



THE COMMONWEALTH OF MASSACHUSETTS

Appellate Tax Board

*100 Cambridge Street
Suite 200
Boston, Massachusetts 02114*

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

Docket Nos. F331117

**PZ REALTY TRUST
Appellant.**

v.

**BOARD OF ASSESSORS OF
THE CITY OF CHELSEA
Appellee.**

DECISION WITH FINDINGS

After consideration of the pleadings, the testimony offered at the hearing of this appeal, and the appellee's Motion to Dismiss ("Motion"), the Board orders that the Motion is allowed and the appeal is dismissed for lack of jurisdiction.

The appellant has appealed to this Board a fine issued under G.L. c. 40U by the City of Chelsea for the appellant's failure to remove graffiti from its property. Chapter 40U allows municipalities that adopt its provisions to issue fines for particular conduct and provides a right of hearing and appeal for those to whom fines are issued. The appellant failed to exercise its right to a hearing before a municipal hearing officer or otherwise challenge the fine or notice at the municipal level as provided by G.L. c. 40U, §§ 12 and 13. Because it failed to request such a hearing or otherwise challenge the violation notice, § 12 provides that the fine, along with penalties and interest, became "an additional assessment on the property owner's tax bill . . . and a lien upon such real estate as provided in section 42B of chapter 40."

The right to appeal a fine issued under G.L. c. 40U beyond the municipal level is provided by G.L. c. 40U, § 15, which provides that the appeal may be filed in the "district court, housing court, or other court of competent jurisdiction pursuant to section 21D of chapter 40." This Board is not a court of competent jurisdiction under G.L. c. 40, § 21D, and no statute grants the Board jurisdiction over the issuance of a Chapter 40U fine.

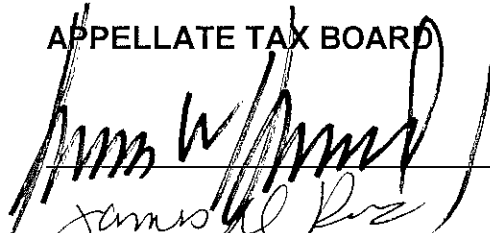
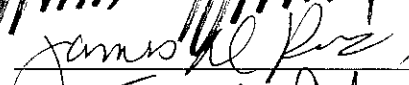
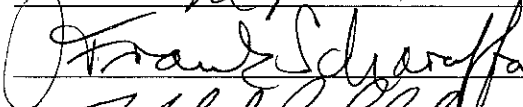


The appellant's reliance on the "additional assessment" and "lien" language of Chapter 40U does not confer jurisdiction on the Board. These provisions, which are in

aid of collection of the fine and are silent on the appropriate forum for an appeal, do not mean that the Board has jurisdiction over this appeal.

The Board has only that jurisdiction conferred on it by statute. ***Stilson v. Assessors of Gloucester***, 385 Mass. 724, 732 (1982). Because no statute confers jurisdiction on the Board and Chapter 40U explicitly confers jurisdiction over chapter 40U fines elsewhere, the Board has no jurisdiction over this appeal.

Accordingly, the Motion is allowed and the appeal is dismissed for lack of jurisdiction.

APPELLATE TAX BOARD

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|  | Chairman |
|  | Commissioner |
|  | Commissioner |
|  | Commissioner |
|  | Commissioner |

Attest:


Clerk of the Board

Date: JAN 23 2018
(Seal)

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.