

August 29, 2008

IN RE:           **JOHN KEELS**  
DOCKET NO: **35WRMERZW9736**

STATEMENT OF RECORD:

1. John Keels (hereafter "Petitioner") filed an appeal to the Tax Review Board for review of the delinquent water/sewer bill for the period December 13, 1991 to August 24, 2006. The principle amount due is \$8,035.06, with penalties of \$3,276.62 and lien charges of \$160, as of the Tax Review Board hearing date.
2. A public hearing before a Tax Review Board Master was scheduled for November 15, 2007. The decision of the Master, as ratified by the Tax Review Board, was to deny the petition.
3. Petitioner requested and was granted a rehearing before the full Tax Review Board.
4. A public hearing before the Tax Review Board was held January 17, 2008. At the conclusion of the hearing, the Board announced its decision to abate 2/3 of the penalties contingent on payment arrangements with 30 days of the adjusted bill.
5. Petitioner appealed to the Philadelphia Court of Common Pleas.

FINDINGS OF FACT:

1. Petitioner and his wife purchased the property at 2214 Morris St. Philadelphia, Pa. in 1957. They divorced in 1972 and the property settlement provided that Mrs. Keels retain this property.
5. At some point after the divorce, Mrs. Keels added their daughter to the deed as a joint owner with right of survivorship.
6. Mrs. Keels passed away in 1999 and the property was solely owned by their daughter.
7. Mr. Keels daughter did not reside in the property.
8. In December 2006, Mr. Keels daughter conveyed the property to Mr. Keels, who remains the owner. He purchased the property from his daughter for the nominal consideration of \$1.00.
9. Mr. Keels resides at this address.
10. At the time of the hearing, the water was shut off due to the delinquent bills accrued, the city filed the appropriate liens to preserve the city's claims for payment and to give notice to any current owner or prospective purchaser.

11. There was no dispute that bills were sent by the Water Revenue Bureau through the years.

**CONCLUSIONS OF LAW:**

Petitioner requested review of the delinquent water/sewer bills for the 1994-01 cycle to the 2006-09 cycle, covering the period December 13, 1991 to August 24, 2006. Petitioner's Tax Review Board appeal was filed March 26, 2007.

At the Tax Review Board Hearing, the city's attorney raised a jurisdictional objection. The Philadelphia Code Chapter 19-1702 (1) requires that a Petition for Review be filed with the Tax Review Board within 60 days of the mailing of the notice by the city.

Petitioner did not file his appeal to the Board within the requisite 60 days. Therefore it was the decision of the Board that the Petition for Review of the principle amount due was outside its jurisdiction.

However the Board did proceed to consider the Petition as a Petition for Waiver of Interest and Penalties. Philadelphia Code Chapter 19-1705 for Petitions for Waiver of Interest and Penalties does not include the 60 day filing limitation provided in Chapter 19-1702 for Petitions for Review. It allows the Tax Review Board to consider an abatement of interest and penalties using the standard that the taxpayer has acted in good faith, and without negligence or intent to defraud.

The Tax Review Board considered the Petitioner's testimony. The Petitioner did not own the property during the periods in question. Upon regaining ownership and learning of the bill, he made inquiries regarding his responsibility for the bills in question and began his efforts to have the water service restored to the property.

That he did not file a timely Tax Review Board appeal did not negate the fact that he has acted in good faith to resolve the situation since regaining ownership of the property.

The decision of the Tax Review Board was to abate 2/3 of the penalty provided payment arrangements were entered into within 30 days of the adjusted bill.

**Concurred:**

Derrick Johnson, Chair  
Joseph Ferla  
Una Vee Bruce