



**THE COMMONWEALTH OF MASSACHUSETTS**

***Appellate Tax Board***

*100 Cambridge Street  
Suite 200  
Boston, Massachusetts 02114*

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

**Docket No. X309395**

**MARY KETOLA**  
**Appellant.**

**v.**

**BOARD OF ASSESSORS OF THE  
TOWN OF STOW**  
**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 assessors' denial of the appellant's application for a tax deferral under G.L. c. 59, § 5, Clause Forty-First A for fiscal year 2021. The appellant timely filed her application for deferral with the assessors on August 19, 2020, which the assessors denied on September 9, 2020. Under G.L. c. 59, §§ 64 and 65, the appellant had three months, or until December 9, 2020 to file her petition with the Board appealing the assessors' denial. The petition was date stamped by the Board on December 24, 2020.

The envelope in which the petition was mailed does not contain a postmark. The appellant did not offer any evidence of the date on which the appellant mailed her appeal to the Board. On these facts, the Board finds and rules that the appellant failed to appeal the assessors' denial of her application for deferral under Clause Forty-First A within three months of the assessors' denial as required by 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). "Since the remedy of abatement is created by statute, the board lacks jurisdiction over the subject matter of proceedings that 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) (citing ***Suffolk Law School***, 295 Mass. at 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). ***Old Colony R. Co. v. Assessors of Quincy***, 305 Mass. 509, 511-12 (1940).

Like the assessors, the Board also cannot waive jurisdictional requirements. ***Id.*** Accordingly, 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); ***Assessors of Boston v. Suffolk Law School***, 295 Mass. 489 (1936)); see also ***Berkshire Gas Co. v. Assessors of Williamstown***, 361 Mass. 873 (1972).

The appellant's failure to file its appeal within 3 months of the September 9, 2020 denial of her application for deferral under Clause Forty-First A deprives the Board of jurisdiction over this appeal. Accordingly, the appeal is dismissed for lack of jurisdiction and the decision is for the appellee.

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: 96 North Shore Drive

Date: March 9, 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.