

# APPELLATE TAX BOARD

The Executive Office for Administration and Finance  
Commonwealth of Massachusetts



Performance Report  
Fiscal Year 2014

Thomas W. Hammond, Jr.  
Chairman

## Introductory Letter from the Chairman

The Appellate Tax Board (“ATB”) is one of the most important but least understood of all state agencies. It has exclusive, original jurisdiction over billions of dollars of taxes in appeals of every type of state and local property tax assessment. The ATB has the unique role of processing thousands of cases each year in an efficient and timely manner. The ATB’s decisions and written opinions are meticulously researched and edited to ensure that they are clearly written, understandable, and consistent with the governing statutory provisions. The staff of the ATB is mindful of its tremendous responsibilities to the taxpayers and taxing authorities and is dedicated to providing the mechanisms to resolve appeals in the most expeditious manner possible.

As Chairman, I work with my dedicated and experienced staff every day to ensure that the ATB provides a tax appeal process that is fair, consistent and conforms to the statutory provisions that govern taxation in Massachusetts. The ATB remains committed to ensuring that its mission is met with integrity and fundamental fairness.

Thomas W. Hammond Jr.  
Chairman  
Appellate Tax Board

**As an organization affiliated with the Executive Office of Administration and Finance, the Appellate Tax Board’s goals reflect and bolster the commitments of A&F to deliver Better Finance, Better Health Care, Better Performance and Better Government.**

**This report was developed pursuant to Executive Order 540, Governor Patrick’s directive to embed strategic planning and performance management across state government. The Appellate Tax Board’s FY14 Performance Report describes progress achieved against the goals set out in its 2013-2015 Strategic Plan.**

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### **Mission**

The ATB is committed to resolving tax appeals in an expeditious fashion and maintaining an appeal process which is fair, understandable and accessible to all litigants, including pro se taxpayers. By efficiently resolving tax disputes, the ATB ensures fairness to taxpayers, predictability in the enforcement of tax laws, and uninterrupted cash flows to the state and municipalities.

### **Vision**

Through increased mediation and public outreach, the ATB intends to build on its efficiencies, by increasing voluntary settlement of appeals, thereby leveraging more of its resources to the decision-making process.

### **Achievements and Challenges**

#### **Overview**

The Appellate Tax Board is a quasi-judicial agency in the executive branch but with reporting requirements to the General Court. The ATB is devoted to hearing and deciding cases on appeal from any state or local taxing authority. The ATB was established by the Legislature in 1929 to relieve the Superior Court of the large volume of tax appeals and to provide taxpayers with a less expensive and more expedient means of appeal. The ATB handles appeals related to virtually all state taxes and excises as well as appeals of local property taxes from all 351 cities and towns in the Commonwealth.

Over ninety percent of the petitions filed at the ATB are appeals of local property taxes. The remaining cases are appeals by taxpayers relating to all state taxes, including: income tax, sales and use tax, corporate excise, bank excise, estate tax and others. The ATB also has jurisdiction to hear appeals by cities and towns of valuations set by the Department of Revenue that are used in computing local aid and state assessments.

#### **Achievements**

As a result of the ATB's aggressive management of its pending cases, there has been a dramatic increase in the number of decided and settled cases, with a corresponding reduction in inventory.

In addition to scheduling more pre-trial and status conferences to facilitate settlements, the ATB has also issued record numbers of decisions and written opinions over the last several fiscal years, while maintaining its exemplary record of affirmance in over ninety percent of the decisions appeals to the Massachusetts appellate courts.

The following are examples of specific achievements in the improvement of the ATB's operations:

- The ATB continually updates its website with its latest written opinions, recent ATB decisions of broad public interest, the ATB's rules, printable copies of its forms, a guide for real estate tax appeals, and other information helpful to taxpayers and taxing authorities.
- The ATB electronically transmits copies of its Findings of Fact and Reports to anyone requesting placement on the ATB's e-mail distribution list, including tax practitioners, municipal officials, the Department of Revenue, legal publishers, and other interested parties.
- As a convenience to taxpayers and local boards of assessors located in areas distant from Boston and when funding permits, the ATB conducts property tax hearings in such cities and towns as Pittsfield, Springfield, Milford, Lawrence, Northampton, Falmouth and others as needed.
- The ATB aggressively schedules appeals to expedite resolution, with the results that many single-family residential property cases are heard and decided within six months of the date the taxpayer first files an appeal with the ATB.
- In more complex cases, which may require discovery, the retention of expert witnesses by the parties, and other pre-trial procedures, the ATB actively facilitates the settlement, mediation, and efficient litigation of the appeals through pre-trial conferences and discovery orders. In those cases that are tried, the ATB issues decisions within three to six months of hearing in most cases, unless the trial record is so extensive that more time is necessary.

## **Challenges**

As the workload of the ATB is counter-cyclical, when the state experiences an economic downturn, the number of case filings and hearings at the ATB increases. These downturns lead to increased case filings, less inclination on the part of parties to settle, and an increase in the number of appeals going to trial. The ATB was able to navigate the most recent downturn and resulting reductions in staff and space resulting from budget cuts.

As the ATB was finally able to restore some staff positions lost to budget restrictions in the past few years, our expectations for improved productivity have risen. As we continue to implement our new mediation program, we expect to make further strides in reducing inventory.


