



THE COMMONWEALTH OF MASSACHUSETTS

Appellate Tax Board

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Boston, Massachusetts 02114

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Docket Nos. F326420, F326421

EIGHT IRON LLC

Appellant.

**BOARD OF ASSESSORS OF THE
CITY OF SPRINGFIELD**

Appellee.

DECISION WITH FINDINGS

The assessors' Motion to Dismiss is allowed and the appeals are dismissed for lack of jurisdiction. On the basis of the pleadings submitted by the assessors and the appellant and the arguments advanced at the March 23, 2017 hearing of the assessors' Motion to Dismiss, the Board finds and rules as follows.

These appeals concern the fiscal year 2015 assessment on two parcels in Springfield: 145 Armory Street and NS Agnew Street ("parcels at issue"). As a result of what the appellant referred to as an "internal clerical error" on the part of appellant, the appellant's payments of the first installments of the actual tax bill on the parcels at issue for fiscal year 2015 were mailed to the wrong address. As a result of this error, the payments, which were due on February 2, 2015, was not made until March 2, 2015.

Beginning with the first preliminary tax bill for fiscal year 2015, which was due on or before August 1, 2014, the City changed the mailing address for Springfield real estate tax payments; taxpayers were directed to mail their fiscal year 2015 tax payments to a post office box in Woburn, rather than the post office box in Boston where payments for previous fiscal years were mailed. The appellant properly addressed and timely made its tax payments for the first two installments of the fiscal year 2015 bill, due on or before August 1 and November 1, 2014. However, for the third quarter bill, which was the first installment of the actual tax bill for fiscal year 2015, the appellant mailed its payments to the old Boston post office box address. As a result, the third quarter payments did not arrive at the proper address on or before the February 2, 2015 due date; once the appellant learned of the mistake, it sent its payment, plus accrued interest, to the proper address. The payments were made on March 2, 2015.

The Board has no jurisdiction over an appeal when: (1) the tax due for the fiscal year exceeds \$3,000; (2) interest is incurred on the actual tax bill; and (3) the three-year average provision under §§ 64 and 65 is not met. See, e.g. *Massachusetts Inst. Of Tech. v. Assessors of Cambridge*, 422 Mass. 337, 451-52 (1996); *Columbia Pontiac*

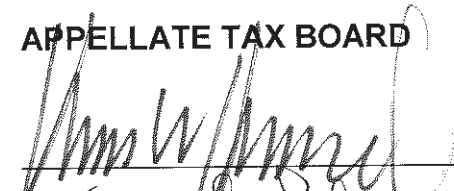

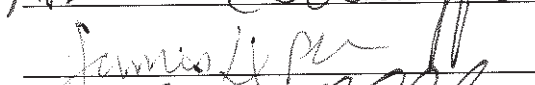
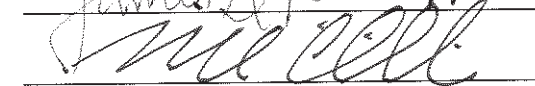

Co. v. Assessors of Boston, 395 Mass. 1010, 1011 (1985) ("payment of the full amount of the tax due without incurring interest charges is a condition precedent to the board's jurisdiction over an abatement appeal.").


In the present appeals, the taxes on these parcels each exceed \$3,000, interest was incurred due to the late payments of the third quarter installment of the actual tax bills, and the appellant does not qualify under the three-year average provision.

The appellant's reliance on **Mount Auburn Hospital v. Assessors of Watertown**, 55 Mass. App. Ct. 611 (1981) is misplaced. In **Mount Auburn**, the Appeals Court upheld the Board's finding, based substantial evidence offered by both parties, that the appellant there hand delivered its payment to the town treasurer on the due date between noon and 5 p.m.; the payment was not deposited by the treasurer until the following day due to a business practice of not depositing checks received after noon until the following day. *Id.* at 614. In contrast to the taxpayer's actual delivery of payment on the due date by the taxpayer in **Mount Auburn**, the appellant here made no such showing; rather, through its own inadvertence, the critical third quarter payment was mailed to the wrong address resulting in its actual receipt one month late.

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

APPELLATE TAX BOARD

	Chairman
	Commissioner
	Commissioner
	Commissioner
	Commissioner

Attest: 
Clerk of the Board

Date: **MAR 30 2017**
(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.