

March 10, 2004

IN RE: MARIE GUTEKUNST
DOCKET NO: 35WRMERZX4271

STATEMENT OF RECORD:

1. Marie Gutekunst (hereafter "Petitioner") filed a Tax Review Board Petition for Appeal on May 13, 2003 for water/sewer charges billed for the property at 2050 East Huntingdon St. Philadelphia, Pa.
2. A public hearing before a Tax Review Board Master was held on August 12, 2003. The decision of the Master, ratified by the Tax Review Board, was to deny the petition.
3. Petitioner appealed for a hearing before the Tax Review Board and was granted a rehearing.
4. A de novo hearing before the Tax Review Board was held on December 2, 2003. The decision of the Tax Review Board was to abate penalties and lien charges for the period December 3, 1987 to August 12, 1999.
5. Petitioner has appealed to the Philadelphia Court of Common Pleas.

FINDINGS OF FACT:

1. Petitioner appeared before the Tax Review Board to review the water bill for the property 2050 East Huntingdon St. Philadelphia, Pa. The period in question is December 3, 1987 to August 12, 1999. The amounts due, at the time of the hearing, were principal \$6,245.90, penalties of \$1,387.41, and lien charges of \$140, for a total of \$7,773.31.
2. In 1993, Petitioner applied for a low income agreement with the Water Revenue Bureau. She was approved and entered into an agreement to pay \$45.00 per month. During the course of this agreement, in any month when this amount did not cover the amount of her actual monthly bill, the excess amount due over the \$45.00 was set aside in a separate account known as a 220 account, to be due and payable when the Petitioner's low income agreement ended. As long as Petitioner paid the \$45.00 per month her account was considered current even if there was an excess amount due and the account would not move into a shut off status.
3. This low income agreement ended sometime in the late 1990's and Petitioner continue to pay the \$45.00 per month. This amount was used by the Water Revenue Bureau to pay her current bill each month.
4. During the time that she was in the low income agreement, Petitioner's 220 account amassed the excess liability of the \$6,245.90 in question plus penalties and lien charges as listed in 1. above.
5. Petitioner testified that she was not aware precisely of how her monthly payments had been applied since the ending of the agreement. It was explained by the Water Revenue Bureau Representative, Bonita Grant, that the payments had been used to pay her current monthly bills and had not been applied to reduce the 220 account balance.
6. Petitioner requested abatement of the penalties accrued against the 220 account liabilities. She testified that this would facilitate her ability to make some kind of payment arrangement with the Water Revenue Bureau to pay off this delinquency while continuing to pay her current bills each month. See Notes of Testimony, Pages 6-8. The Water Revenue Bureau had no objection to this request.

CONCLUSIONS OF LAW:

The Philadelphia Code Chapter 19-1705(2) provides that the Tax Review Board may abate interest and/or penalties, accrued against delinquent liabilities owed to the City, upon a finding that the taxpayer has “acted in good faith, without any negligence and no intent to defraud.”

In this case, Petitioner faithfully adhered to the terms of her low income agreement with the City of Philadelphia Water Revenue Bureau making \$45.00 monthly payments as required. Following the ending of this agreement, Petitioner has continued to pay \$45.00 each month towards her water/sewer bill.

Petitioner did not question the amount of the monthly bills or address any challenge to the water usage at the Tax Review Board hearing. She had questions about where her payments were being applied. These questions were answered to the satisfaction of the Tax Review Board, and it appeared at the time, to the satisfaction of Petitioner. The payments were being applied to each month’s current bill and not to any prior outstanding balances attributable to the low income loan agreement to which Petitioner was a party. Following this explanation by the Water Revenue Bureau representative, Petitioner requested an abatement of penalties so she could begin to pay the arrearages. Therefore the decision of the Tax Review Board was to abate the penalties and lien charges.

Concurred:

Derrick Johnson, CPA, Chair

Christopher Booth, Jr., Esq.

Joseph Ferla

Una Vee Bruce