



**THE COMMONWEALTH OF MASSACHUSETTS**

***Appellate Tax Board***

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**Docket No. X309118**

**MICHAEL A. BARJUM & ABIGAIL ADAMS LOWELL**  
**Appellants.**

**v.**

**BOARD OF ASSESSORS OF THE  
TOWN OF WELLESLEY**  
**Appellee.**

**DECISION WITH FINDINGS**

The assessors' Motion to Dismiss ("Motion") is allowed and the appeal is dismissed for lack of jurisdiction. On the basis of the documents submitted in support of the Motion, the appellant's opposition to the Motion, and the arguments advanced at the March 29, 2021 hearing of the Motion, the Board finds and rules as follows.

This appeal concerns the fiscal year 2020 assessment ("fiscal year at issue") of real estate tax in the amount of \$9,293.89 on property located at 387 Weston Road ("subject property"). Evidence submitted by the assessors shows that the tax bill for the fiscal year at issue exceeded \$5,000 and that the appellant failed to timely pay the fourth-quarter installment of the real estate tax bill for the fiscal year at issue. The appellant acknowledged the late payment.

The assessors also submitted evidence showing that the average of the prior three years' taxes on the subject property was \$8,361.77 and that the appellant failed to make the necessary payments to satisfy the three-year average provision under G.L. c. 59, §§ 64 and 65.

The Board has no jurisdiction over an appeal when: (1) the tax due for the fiscal year exceeds \$5,000; (2) interest is incurred on the tax bill; and (3) the three-year average provision under G.L. c. 59, §§ 64 and 65 is not met. See, e.g. ***Massachusetts Inst. of Tech. v. Assessors of Cambridge***, 422 Mass. 447, 451-52 (1996); ***Columbia Pontiac Co. v. Assessors of Boston***, 395 Mass. 1010, 1011 (1985) (ruling that payment of the full amount of the tax due without incurring interest charges is a condition precedent to the Board's jurisdiction over an abatement appeal).

In the present appeal, the tax on the subject property exceeds \$5,000, interest was incurred due to the late payment of the fourth-quarter bill, and the appellant failed to make

payments sufficient to satisfy the three-year average provision of G.L. c. 59, §§ 64 and 65.

The Board has only that jurisdiction conferred on it by statute. ***Stilson v. Assessors of Gloucester***, 385 Mass. 724, 732 (1982). Adherence to the statutory prerequisites is essential to the prosecution of appeals from refusals to abate taxes. ***New Bedford Gas & Edison Light Co. v. Assessors of Dartmouth***, 368 Mass. 745, 747 (1975); ***Old Colony R.R. Co. v. Assessors of Quincy***, 305 Mass. 509, 511-12 (1940). The Board cannot waive jurisdictional requirements.

Accordingly, the Motion is allowed and the appeal is dismissed for lack of jurisdiction.

This is a single-member Decision promulgated in accordance with G.L. c. 58A, § 1A and 831 CMR 1.20.

#### APPELLATE TAX BOARD

By: */s/ Mark J. DeFrancisco*  
Mark J. DeFrancisco, Commissioner

Attest: */s/ William J. Doherty*  
Clerk of the Board

**Property Address: 387 Weston Road**

**Fiscal Year: 2020**

**Date: March 29, 2021**

**NOTICE:** Either party to these proceedings may appeal this decision to the Massachusetts Appeals Court by filing a Notice of Appeal with this Board in accordance with the Massachusetts Rules of Appellate Procedure. Pursuant to G.L. c. 58A, § 13, no further findings of fact or report will be issued by the Board.