August 5, 2016

IN RE: Kelly Dutton

Docket No: 36REINPZY8562

Property: 46 North 51st St. Philadelphia, PA

Statement of Record:

1) Kelly Dutton (hereafter "Petitioner") filed a Petition for Appeal with the Tax Review Board (TRB) on September 16, 2014 requesting review of a Real Estate Tax bill for the property at 46 North 51st St., Philadelphia, PA for the years 1981 through 2013.
2) A public hearing before a TRB Hearing Master was scheduled for November 17, 2014. The decision of the Master, as ratified by the TRB, was to abate the penalty.
3) Petitioner requested and was granted a rehearing before the full TRB.
4) A public hearing before the TRB was scheduled for April 14, 2015 and continued at that time.
5) A public hearing before the TRB was scheduled for June 4, 2015. The decision of the TRB was to deny the petition for failure to appear by the Petitioner.
6) Petitioner requested and was granted a rehearing, due to a TRB clerical error regarding the prior hearing date.
7) A public hearing date before the TRB was scheduled for November 12, 2015. At the conclusion of the hearing, the Board announced its decision to abate the penalty with 60 days to arrange installments to pay the balance.
8) Petitioner filed an appeal to the Court of Common Pleas.

Findings of Fact:

1) Petitioner filed an appeal to the Tax Review Board regarding a waiver of interest and penalty charges accrued against delinquent Real Estate Taxes for the property at 46 North 51st St., Philadelphia, PA.
2) As of the November 12, 2015 TRB hearing date, the following delinquent amounts were due to the City of Philadelphia for the tax years 1981 through 2013.
   Tax principal: $17,115.53
   Interest: $24,240.65
   Penalty: $1,198.10
   Liens: $550
   Legal fees: $5,460.27
   Total due: $48,564.55
3) Petitioner acquired the property in 2014 from his mother as a family transfer for $1 consideration.
4) City records reflected no payments on this account for the entirety of the appeal period which went back more than 30 years to 1981.

5) Petitioner testified that he began residing in the property at some time in 2014. Immediately prior to that, a cousin of Petitioner's had resided in the property.
6) His mother had owned the property since 2001.
7) Another family member, Darryl Dutton, owned the property from 1984 when he deeded it for $1.00 to Petitioner's mother.
8) Petitioner was addressing the delinquency at this time because it was impeding his ability to obtain construction financing for the property.
9) Petitioner requested abatement of all charges other than the tax principal amount which he stated he would be able to pay.
10) Petitioner did not put forth any explanation to explain the circumstances of 35 years without any payments made toward the annual Real Estate Tax Liabilities.
11) Petitioner acknowledged owning 4 other properties in Philadelphia with varying years of Real Estate Tax delinquency.
12) At the time of the TRB hearing, the Real Estate Taxes for the 2014 tax year had not been paid for this property.

Conclusions of Law:

Petitioner requested abatement of all interest, penalties, fee & charges accrued against delinquent Real Estate Taxes dating back to 1981.

This was a property where Real Estate Tax delinquencies dated back to 1981 with no payments on the account through to the date of the TRB hearing.

Petitioner's mother had been the responsible party for much of that time and another family member before that. Petitioner had been the owner since 2014 and testified that he had been residing in the property since that time.

As of the TRB hearing, Petitioner had made no payments on this account ever for the most current years while his TRB petition for the past years was pending.

Petitioner came forward for relief of all interest and penalties with a promise to pay the principal at this time only because it was impeding his ability to get construction financing for the property.

The Philadelphia Code §19-1705(2) provides:

> Upon 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.

As an owner of multiple properties, Petitioner was aware of the responsibilities of property ownership and its accompanying tax requirements.

However, even for the 2 year period of Petitioner's ownership, he had not made any Real Estate Tax payments.

Petitioner provided no information to justify or mitigate the failure to pay the Real Estate Taxes for all of the years under appeal. He had come forward now only because it was impeding his ability to obtain financing he was seeking for the property.

The TRB abated the penalty in recognition of Petitioner's stepping forward to address the 36 year tax delinquency, most of which was attributable to years when the property was actually owned by another family member.

There were no mitigating factors or justifications presented to the TRB to explain the failure to make any tax payments nor a showing of good faith to warrant waiving the accrued interest. The City had been waiting 35 years for someone in the family to address these tax delinquencies. In addition, Petitioner provided no explanation as to why he had made no payments or addressed even the most current years since assuming ownership of the property for only $1.00.

Concurred:

Nancy Kammerdeiner, Chair
Joseph Ferla
George Mathew, CPA
Kaitlin McKenzie-Fiumara, Esq.