



THE COMMONWEALTH OF MASSACHUSETTS
Appellate Tax Board

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Docket No. F339442

I.G.W. TRUST, LEONARD F. HALLISEY, TRUSTEE
Appellant.

BOARD OF ASSESSORS OF
THE TOWN OF TEWKSBURY
Appellee.

DECISION WITH FINDINGS

The appellee's Motion to Dismiss ("Motion") is allowed and the appeal is dismissed for lack of jurisdiction.

The appellant timely filed its abatement application with the assessors on January 31, 2019, which the assessors denied on April 23, 2019. The assessor's denial was mailed to a former address of the appellant and, as a result, the denial was returned to the assessors on May 2, 2019. The assessors resent the denial to the appellant's proper address on May 2, 2019. Accordingly, the Board finds and rules that the assessors complied with the requirements of G.L. c. 59, § 63 by mailing notice of denial within ten days of their decision on the appellant's abatement application.

Because the assessors complied with § 63, the appellant had three months, or until Thursday, July 23, 2019, to file its appeal with the Board under G.L. c. 59, §§ 64 and 65. However, his appeal was not filed with the Board until September 4, 2020, well beyond the three-month statutory deadline.

The Board has only that jurisdiction conferred on it by statute. ***Stilson v. Assessors of Gloucester***, 385 Mass. 724, 732 (1982). "Since the remedy of abatement is created by statute, the board lacks jurisdiction over the subject matter of proceedings . . . where those proceedings are commenced at a later time or prosecuted in a different manner from that prescribed by statute." ***Nature Church v. Assessors of Belchertown***, 384 Mass. 811, 812 (1981); see also ***Assessors of Boston v. Suffolk Law School***, 295 Mass. 489, 495 (1936). Adherence to the 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).

The time limit provided for filing the petition is jurisdictional and a failure to comply with it must result in dismissal of the appeal. ***Doherty v. Assessors of Northborough***, Mass. ATB Findings of Fact and Reports 1990-372, 373 (citing ***Cheney v. Inhabitants of Dover***, 205 Mass. 501 (1910); see also ***Berkshire Gas Co. v. Assessors of Williamstown***, 361 Mass. 873 (1972)).

The appellant's failure to file its appeal within three months of the April 23, 2019 denial of its abatement application deprives the Board of jurisdiction over this appeal. 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. Elliott Commissioner

/s/ Patricia Ann Metzger Commissioner

/s/ Mark J. DeFrancisco Commissioner

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

Property Address: 54 Van Buren Road

Date: April 29, 2021

NOTICE: Either party to these proceedings may appeal this decision to the Massachusetts Appeals Court by filing a Notice of Appeal with the 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.