section (2nd page of the application)

- You must sign and date the section below on your abatement application or your application is void.

D. SIGNATURES.

Subscribed this _____ day of _____, _____ Under penalties of perjury.		
Signature of applicant _____		
If not an individual, signature of authorized officer _____		Title _____
(print or type) Name _____	Address _____	Telephone () _____
If signed by agent, attach copy of written authorization to sign on behalf of taxpayer.		

Important things to remember when filing an abatement application

- You need to pay your taxes on time or your appeal will be denied.
- The FY16 appeal deadline for Towns/Cities that bill quarterly is 2/1/16.
- If you received a 38D request from your local assessor you must have complied within 60 days or the assessor can throw your appeal out.
- If you file your abatement application in person you need a date stamped receipt to prove you filed the application.
- If you plan to mail your application you should use certified mail to prove it was postmarked by the appeal deadline.
- Applications filed after the appeal deadline will be denied. You must file your abatement application(s) before the deadline in order to avoid any late filing issues.
- Providing backup to support your abatement application is recommended.
- You are appealing your assessment not your taxes.

61A (Information Request)

- Some assessing jurisdictions will mail you a 61A in response to your abatement application. This is a request that you have 30 days from its mailing to respond to.
- For income producing properties, the assessors will typically ask for an income and expense statement and a rent roll.
- If you supply supporting documentation on your abatement application you are much less likely to receive a 61A.

Overview

- With subsidized housing there is a tension between two competing public policy interests:
 - The need for revenue to run the local government
 - The fact that the taxpayers are by definition, the marginal source of revenue at these projects
- There are two paths of taxation
 - Ch. 59 tax (regular ad valorem taxation)
 - This is the by right tax we commonly think of as a property tax
 - Ch. 121A/6A excise taxation
 - This tax is a grace agreed to by the parties and will not be covered here.

Overview continued

- As with a good business relationship, the importance of communications cannot be overstated.
 - With Ch.59 taxation, the municipalities may send out information requests. You should always comply with these requests within 60 days of mailing. We strongly recommend the reply's be sent by certified mail.
 - For new construction we recommend you send the assessors office a copy of the approvals and the governmental restrictions which encumber the fee interest as soon as the project approvals are final.

Commonwealth of Massachusetts

Property Tax Overview – CH 59

- Taxing procedures are controlled by proposition 2.5%, which limits the growth in the total property tax levy to 2.5% a year plus new growth.
- Fiscal year runs from July 1 to June 30. We are currently in FY 2016.
- Municipalities issue bills either quarterly (Boston) or semi-annually (Cambridge). Appeals must be filed within 30 days of the issuance of the actual property tax bill. The vast majority of municipalities issue quarterly bills.
- All properties are assessed at 100% of the **fee simple, fair market value** as of Jan 1 of the prior year.
- Each municipality sets individual property values locally. Assessments are updated annually, and each municipality performs a revaluation every three years.
- The Massachusetts DOR certifies the values and the setting of the tax rates. Each fiscal year's value stands on its own.
- Boston has split tax rates where the commercial/industrial class of properties tax rate will be calculated at 175%, for FY 2016, of what it would have been if there was a single tax rate.
- Multifamily housing is taxed at the residential rate
 - If a City or Town has a residential exemption, tax burden is shifted to multifamily properties from owner occupied properties

Typical Process for income producing properties

- Affordable housing is typically assessed via income capitalization.
- February – March mandatory information requests may be sent out for the prior calendar years rent roll, income and expense information. (more on this later)
- April through October – review and analysis of this information. Physical change information is updated on their records during this time period as well.
- Assessors then generate schedules for rental rates, combined vacancy and expense allowances and cap rates.
 - Cap rates are both extracted from market sales and built up from financial data. The tax rate is included in the cap rate.
 - Data from these schedules is applied to each property individually.
 - Values are typically certified in November by the State and the tax rate is certified by early December.
 - The assessments are then published on the 3rd quarter tax bills. Abatement applications are due 30 days after the 3rd quarter bill.

Typical owner occupied residential process

- Target is the Fair Market Value on Jan 1, of the prior year.
- For FY 16 the assessors will review 2014 sales of residential properties for the value as of Jan 1, 2015.
- They will develop land and “market adjusted cost grids” based on these sales.
- They will then apply this information to the individual property information and produce values.
- Comparable Sales drives these assessed values

Policy Issues

- Typically the levy grows between 3.5% and 5% per year. 2.5% of this growth is allowed by right, the balance is “new growth”.
- Most communities’ policy is to tax to the maximum levy burden allowed. Many also have a split rate.
- If a community wishes to they may ask the voters to override proposition 2.5%. There are two types of overrides:
 - Debt exclusion overrides for capital projects. This allows the levy to increase to cover the debt service of an approved project and expires with that project.
 - Operating override. This is a permanent override, increasing the levy burden for operations of local Government.
- These are political issues and not something we can address through the assessing scheme, however it does frame the business decisions.

Assessing process

- For Income producing properties arrive at the fee simple value by estimating the market rents as of the lien date, applying market vacancy, market expenses and market cap rates.
- Although sales are not used in setting the value of assets, Municipalities do extract cap rate data from sales and use sales per unit as a test of reasonableness when reviewing assessments.
- However, the sale of income producing properties represent the leased fee investment value of the real estate and its existing in place cash flows.
- The assessed value issued by the Assessor is deemed to be legally correct and the taxpayer has the burden of proof when challenging the assessment.
- All review of assessments is de novo. There are three levels of appeal:
 - Informal – Review before the values are finalized
 - Local – a formal application for abatement is filed timely.
 - Appellate Tax Board - Appeal to the State Board to challenge the assessment.
- For new construction, the assessors will review and consider cost information to establish the % complete and as a test of reasonableness on their values.