## Pre-Trial Settlements: Increase the number of appeals settled prior to a trial.




Measures	Prior Period	Previous Period	Current Period	Trend	Target	Status	Comments
Number of appeals settled prior to trial	7,898	5,532	3,881	Worsening	Number of appeals settled/ withdrawn is at least 25% of pending appeal inventory	NA	Data compares FY12, FY13 and FY14. The decrease in the number of settlements may reflect litigation posture of taxpayers as well as a significant reduction in overall case inventory.

## Dissemination of Information: Increase the amount and reach of information concerning the abatement process and Board procedures.



Measures	Prior Period	Previous Period	Current Period	Trend	Target	Status	Comments
Number of hits on ATB's procedures webpage	1,034	1,472	NA	NA	Increase in use over prior year	NA	Data compares FY12 and FY13.

## Case Management Efficiency: Improve case management capability to reduce inventory.



Measures	Prior Period	Previous Period	Current Period	Trend	Target	Status	Comments
Number of appeals mediated before trial	4	36	47	Improving	At least 24 appeals per year		Data compares FY12, FY13 and FY14. Data reflects results from recent mediation initiative. Municipalities are currently evaluating mediation options.

STATUS LEGEND		=> Target		=> 75% to <99%		< 75% of Target	NA	Not Applicable
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### Appeals: Process all appeals in an efficient and timely manner




Measures	Prior Period	Previous Period	Current Period	Trend	Target	Status	Comments
Number of appeals pending at end of fiscal year	11,502	9,690	9,455	Improving	Maintain inventory below 15,000 appeals		Data compares FY12, FY13 and FY14. The pending appeal inventory is the lowest in 10 years
Number of appeals closed by end of fiscal year	8,627	6,180	4,500	Improving	Close at least 4,000 appeals per year		Data compares FY12, FY13 and FY14.

### Quality of Adjudications: Ensure that staff exemplifies the highest levels of impartiality, integrity, and expertise in the substantive areas of the law applicable to our adjudications.

Measures	Prior Period	Previous Period	Current Period	Trend	Target	Status	Comments
Percentage of ATB appeals determinations affirmed	80%	100%	93%	Improving	>80%		Data compares FY12, FY13 and FY14.
Percentage of ATB appeals determinations reversed	20%	0%	7%	Improving	<20%		Data compares FY12, FY13 and FY14.

### Outreach: Enhance outreach to decrease case filings

Measures	Prior Period	Previous Period	Current Period	Trend	Target	Status	Comments
Number of appeals opened	4,749	4,368	4,165	Improving	Reduce from previous year		Data compares FY12, FY13 and FY14.

STATUS LEGEND		=> Target		=> 75% to <99%		< 75% of Target	NA	Not Applicable
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## Measure Descriptions

GOAL	MEASURE	DESCRIPTION
<b>Pre-Trial Settlements: Increase the number of appeals settled prior to a trial.</b>	Number of appeals settled prior to trial	This measure tracks the number of appeals settled by the Appellate Tax Board prior to a trial. Settling issues outside of court saves time, money and other resources.
<b>Dissemination of Information: Increase the amount and reach of information concerning the abatement process and Board procedures.</b>	Number of hits on ATB's procedures webpage	This measure tracks the number of hits on the procedures page: The website address is <a href="http://www.mass.gov/anf/hearings-and-appeals/oversight-agencies/atb/rules-of-practice-and-procedure-of-the.html">http://www.mass.gov/anf/hearings-and-appeals/oversight-agencies/atb/rules-of-practice-and-procedure-of-the.html</a> .
<b>Case Management Efficiency: Improve case management capability to reduce inventory.</b>	Number of appeals mediated before trial	This measure tracks the number of cases successfully mediated and settled before trial. Successful mediation saves time and ultimately costs by settling issues outside of trial.
<b>Appeals: Process all appeals in an efficient and timely manner</b>	Number of appeals pending at end of fiscal year	This measure tracks the number of appeals pending at the end of the fiscal year.
	Number of appeals closed by end of fiscal year	This measure tracks the number of appeals closed at the end of the fiscal year.
<b>Quality of Adjudications: Ensure that staff exemplifies the highest levels of impartiality, integrity, and expertise in the substantive areas of the law applicable to our adjudications.</b>	Percentage of ATB appeals determinations affirmed	This measure tracks the percent of ATB appeals determinations that are affirmed.
	Percentage of ATB appeals determinations reversed	This measure tracks the percent of ATB appeals determinations that are reversed.
<b>Outreach: Enhance outreach to decrease case filings</b>	Number of appeals opened	This measure tracks ATB's success at educating the public on the issues and evidence germane to an abatement proceeding. Fewer appeals opened results from better informal resolution of tax disputes. Informal resolution of disputes saves the parties the time and expense of litigation.

## Looking Forward

The Board anticipates implementing a new docket tracking and case scheduling software system that should greatly enhance its case management capabilities. By utilizing more effective case tracking and processing, the Board expects to better identify and expeditiously resolve high-dollar and precedent setting appeals. This new system will also enhance the Board's ability to identify and expedite resolution of appeals suitable for mediation and other alternative dispute resolution techniques to further reduce its inventory.

## Noteworthy Changes, Additions or Deletions

No noteworthy changes, additions or deletions.