



**THE COMMONWEALTH OF MASSACHUSETTS**  
**Appellate Tax Board**

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Boston, Massachusetts 02114

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**Docket No. X309230**

**DAVID GOODSELL**  
**Appellant.**

**v.**

**BOARD OF ASSESSORS OF THE**  
**TOWN OF GRANBY**  
**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 March 8, 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 on property located at 127 Batchelor Street ("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 second-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 subject property was a new parcel in fiscal year 2019 and that the tax due for fiscal year 2019 also exceeded \$5,000. The appellant failed to pay at least fifty percent of the amount due for fiscal year 2019 with his second-quarter installment that was due November 1, 2020.

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.'"). Where, as here, the subject property was taxed for the first time in the year preceding the fiscal year at issue, the years that the property was not taxed are not included in the three-year average. See G.L. c. 59, §§ 64 and 65.

Accordingly, only the preceding year may be considered the tax deemed to be due for purposes of the three-year average provision of G.L. c. 59, §§ 64 and 65.

In the present appeal, the tax on the subject property exceeds \$5,000, interest was incurred due to the late payment of the second-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.

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:** 127 Batchelor Street

**Fiscal Year:** 2020

**Date:** March 15, 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.