Valuing affordable housing in MA

- The assessors typically value affordable housing on an income approach to value. However, they will show a cost value for the land and improvements on the public cards.
- These assets should be valued considering
 - Their restricted rents
 - Their stabilized operating expenses
 - A cap rate which reflects the risk in this property class as of the lien date.
 - Cap rates are a measure of both return and risk. Return is measured by the market as is risk.
 - Risk takes three components, opportunity risk, liquidity risk and capital risk.

Expense Allowance and Cap Rates

- Expense allowances:
 - Often the most contentious area of valuation for affordable housing.
 - Given the nature of the product the expenses are often above market, especially when expressed as a percentage of the operating income; frequently by a large margin.
 - You may have to educate the assessor's office on how and why the assets expenses are as high as they are.
 - Reserve for replacement allowances should reflect the contract reserves
- Cap Rates:
 - As we all know the yield curve has been greatly compressed as a result of monetary policy on the part of the Federal Reserve. Although interest rates may increase slightly by the end of the year, it is highly likely that the Fed will keep its policy of easy money in place for the foreseeable future.
 - As a result, across all asset classes investors have been and are chasing yield.
 - In turn the value of in place rents has soared, driving up leased fee values even if the fundamentals of the property are stagnant.

Income approach example

FY16 Income Approach Example

- Since the value date for FY16 is 1/1/15 we will use the 2014 income and expense statement for the subject property.
- Real Estate taxes cannot be included in the expenses, this is accounted for by tax loading the cap rate
- Financial expenses cannot be included in the expenses and these include mortgage, Financing, depreciation, amortization and interest expenses
- Ground rent is not included in the expenses.
- As you will see in the next slide the reserves are accounted for separately

INCOME	2014	%
Potential Gross Income	\$0	0.00%
Vacancy and Collection Loss	\$0	0.00%
Apartment Income	\$0	0.00%
Office Income	\$0	0.00%
Rent Supplement	\$0	0.00%
Adj Gross - Not Itemized	\$523,133	98.81%
Other Income	\$6,323	1.19%
Charges To Tenants	\$0	0.00%
<hr/>		
TOTAL INCOME	\$529,456	100.00%
<hr/>		
EXPENSES		
General	\$0	0.00%
Advertising	\$0	0.00%
General/Admin - Not Itemized	\$135,125	25.52%
Maintenance and Repairs	\$125,875	23.77%
Franchise Fee	\$0	0.00%
Leasing Commissions	\$0	0.00%
Management Fees	\$28,388	5.36%
Tax/Insurance	\$31,764	6.00%
Gas/Electric	\$0	0.00%
Water/Sewer	\$0	0.00%
Telephone	\$0	0.00%
Utilities - Not Itemized	\$74,067	13.99%
<hr/>		
TOTAL EXPENSES	\$395,219	74.65%
<hr/>		
NET OPERATING INCOME	\$134,237	25.35%

Income approach example

CAPITALIZED INCOME ANALYSIS

FY16					
POTENTIAL GROSS INCOME (PGI)					
	<u>USE</u>	<u>AREA/UNITS</u>		<u>RATE</u>	<u>Amount</u>
	Studio	8	x	940	90,240
	1 Bed	12	x	1000	144,000
	2 Bed	16	x	1200	230,400
	3 Bed	4	x	1330	63,840
	APT1	40	x	\$1,101	528,480
	LESS VACANCY & COLLECTION LOSS @			1.00%	<u>(\$5,285)</u>
				Other Income	\$6,323
	EFFECTIVE GROSS INCOME (EGI)				\$529,518
	LESS EXPENSES:		AMOUNT	% OF EGI	AMOUNT/SF
	<i>Operating Expenses</i>		\$396,000	74.78%	\$9,900.00
	<i>Turnover reserve</i>		\$2,000	0.38%	\$50.00
	<i>Reserve for Replacements Long Term</i>		\$5,295	1.00%	\$132.38
	<i>Reserve for Replacements Short Term</i>		\$2,648	0.50%	\$66.19
	TOTAL EXPENSES		\$405,943	76.66%	\$10,148.57
	NET OPERATING INCOME (NOI)				\$123,575
				Base Cap	5.50%
				Tax Load	1.35%
	CAPITALIZATION RATE				6.85%
	MFP BASIS FOR ASSESSMENT				\$1,804,000
	UNIT VALUE				\$45,100.00
	Assessed Market Value				\$2,467,600
	UNIT VALUE				\$61,690.00

Common Questions

- If there are multiple parcels at a property do I have to appeal each parcel?
 - Yes
 - However your opinion of the correct assessment should be for the whole assemblage of parcels, and noted as such on any filings
- Do we have to allow the assessor to inspect the property?
 - Yes
- Does Prop 2 ½ limit the growth in taxes at my property
 - No. It limits the growth in the Levy.
- Can the assessor raise an assessment in response to an appeal?
 - No, unless they missed parts of the property.
 - However, they can change the following years assessment if an asset is under valued.