

April 23, 2015

In Re: David W. Killingsworth
Docket No: 26DEMERRZ9452

Statement of Record:

1. David W. Killingsworth (hereafter "Petitioner") filed a Petition for Appeal with the Tax Review Board on March 3, 2014 requesting review of a bill for demolition at the property located at 1555 Ridge Ave. Philadelphia, Pa.
2. A public hearing was scheduled before a Tax Review Board Master for June 13, 2014. The decision of the Master as ratified by the Tax Review Board was to grant the petition.
3. The City of Philadelphia requested and was granted a rehearing before the full Tax Review Board.
4. A hearing before the Tax Review Board (TRB) was scheduled for February 26, 2015. At the conclusion of this hearing, the Board announced its decision to abate $\frac{1}{2}$ of the interest accrued against the outstanding bill under appeal.
5. The City of Philadelphia filed an appeal to the Court of Common Pleas.

Findings of Fact:

1. Petitioner purchased the property at 1555 Ridge Ave. Philadelphia, Pa. in 2011. At the time of purchase, Petitioner went to the City of Philadelphia Department of Licenses and Inspections (L&I) for a property certification that he believed would provide him with all information as to what the City of Philadelphia (City) claimed was due or owing on the property. He also checked the deed on record and Bankruptcy Court documents. He did not hire a title company for a title search of the property but did his own research.
2. In 2012, Petitioner obtained permits from the City to do demolition work at the property and on July 7, 2012 that demolition took place.
3. In 2014, as part of the process of selling the property, Petitioner learned that the City had filed a lien for demolition against this property that had occurred in 2000.
4. The bill in question was dated January 11, 2000 with the principal amount of \$5,874.34, administrative cost of \$1,233.61, interest of \$6,395.56 and lien charges of \$370.89, for a total due of \$13,874.40. The lien for this amount was filed by the City on July 11, 2000.
5. Prior to the hearing before the TRB hearing, petitioner sold the property and as part of that sale, the bill under appeal was paid.

Conclusions of Law:

It was the decision of the TRB that Petitioner had acted in good faith to determine the debts due on the property and to address them. While he did not have a professional title search at the time of purchase,

he made a best effort to check with various departments and offices to ascertain what was due or owing on this property. While he failed to find the lien for the bill under appeal, when notified of this bill he acted to address it promptly. The bill and the accrued interest were generated based on activity prior to his ownership.

The City did not provide any factual evidence to support the bill and establish the underlying work had been done at the property.

The City's case consisted of legal argument that the TRB did not have jurisdiction in this matter for 2 reasons: the bill was 15 years old and the appeal was beyond the statutory jurisdiction of the TRB based on The Philadelphia Code § 19-1702 which states:

(1) Every petition for review of any decision or determination relating to the liability of any person for any unpaid money or claim collectible by the Department of Revenue, for or on behalf of the City or the School District of Philadelphia, including, but not limited to, any tax, water or sewer rent, license fee or other charge, and interest and penalties thereon, shall be filed with the Tax Review Board within 60 days after the mailing of a notice of such decision or determination to the petitioner.

As to the age of the bill and the lateness of his appeal to the TRB, Petitioner testified that he had approached L&I prior to purchase in 2011 to specifically request information as to what the department had on record as due and owing for this property. This bill was specifically for work done pursuant to an L&I action, yet Petitioner was not informed at L&I that it was still showing as due. While one would not reasonably expect that a visit to L&I would disclose a Water Revenue bill or business tax delinquency, it is reasonable to expect that if one goes directly to the department responsible for the work and subsequent bill, that information would be available and provided.

The TRB Nunc Pro Tunc Policy allows that the TRB may consider appeals that are filed beyond the 60 day jurisdictional requirement in The Philadelphia Code where the petitioner "can demonstrate that the untimely filing ... was due to circumstances beyond their control, not a result of any negligence or laxity on their part, where any delay was corrected as quickly as possible, and where such delay has not prejudiced the ability of the City to present and defend its assessment or bill." It was the decision of the TRB that Petitioner's actions in contacting the department that generated the lien in question and then failing to be provided with any information that such a lien or the underlying bill were outstanding should not be held against him by refusing to allow him an administrative review opportunity.

Concurred:

Nancy Kammerdeiner, Chair

Joseph Ferla

George Mathew, CPA

Christian DiCicco, Esq.