

September 1, 2016

In Re: Russell P. Hughes Land Development, LLC

Docket Nos: 36REINPZY9464 for 1645 Belfield Ave;  
36REINPZY9465 for 1735-55 Windrim Ave.;;  
36REINPZY9466 for 1599 Windrim Ave.;;  
36REINPZY9467 for 1499 Windrim Ave.

The Tax Review Board hereby incorporates by reference the its Opinion dated October 27, 2015, in the matter of Russell P. Hughes Land Development, LLC which covers TRB Docket Nos: 36REINPZY9464, 36REINPZY9465, and 36REINPZY9466

Statement of Record:

- 1) Russell P. Hughes Land Development, LLC (hereafter: "Petitioner") filed 4 Petitions for Appeal with the Tax Review Board (TRB) on March 16, 2014 for the above captioned properties, all located in Philadelphia PA. Each property had delinquent Real Estate Taxes outstanding for multiple years. The Petitions for Appeal requested consideration for interest and penalty abatements.
- 2) The Tax Review Board scheduled multiple public hearing opportunities and on August 4, 2015 issued decisions to deny the petitions for Docket Nos: 36REINPZY9464, 9465 and 9466, for failure to appear on the part of the Petitioner.
- 3) Petitioner filed an appeal of these decisions to the Court of Common Pleas.
- 4) This matter was remanded to the TRB by Court of Common Pleas Order dated December 29, 2015 which reversed the TRB's decision of August 4, 2015 and directed the TRB to provide "a hearing with regard to all properties."
- 5) In compliance with the Court Order to provide a hearing for Petitioner, the TRB scheduled a public hearing for April 7, 2016 for the 3 docket numbers that were part of the Court of Common Pleas appeal and Order and the additional Docket No. 36REINPZY9467. Petitioner was notified by letter with a mailing date of March 11, 2016.  
At the public hearing, Petitioner failed to appear to present its case and the matters were denied by the TRB. Petitioner was notified of the decision by letters dated April 14, 2016.
- 6) Petitioner filed an appeal of the TRB decision on April 7, 2016 to the Court of Common Pleas.

Discussion:

In an administrative hearing before the Tax Review Board, the burden of proof is on the petitioning party to provide substantial evidence to establish that his appeal should be granted.

The burden is on the taxpayer to prove that the assessment is incorrect or warrants adjustment. See City of Philadelphia v. Litvin, 235 A.2d 157, Pa Super. 1967.

The Philadelphia Code Chapter 19-1705(2) provides authority to the TRB "to abate in whole or in part interest or penalties, or both, where in the opinion of the Board the Petitioner acted in good faith,

without negligence and no intent to defraud.” The responsibility to provide evidence that this standard was met lies with the Petitioner.

The TRB scheduled a hearing to provide Petitioner with the opportunity to present evidence to establish it met the above criteria for any waiver of interest or penalties on the Real Estate Tax delinquencies for the 4 properties under appeal.

Individual hearing notices for each property were sent to Petitioner’s named representative at the address provided on the Petition for Appeal. The letters were not returned by the U.S. Post Office and there was no communication from Petitioner prior to the TRB hearing.

At the hearing before the Board on April 7, 2016, no one appeared on behalf of Petitioner. There was no evidence presented by Petitioner.

The decision of the TRB was to deny the petitions for failure to appear to put forward its case on the matters it appealed.

Concurred:

Nancy Kammerdeiner, Chair

Joseph Ferla

Kaitlin McKenzie-Fiumara, Esq.

Gaetano Piccirilli, Esq.