



**THE COMMONWEALTH OF MASSACHUSETTS**

**Appellate Tax Board**

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Boston, Massachusetts 02114

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**Docket No. F338647**

**CHABAD OF THE LONGWOOD MEDICAL AREA, LLC**  
**Appellant.**

**v.**

**BOARD OF ASSESSORS OF THE**  
**CITY OF BOSTON**  
**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 and the arguments advanced at the February 1, 2021 hearing of the Motion, the Board finds and rules as follows:

This appeal concerns the fiscal year 2019 assessment of real estate tax in the amount of \$7,935.19 on property located at 5 Worthington Street in Boston ("subject property"). Evidence submitted by the assessors shows that the appellant failed to timely pay the first-quarter installment of the fiscal year 2019 real estate tax bill and 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 \$5,561.16 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) ("[p]ayment 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 first-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 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.

**APPELLATE TAX BOARD**

/s/ Thomas W. Hammond, Jr. Chairman

/s/ Patricia M. Good Commissioner

/s/ Steven G. Elliot Commissioner

/s/ Patricia Ann Metzger Commissioner

/s/ Mark J. DeFrancisco Commissioner

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

**Property Address:** 5 Worthington Street  
**Fiscal Year:** 2019

**Date:** February 2, 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.