

November 23, 2011

In Re: Rose Spraglin
Docket No: 36REINPZZ2615

Statement of Record:

1. Rose Spraglin (hereafter "Petitioner") filed a Petition for Appeal requesting waiver of interest and penalties accrued against delinquent Real Estate taxes for the property at 6134 Hazel Ave. Philadelphia, Pa. for the tax years 2005 and 2007. This petition was filed with the Tax Review Board on July 23, 2008.
2. A public hearing was scheduled for October 17, 2008 and continued at Petitioner's request.
3. A public hearing was held on December 19, 2008 before a Tax Review Board Master. The decision of the Master, as ratified by the Tax Review Board, was to deny the petition.
4. Petitioner requested and was granted a rehearing before the full Tax Review Board.
5. A public hearing before the Tax Review board was held May 12, 2009. The matter was continued from the hearing for the City to provide a full accounting of Petitioner's account.
6. A public hearing was held December 14, 2010 and was continued for the City representative to provide an accounting to Petitioner for all payments made on the account.
7. A public hearing was held on January 18, 2011 following which the Tax Review Board announced its decision to abate all interest and all penalty contingent on Petitioner entering into a payment arrangement with the City within 90 days.
8. Petitioner filed a new Petition for Appeal on August 24, 2011 again requesting review of the 2005 and 2007 Real Estate tax years. This petition was not accepted as these tax years had been previously reviewed by the Tax Review Board.
9. Petitioner has appealed the decision rendered on July 28, 2011 to the Philadelphia Court of Common Pleas.

Finding of Facts:

1. Petitioner filed an appeal requesting interest and penalty waiver for the tax years 2005 and 2007. The tax principal was \$535.46, interest of \$176.02 and penalty of \$37.47 as of the TRB hearing, lien charges of \$20.71, and legal fees of \$138.51, for a total due of \$908.17.
2. Petitioner testified that she was willing to pay the tax principal. See Notes of Testimony, 1-28-11, page 5.
3. There was no dispute that Petitioner had been making regular payments over the course of several years, including 2005 and 2007.
4. Because Petitioner was in arrears for years other than 2005 and 2007, at least some of the payments made in 2005 and 2007 were applied by the City to those earlier year delinquencies. This was the cause of the 2005 and 2007 tax principal amounts that were still unpaid.

5. Petitioner had expressed at the earlier hearing on December 14, 2010 that her concern was that she was not having all of her payments applied to the delinquencies. It was at that time that the Board directed the City to provide an accounting of all payments and how they were credited to this account.
6. At the hearing on July 28, 2011, Petitioner acknowledged that she had received paperwork and had a meeting outside of the hearing process that provided the information as to how the payments she had made had been applied.
7. Although Petitioner had made payments during the 2005 and 2007 tax years, these payments were applied to earlier tax years where there were still amounts due and owing. This resulted in the 2005 and 2007 delinquencies that were the subject of the TRB appeal.
8. In addition, Petitioner was making payments toward delinquent Real Estate taxes for another property she owned and in which she resided. This property located at 1010 South 60th St. Philadelphia, Pa was also the subject of a TRB Petition for Appeal under assigned Docket No: 36REINPZZ2614.

CONCLUSIONS OF LAW:

The Philadelphia Code Chapter 19-1705(2) provides that (u)pon the filing of any petition for the waiver of interest and penalties accruing upon any unpaid money or claim collectible by the Department of Revenue, for or on behalf of the City or the School District of Philadelphia, the Tax Review Board may 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.

Although it was not established why or how Petitioner had fallen into arrears with the Real Estate taxes for this property, it was clear that she had been making payments for the last several years in an earnest attempt to pay everything due and have the tax account for this property paid up to date.

In addition, Petitioner appeared willing to make additional payments necessary to bring the account current but requested relief from the interest and penalty as she had been unaware or confused as to why the payments she had been making had not closed the gap and paid everything due. Despite this lack of clarity, Petitioner continued, in good faith, to make payments towards this delinquency.

Therefore, the decision of the Tax Review Board was to abate the accrued interest and penalty and to allow her 90 days to make payment arrangements for the balance due.

Concurred:

T. David Williams, Esq., Chair
Joseph Ferla
Nancy Kammerdeiner