April 15, 2003

IN RE: EARL AND JULIA BARBER
DOCKET NOS: 36REINPZZ7542; 36REINPZZ7543; 36REINPZZ7544

STATEMENT OF RECORD:

1. Earl and Julia Barber (hereafter 'Petitioners") filed Petitions for Waiver of Interest and Penalty accrued against delinquent real estate taxes for the properties at 1979 West Hunting Park Avenue, 1981 West Hunting Park Avenue and 2837 North 25th St., all in the city of Philadelphia. These petitions were filed July 2, 2001.
2. A public hearing was held before a Tax Review Board Master on November 1, 2001. The decision of the Master, ratified by the Tax Review Board, was to deny the petitions. Petitioners appealed and were granted a de novo hearing before the full Tax Review Board.
3. A public hearing was held before the Tax Review Board on December 12, 2000. Following the hearing, the Board announced its decision to deny the petition.
4. Petitioners have appealed to the Philadelphia Court of Common Pleas.

FINDINGS OF FACT:

1.Petitioners appealed for waiver of interest and penalty that had accrued for the following three properties:

> *1979 West Hunting Park Avenue*; petition years 1984 through 1993 and 2001; principal due: $4983.71; interest as of hearing date: $4506.94, penalty as of hearing date: $348.86.
>
> *1981 West Hunting Park Avenue*; petition years 1987 through 2001; principal due: $8298.37, interest as of hearing date: $4896.61, penalty as of hearing date: $580.92.
>
> *2837 North 25th St.;* petition years 1985 through 2001; principal due: $5173.65; interest as of hearing date: $3500; penalty as of hearing date:$362.18.

2. Petitioners owned these three (3) properties during all the tax years in question and through to the hearing date.

3. In 1993, Petitioners filed the first of what was to be a string of bankruptcies. It was unclear from the testimony and documents whether there were three (3) or four (4) bankruptcies.

4.Mr. Barber testified at the hearing that it was his belief that payments made to the bankruptcy trustee were sufficient to have paid the real estate taxes on these properties.

5. Mr. Barber provided many pages of documents to the Tax Review Board. Included in these documents was a letter from Petitioners' former attorney, Mr. Jeffrey Toaltan, dated May 31, 2001, who had represented Petitioners in at least one bankruptcy filing

to Petitioners. This letter, referred to at the hearing by Chairman Saidel, was directed to Petitioner and indicated that the real estate taxes owed to the City of Philadelphia were not paid and were not discharged by the bankruptcy. Mr. Barber's response to Mr. Saidel was that Mr. Toaltan was no longer his attorney as he had fired him and that he was a liar. See Notes of Testimony, Page 17.

6. The city's representatives testified to the information in the city's records that indicated that sufficient payments had not been received to cover these real estate taxes. In 2000, Petitioner made two payments totalling $5,033.87 for delinquent real estate taxes. Petitioners had not entered into any payment plan for these taxes.

7. Petitioners reside at 1979 West Hunting Park Avenue.

CONCLUSIONS OF LAW:
The Tax Review Board may abate interest and penalty in whole or in part "where in the opinion of the Board the petitioner acted in good faith, without negligence and no intent to defraud." The Philadelphia Code Chapter 19-1705(2).

Petitioners had been told on numerous occasions by both their own attorney and representatives of the City that the real estate taxes for these three (3) properties were due and owing despite Petitioners' bankruptcy filings and payments to the bankruptcy trustee. Petitioners' response to this information seemed to only invoke subsequent bankruptcy filings rather than an attempt to understand and resolve these delinquencies.

Despite this repeated information that the taxes are due and owing, Petitioners have not made any payments toward these tax delinquencies.

Petitioners need only one of these properties as their residence. It is unclear how the other two are used.

Petitioners responses to the Board did not adequately demonstrate the good faith necessary for the Board to abate interest or penalty.

Therefore the decision of the Tax Review Board was to deny the petitions.

Concurred:

Daniel Saidel, Esq., Chair
Derrick Johnson, Vice-Chair
Una Vee Bruce
Joseph Ferla
Wade Stevens