

February 17, 2004

In Re: Frank Gelormini
Docket #35WRMERZX5760

Statement of Record:

- (1) Frank Gelormini (hereafter Petitioner) filed a Tax Review Board appeal of water/sewer charges for the property address of 3551 Kensington Avenue Philadelphia, Pa. on August 20, 2001.
- (2) A public hearing was scheduled before the Tax Review Board (TRB) Master for November 2, 2001. This hearing was continued at Petitioners request because his lawyer failed to appear.
- (3) A second public hearing was scheduled before the TRB Master for April 25, 2002. The decision of the Masters as ratified by the TRB, was to deny the petition because Petitioner failed to appear.
- (4) Petitioner requested, and was granted, a rehearing.
- (5) A public hearing before a Master was continued on December 19, 2002.
- (6) A public hearing before a Master was held May 30, 2003 following which the decision of the Master, as ratified by the TRB, was to deny the petition.
- (7) Petitioner requested, and was granted a hearing before the full TRB. A de novo hearing before the TRB was held on September 25, 2003, following which the TRB announced its decision to abate $\frac{3}{4}$ of the penalty and the lien charges contingent on payment arrangements being entered into by Petitioner.

Findings of Facts:

1. Petitioner appeared before the TRB to challenge the water/sewer bill for the property at 3551 Kensington Avenue for the period 8-22-95 to 6-19-01.
2. The amount due as of the hearing date, as presented by the Water Revenue Department representative was \$6,196.64 in principal, \$1783.45 in penalties, \$110 in liens, for a total of \$8,090.09.
3. Petitioner was represented by Counsel, who conceded in his opening statement that Petitioner owed "probably a couple thousand, but not \$8000". Notes of Testimony, Page 6.
4. The property in question is a residential duplex. There was no evidence presented as to tenancy or usage for any time period. However, Petitioner testified that the property was vacant in 1994 and 1995, and rented sometime thereafter.
5. Petitioner testified that he initially disputed the water/sewer bill in 1995.
6. Petitioner made no payments from 1995 through 2002. On January 13, 2003 he paid \$2953.00. This money was used by the Water Revenue Bureau to pay as many open bills as it could cover. A subsequent bill arrived for \$8090 and was the subject of the hearing before the TRB.
7. There was no dispute that water was being used at the property.

8. Petitioners' Counsel presented 2 bills from different time periods showing 2 different amounts due, to make the point that the most recent bill of \$8090.09 was incorrect.
9. The Water Revenue Bureau (WRB) explained the 2 different situations that generated these bills. The first being that at the time Petitioner appealed for a hearing, the moneys in dispute were separated from the current billing and segregated into a separate category. Therefore, subsequent bills received by Petitioner did not reflect the amount in question, thus making it appear that the total amount due on the account was less than the true total for this account. Even after the disputed amount was segregated from the current bills, Petitioner did not make any payments and the total bill due continued to escalate. There was no explanation for why petitioner did not pay the current billings as they came due. The segregated moneys were returned to the active billing after the TRB hearing, along with any adjustments made as a result of the hearing. This explains why Petitioners may have received bills with differing amounts.
10. Additional bills continued to come due each and every month for water being used at the property. Petitioner presented no evidence to dispute that the water was used, or establish that the bills were incorrect. Petitioner also conceded that other than the one payment in January 2003, there were no payments made on this account from 1995 to the present.
11. Petitioners attorney in his closing conceded that Petitioner had not made regular monthly payments either before or after his TRB Master hearing, owed some amount of money, possibly in the thousands, to the Water Revenue Bureau, but was pleading for consideration by the Board with regard to the penalty, lien charges and principal because Petitioner was unaware of the true total of charges.

Conclusions of Law:

As the property owner, Petitioner is responsible for payment of the water/sewer bills generated by the Water Revenue Bureau from water meter readings. Water Revenue Bureau Regulations §100.2(a).

Petitioner did not dispute receiving these bills on a monthly basis. Petitioner did not dispute that the water was used. Petitioner did not produce any evidence to establish the bills were incorrect as issued.

Petitioner acknowledged that he did not pay the bills, with the exception of one payment in the amount of \$2953.00 made January 13, 2003. All bills since then had not been paid either.

Petitioner questioned the large amount of the bill, both principal and penalties without considering that approximately 9 years of service charge, usage and delinquencies on a two-unit duplex had accumulated to create such a high delinquency.

While Petitioner initially challenged the bills received in 1995, there was no explanation as to why all bills thereafter, right through to the present went unpaid. Nor was there any evidence to show the tenancy or usage of the property to be inconsistent with the issued bills.

Petitioner's confusion regarding the varying amounts of the bills received at the time of the TRB hearing was understandable since the Water Revenue Bureau billing practices are not always clearly explained.

However, Petitioner's attorney conceded that even after making what he thought was the complete and full payment of \$2953, when he received the next large bill, Petitioner knew that he owed some, if not all of it for past delinquencies. In addition, even after the Master's hearing, Petitioner still did not begin to pay the current monthly bills as issued in 2002 and 2003, even though the dispute did not involve these bills.

Therefore it was the decision of the Tax Review Board to abate $\frac{3}{4}$ of the penalty and the lien charge contingent on Petitioner entering into a payment arrangement for the balance.

Concurred:

Christopher Booth, Jr. Esq.

Una Vee Bruce

Joseph Ferla