

December 3, 2008

In Re: **Robert Jacobs**
Docket No: **35WRMERZX0828**

Statement of Record:

1. The Tax Review Board received an appeal from Robert Jacobs (hereafter "Petitioner") of the water/sewer bill for the property at 4720 Stenton Ave Philadelphia, Pa. for the billing period that covered 7/28/98 to 7/12/06. The appeal was filed September 22, 2006.
2. Appeal hearings were scheduled for January 11, 2007, and continued at the request of the petitioner.
3. A public hearing was held on June 18, 2007 before a Tax Review Board Master. The matter was continued at the hearing.
4. A public hearing was held March 10, 2008, at which time the decision of the Tax Review Board Master, later ratified by the Tax Review Board, was to deny the petition.
5. The Petitioner requested and was granted a rehearing before the full Tax Review Board.
6. A public hearing before the Tax Review Board was held August 7, 2008, At the conclusion, the Board is acting chair, Lavon Wells-Chancy, announced the decision to adjust the water usage for the period 7/28/ 98 to 8/28/06 to 700 cubic feet per month and abate the penalty.
7. The City of Philadelphia has appealed to the Court of Common Pleas.

At the public hearing, Chairperson Monique Delapenha recused herself from hearing this case and left the hearing room.

Findings of Fact:

1. Petitioner Robert Jacobs, was trustee for the Nathan D. Eisen and Leslie Berman-Eisen Trust, owner of the property at 4720 Stenton Ave. Philadelphia, Pa.
2. The petition for review was filed for the property located at 4720 Stenton Ave. Phila., Pa. questioning the water/sewer bill for the period 7/28/98 to 7/12/06. The principle in question was \$8,249.89; penalties as of the hearing date were \$455.80; lien; lien charges of \$10; with the total due of \$8,715.69.

3. During the period in question, this property was mostly vacant, used a few days a week as a shop that made picture frames. The only water usage was from one rest room for the one to two employees.
4. The water meter at the property was not read by the City of Philadelphia Water Department for 96 months, from July 28, 1998 to July 12, 2006 at which time a new water meter was also installed. All bills sent during that period of time had estimated usage.
5. The reading taken on July 12, 2006 resulted in a calculated water usage of 5990 cubic feet per month over the 96 month period. All previous and subsequent readings were substantially lower. With one exception, all actual monthly readings after July 12, 2006 were at or below 700 cubic feet.
6. The tenants paid the estimated bills as they were received during the years in question. The tenant remained the same for all years.
7. At some point, there was a water leak or water main break outside of the building that was repaired by the City of Philadelphia Water Department. There were no leaks inside the building.

Conclusions of Law:

It was the finding of the Tax Review Board that the Petitioner provided sufficient testimony to establish that the usage indicated by the meter reading of July 12, 2006 did not accurately reflect the actual water usage attributable to one bathroom for a part time tenant. The City representative had no explanation for why the meter had gone unread for so many years and stated that the meter was so old that it was out of compliance with City code requirements.

Petitioner's testimony as to any water leak was that the leak was outside of the property, not inside. This water would not have run through the meter in the property if it was leaking under the sidewalk or street in front of the building.

Therefore the decision of the Tax Review Board was to reduce the usage to 700 cubic feet per month for the period from 4/28/98 to 8/28/06 and abate the penalty.

Concurred:

LaVon Wells-Chancy, CPA, Chair
Joseph Ferla
Mary Mason