

April 20, 2012

In Re: Hugh Prince

Docket No: 35WRMERZW7520

STATEMENT OF RECORD:

1. Hugh Prince (hereafter "Petitioner") filed a Petition for Appeal with the Tax Review Board (TRB) on July 26, 2010 for review of the Water Revenue bill for the property located at 449 North 53<sup>rd</sup> St. Philadelphia, Pa.
2. A public hearing before the TRB was scheduled for August 9, 2011 following which the Board announced its decision to abate the penalties, to adjust the water usage for the period April 19, 2002 to April 28, 2010 based on 2000 cubic feet per month, and provide 90 days from the date of the adjusted bill to make payment arrangements.
3. Petitioner filed an appeal to the Philadelphia Court of Common Pleas.

FINDINGS OF FACT:

1. Petitioner requested a review of the water revenue Bureau bill for the property at 449 North 53<sup>rd</sup> St. Philadelphia, Pa. covering the period November 13, 1996 through April 28, 2010. The principal due was \$22,323.77, with penalties due as of the TRB hearing date of \$7,461.31, and lien charges of \$241, for a total due of \$30,025.08.
2. Petitioner purchased the property at 449 North 53<sup>rd</sup> St. Philadelphia, Pa. on April 10, 2010. He purchased without a title search, title insurance or representation.
3. The purchase price was \$1.00 for a property in very poor condition that was in need of major repairs and renovations. Petitioner purchased this property to be his primary residence for himself and his family.
4. Petitioner was unaware when he purchased the property that there were and water bill and other tax delinquencies accrued against the property.
5. At the time of Petitioner's purchase, there was no one living in the property. It was vacant. Even so, the period from May 2007 through May 2008 showed exceptionally high usage
6. On April 28, 2010, a representative of the Philadelphia Water Department (PWD) came out to the property to change the ERT on the water meter.
7. Prior to and at the time of this meter change, the property did not have running water. However, according to Petitioner's testimony, even though there was no water coming into the property, the meter was "spinning". See Notes of Testimony, page 4.
8. After the ERT change on April 28, 2010, Petitioner was told to hire a licensed plumber to turn on the water at the property, and he did so. The plumber he hired told him he was unable to turn on the water. The plumber told Petitioner that the City would have to turn on the water because they had put on a "lock" and they would have to "unlock" it. See Notes of Testimony, page 5.

9. It was unclear how the water was turned on, but shortly thereafter, Petitioner received the bill in question covering the period of time prior to his ownership. Petitioner promptly contacted the WRB to address the bill
10. WRB records indicated an ERT change occurred on April 28, 2010 and confirmed that the water was off, but did not contain any notations as to the meter condition or whether it was “spinning”.

#### CONCLUSIONS OF LAW:

As the owner of the property, Petitioner bears responsibility for the water/sewer bill even if the usage and service occurred prior to his ownership. Delinquent water/sewer charges becomes liens against the property that survive the change in ownership.

By failing to secure a title search prior to purchasing the property, Petitioner became the property owner with no knowledge of the existing liens and liabilities, but this does not allow the discharge of such liens and liabilities. The information was available had Petitioner known to look for it or hired someone to represent his interests. The city cannot bear the responsibility or loss of revenue in this situation.

However there were some circumstances that were found by the TRB to warrant adjustments to the bill.

The TRB gave weight to Petitioner’s testimony that at the time of his purchase the meter could be seen to be spinning although the water was turned off to the property. In addition, there was testimony that the property was vacant at the time of purchase. The fact that water was turned off to the property was confirmed by the WRB.

The decision of the Board was to reduce the usage amounts for the months from April 19, 2007 to April 28, 2010 where the usage appeared to be extremely high when compared to prior and subsequent months to no more than 2000 cubic feet per month.

In addition, it was the finding of the TRB that Petitioner met the standard set forth in The Philadelphia Code Chapter 19-1705(2) for abatement of interest and penalties by acting “in good faith, without negligence and no intent to defraud”. He responded promptly to the WRB billing, his first indication as to the existence of this large delinquency, and made attempts to address the situation, including the timely filing of the TRBV petition.

In addition, the Board decision provided the Petitioner with 90 days from the WRB adjusted bill to enter into a payment agreement for the remaining balance.

Concurred:

T. David Williams, Esq., Chair

Joseph Ferla

LaVon Wells-Chancy

George Mathew, CPA

Nancy Kammerdeiner

