

COMMONWEALTH OF MASSACHUSETTS

APPELLATE TAX BOARD

JOANNE M. CHOI

v.

**BOARD OF ASSESSORS OF
THE CITY OF BOSTON**

Docket No. F349292

Promulgated:
April 1, 2024

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 City of Boston ("appellee") to abate a tax on real property located in the City of Boston owned by and assessed to Joanne M. Choi ("appellant") for fiscal year 2023 ("fiscal year at issue").

Chairman DeFrancisco heard the appellee's "Motion to Dismiss for Failure to Comply With Chapter 59, Section 59" ("Motion to Dismiss"). He was joined by Commissioners Good, Elliott, Metzger, and Bernier in allowing the Motion to Dismiss.

These findings of fact and report were made pursuant to a request by the appellant under G.L. c. 58A, § 13 and 831 CMR 1.32.¹

Joanne M. Choi, pro se, for the appellant.

Laura Caltenco, Esq. for the appellee.

¹ This citation is to the regulation in effect prior to January 5, 2024.

FINDINGS OF FACT AND REPORT

Based on testimony and documentary evidence submitted by the parties during the hearing of the Motion to Dismiss, the Appellate Tax Board ("Board") made the following findings of fact.

On January 1, 2022, the relevant valuation and assessment date for the fiscal year at issue, the appellant was the assessed owner of a condominium unit with an address of 543 Beacon Street, Unit 401 ("subject condominium unit").

The residential exemption application ("application") for the fiscal year at issue notified the appellant that "[i]n order to receive the residential exemption for Fiscal Year 2023, you must complete this application and return it to the Assessing Department even if you have received it in the past." The application further notified the appellant of the filing deadline of April 3, 2023.

The appellant delivered her application to the assessors' office in person on Wednesday, April 5, 2023. On the application, the handwritten date next to the appellant's signature is "4/5/2023," and the date stamp from the assessors' office also reflects that date. The Board thus found that the application was filed with the assessors on April 5, 2023. The filing date was thus two days beyond the due date of April 3, 2023. Therefore, as will be explained more fully in the following Opinion, the appellant failed to comply with the statutory qualifications for the residential exemption.

Accordingly, the Board granted the Motion to Dismiss and issued a decision for the appellee.

OPINION


The procedure for applying for a residential exemption is governed by G.L. c. 59, § 5C, which, with reference to G.L. c. 59, § 59, provides that a taxpayer must file for the residential exemption with the assessors in writing on the approved form by April 1 of the year to which the tax relates. In 2023, April 1 was a Saturday; the application therefore was due on April 3, 2023, the next business day.² The April 3, 2023 due date was clearly indicated on the application for the fiscal year at issue. The appellant filed the application with the assessors on April 5, 2023. Therefore, the appellant did not comply with the requirements of G.L. c. 59, § 5C.

Adherence to statutory prerequisites is essential "to prosecution of appeal from refusals to abate taxes." ***New Bedford Gas & Edison Light Co. v. Assessors of Dartmouth***, 368 Mass. 745, 747 (1975); see also ***Old Colony R. R. Co. v. Assessors of Quincy***, 305 Mass. 509, 511-12 (1940). By filing the application untimely, the appellant failed to comply with the statutory prerequisites for the residential exemption for the fiscal year at issue.

² When the last day of a filing period falls on a Saturday, Sunday or legal holiday, the due date is extended by operation of law to the following business day. See G.L. c. 59, § 59, G.L. c. 4, § 9, and G.L. c. 41, § 110A.

Accordingly, the Board granted the Motion to Dismiss and issued a decision for the appellee.

THE APPELLATE TAX BOARD

By: /S/ 
Mark J. DeFrancisco, Chairman

A true copy,
Attest: /S/ 
Clerk of the Board