



THE COMMONWEALTH OF MASSACHUSETTS
Appellate Tax Board

*100 Cambridge Street
Suite 200
Boston, Massachusetts 02114*

(617) 727-3100
(617) 727-6234 FAX

Docket No. F339328

NICHOLAS KERAMARIS & JOHN KERAMARIS
Appellants.

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 March 15, 2021 hearing of the Motion, the Board finds and rules as follows.

This appeal concerns the fiscal year 2019 assessment ("fiscal year at issue") of real estate tax in the amount of \$12,360.48 on property located at 14 Winchester Street, Unit 1 ("subject property"). Evidence submitted by the assessors shows that the tax bill for the fiscal year at issue exceeded \$5,000 and that the appellants failed to timely pay the third-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 the fiscal year at issue. The subject property was a newly created parcel after a former three-family residence was converted into three separate condominium units by a master deed dated March 27, 2017. The three-family residence had been assessed as a single parcel but the assessors assessed the three condominium units, including the subject property, as unique parcels beginning with the fiscal year at issue. Accordingly, under the following express language of G.L. c. 59, § 64, the three-year average provision of §§ 64 and 65 is not available to the appellants:

a year in which no tax was due shall not be used in computing [the three-year average] and if no tax was due in any of the three next preceding years, the sum [that must be paid without incurring interest] shall be the full amount of said tax due.

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).

Where, as here, the three-year average provision is not available and the tax bill for the full fiscal year exceeds \$5,000, the appellants must timely pay the tax due for each instalment of the real estate tax bill without incurring interest for the Board to have jurisdiction over their appeal. In the present appeal, the tax on the subject property exceeds \$5,000 and interest was incurred due to the late payment of the third-quarter bill.

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. *Id.*

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: 14 Winchester Street, Unit 1

Date: March 19, 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.