

MEDFORD INVESTOR ASSOCIATES, LLC, :
 :
 PETITIONER, :
 :
 V. : COMMISSIONER OF EDUCATION
 :
 BOARD OF EDUCATION OF THE TOWNSHIP : DECISION
 OF MEDFORD, BURLINGTON COUNTY; :
 HARTFORD ROAD ASSOCIATES, LLC and :
 SURETY TITLE COMPANY, :
 :
 RESPONDENTS. :
 _____ :

SYNOPSIS

Petitioner Medford Investor Associates (MIA) sought a determination that the respondent Board violated various school laws when it entered into an agreement to lease office space from respondent Hartford Road Associates (Hartford). Until June 30, 2012, the Board had leased office space from the petitioner. The Board entered into a five year lease with Hartford on September 21, 2009, which began when MIA's lease ended on June 30, 2012. The Hartford lease was approved at a public meeting on the evening of September 21, 2009, and a representative of MIA received an email copy of the Hartford lease on September 2, 2010. MIA filed its complaint in Superior Court on January 25, 2012, and the matter was subsequently transferred to the Commissioner on jurisdictional grounds. The Board contended that MIA did not have standing to bring this matter, and that MIA failed to file its petition in accord with the 90-day limitation period set forth in *N.J.A.C. 6A:3-1.3(i)*. MIA argued that it had standing to challenge the Board's action as a taxpayer within the school district, and that the 90-day rule should not apply under the circumstances of this matter.

The ALJ found, *inter alia*, that: there are no material facts in dispute, and the matter is ripe for summary decision; MIA has standing in this matter because, as a taxpayer within the school district, they have an interest in ensuring the proper use of taxpayer funds by the Board; however, MIA's petition was untimely pursuant to *N.J.A.C. 6A:3-1.3(i)* since it was not filed within 90 days of receiving notice of the Board's final action with respect to the Hartford lease; any violation of the school laws by the Board, as alleged by MIA, would have been attributable to the Board's decisions to approve the Hartford lease, approve amendments, and approve easements, and accordingly there was no "continuing violation" that tolled the 90-day rule; and MIA failed to show any compelling reason to relax the rule. The ALJ denied petitioner's motion for summary decision, and granted the respondents' motion to dismiss.

Upon full consideration, the Commissioner concurred with the ALJ's findings and conclusions, and adopted the Initial Decision as the final decision in this matter.

This synopsis is not part of the Commissioner's decision. It has been prepared for the convenience of the reader. It has been neither reviewed nor approved by the Commissioner.

November 25, 2013

OAL DKT. NO. EDU 13285-12
AGENCY DKT. NO. 259-9/12

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The record of this matter and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed. The parties did not file exceptions to the Initial Decision.

Upon full consideration, the Commissioner concurs with the Administrative Law Judge that the instant petition is appropriately dismissed because it was filed outside the 90-day limitation period set forth in *N.J.A.C. 6A:3-1.3(i)*. The Commissioner likewise concurs that petitioner has failed to set forth any compelling reason to relax the timely filing requirement.

Accordingly, the recommended decision of the OAL is adopted as the final decision in this matter for the reasons stated therein, and the instant Petition of Appeal is hereby dismissed.

IT IS SO ORDERED.*

COMMISSIONER OF EDUCATION

Date of Decision: November 25, 2013

Date of Mailing: November 26, 2013

* This decision may be appealed to the Appellate Division of the Superior Court pursuant to *P.L. 2008, c. 36 (N.J.S.A. 18A:6-9.1)*.