

2/14/2013

In Re: Steve and Agnes Manu Frempong
Docket Nos:35WRMERZW7657, 7539, 7254, 7253, 7215

Statement of Record:

Steve and Agnes Frempong filed 5 Petitions for Appeal with the Tax Review Board (TRB) at various times in 2010 and 2011 requesting review of certain water/sewer bills for 5 different properties in Philadelphia that they own either separately or together. These matters were eventually consolidated by the TRB and 1 hearing for review was scheduled to proceed on all petitions starting with the TRB hearing of June 7, 2011.

1.a. On June 2, 2010, Steve Frempong (hereafter "Petitioner") filed a Petition for Appeal with the Tax Review board (TRB) requesting review of the water/sewer bill for the property located at 5800 North 17th St. Philadelphia, Pa. This appeal was assigned TRB Docket No: 35WRMERZW7657.

b. A public hearing before a TRB Master was scheduled for February 9, 2011 and Petitioner was so notified. Petitioner failed to appear at the hearing and the petition was denied.

c. Petitioner requested and was granted a rehearing.

d. A public hearing before the TRB was scheduled for June 7, 2011. Petitioner requested and was granted a continuance.

e. A public hearing before the TRB was scheduled for October 25, 2011. This matter was continued at Petitioner's request.

f. A public hearing before the TRB was scheduled for May 17, 2012. Petitioner requested a continuance and this request was denied. Petitioner failed to appear at the hearing and the matter was denied.

g. Petitioner requested a rehearing and this request was denied by letter dated August 27, 2012.

h. Petitioner filed an appeal to the Court of Common Pleas.

2.a. On July 14, 2010, Agnes Frempong (hereafter "Petitioner") filed a Petition for Appeal with the TRB requesting review of certain water/sewer bills for the property located at 2124 North 11th St. Philadelphia, Pa. for the years 1994-2010. This appeal was assigned TRB Docket No: 35WRMERZW7539.

b. A public hearing before a TRB Master was scheduled for February 9, 2011. The petition was denied at this hearing as Petitioner failed to appear.

c. Petitioner requested and was granted a rehearing.

d. A public hearing before the TRB was scheduled for June 7, 2011. Petitioner requested and was granted a continuance.

e. A public hearing before the TRB was scheduled for October 25, 2011. This matter was continued at Petitioner's request.

f. A public hearing before the TRB was scheduled for May 17, 2012. Petitioner requested a continuance and this request was denied. Petitioner failed to appear at the hearing and the matter was denied.

g. Petitioner requested a rehearing and this request was denied by letter dated August 27, 2012.

h. Petitioner filed an appeal to the Court of Common Pleas.

3.a. On April 14, 2011, Steve Frempong and Agnes Manu Frempong (hereafter "Petitioners") filed a Petition for Appeal with the TRB requesting a review of certain water/sewer bills for the years 2009-2011 for the property located at 920 East Price St. Philadelphia, Pa. This appeal was assigned TRB Docket No: 35WRMERZW7254.

b. A public hearing before the TRB was scheduled for June 7, 2011. Petitioners requested and were granted a continuance.

c. A public hearing before the TRB was scheduled for October 25, 2011. This matter was continued at Petitioner's request.

d. A public hearing before the TRB was scheduled for May 17, 2012. Petitioners requested a continuance and this request was denied. Petitioners failed to appear at the hearing and the matter was denied.

e. Petitioner requested a rehearing and this request was denied by letter dated August 27, 2012.

f. Petitioners filed an appeal to the Court of Common Pleas.

4.a. On April 14, 2011, Steve Frempong and Agnes Manu Frempong (hereafter "Petitioners") filed a Petition for Appeal requesting review of certain water/sewer bills for the years 2004-2001 for the property located at 6203 Limekiln Pike Philadelphia, Pa. This appeal was assigned TRB Docket No: 35WRMERZW7253.

b. A public hearing before the TRB was scheduled for June 7, 2011. Petitioner requested and was granted a continuance.

c. A public hearing before the TRB was scheduled for October 25, 2011. This matter was continued at Petitioner's request.

d. A public hearing before the TRB was scheduled for May 17, 2012. Petitioner requested a continuance and this request was denied. Petitioner failed to appear at the hearing and the matter was denied.

e. Petitioner requested a rehearing and this request was denied by letter dated August 27, 2012.

f. Petitioner filed an appeal to the Court of Common Pleas.

5.a. On May 19, 2011, Steve Frempong (hereafter “Petitioner”) filed a Petition for Appeal with the TRB requesting review of certain water/sewer bills for the years 1996-2011 for the property located at 7500 North 21st St. Philadelphia, Pa. This appeal was assigned TRB Docket No: 35WRMERZW7215.

b. A public hearing before the TRB was scheduled for October 25, 2011. This matter was continued at Petitioner’s request.

c. A public hearing before the TRB was scheduled for May 17, 2012. Petitioner requested a continuance and this request was denied. Petitioner failed to appear at the hearing and the matter was denied.

d. Petitioner requested a rehearing and this request was denied by letter dated August 27, 2012.

e. Petitioner filed an appeal to the Court of Common Pleas.

Discussion:

As the petitioning party, the burden of proof rests with petitioners to establish by substantial evidence that the assessments put forth by the City are incorrect and require review and adjustment by the TRB. The presentation of the assessments by the City is sufficient as prima facie proof of their accuracy. City of Philadelphia v. Litvin, 235 A.2d 157 (Pa. Super 1967).

Petitioners was provided multiple hearing opportunities by the TRB for each of the appealed properties to present their evidence to establish that the City’s assessments for water/sewer charges were incorrect. They failed to appear without explanation at some of these hearings thereafter requesting rehearing opportunities, and requested continuances for others.

The appeal process for the TRB is petitioner driven i.e. the request for administrative review is at the discretion of the petitioner. Upon filing an appeal, the TRB provides the administrative review opportunity that the petitioner has requested when filing his or her appeal. At that point it is the responsibility of the petitioner to make himself available for an administrative hearing so that evidence can be presented and reviewed by the TRB, and a decision can be rendered.

While the TRB regularly grants continuances and extensions to accommodate schedules or other circumstances, the granting of a continuance is at the discretion of the Board and may be denied when such requests become excessive. Tax Review Board Regulations Article 13.

In addition, rehearings are also granted at the discretion of the Board subject to a statement from the party that new information or evidence has come to light or some extenuating circumstance has arisen. Tax Review Board Regulations Article 15. No such information was provided to the TRB.

Continued delay is detrimental to the administrative review process as it may become more difficult for the City to retain documents and make available witnesses to rebut the petitioner’s evidence. In addition, it creates a back log for the TRB and delays the hearing process for other petitioners when the finite number of hearing slots are filled with petitions that have had multiple opportunities for a hearing.

Therefore after reviewing the totality of the circumstances with Petitioners' multiple continuances and opportunities to be heard, the continuance request for the hearing scheduled on May 17, 2012 was denied.

The petitions were denied at the May 17, 2012 as Petitioners failed to appear to put forth any evidence to meet their burden of proof to establish that the water/sewer bills under appeal for each of the properties were incorrect.

Petitioners submitted a request on July 20, 2012 for rehearings on all properties. This request was untimely as it was received beyond 30 days from the decision.