

June 12, 2015

In Re: Shawn Murray

Docket No: 26CSMERZZ9067

Statement of Record:

1. Shawn Murray (hereafter "Petitioner") filed a Petition for Appeal with the Tax Review Board (TRB) on November 7, 2013 requesting review of a bill, dated January 7, 2011, issued by the City of Philadelphia for work performed by the Department of Licenses & Inspections (L&I) at the property at 879 North 40th St. Philadelphia, Pa.
2. A public hearing before a TRB Master was scheduled for March 28, 2014. The decision of the Master, as ratified by the TRB, was to reduce the principal to \$2500.
3. Petitioner requested and was granted a rehearing before the full TRB.
4. A public hearing before the TRB was scheduled for December 11, 2014. At the conclusion of the hearing, the matter was taken under advisement for further review by the Board.
5. A public hearing was scheduled for March 24, 2015 for the announcement of the TRB decision. At this hearing, the TRB announced its decision to deny the petition based on a lack of jurisdiction by the TRB.
6. Petitioner filed an appeal to the Court of Common Pleas.

Findings of Fact:

1. The property at 879 North 40th St. Philadelphia, Pa. was purchased in 2008 by Petitioner's wife, Joy Carter.
2. On or about January 7, 2011, L&I sent a bill to Joy Carter for clean and seal work provided at the property.
3. Ms. Carter filed a Petition for Appeal with the TRB in 2011. This petition was returned to Ms. Carter as beyond the filing deadline, with instructions to provide additional information for Nunc Pro Tunc consideration. No additional information was received and no action was taken on this appeal by the TRB. Petitioner testified that he was aware that his wife had filed this 2011 Petition for Appeal and that she had not followed through or pursued it.
4. Petitioner testified that he was incarcerated at that time in 2011 and therefore the matter was left to his wife to handle.
5. In 2012, Petitioner's name was added to the deed as an owner of the property along with Ms. Carter.
6. Petitioner filed the current Petition for Appeal in 2013 for the same L&I bill issued in January 2011 that was the subject of the earlier petition filed by Ms. Carter.
7. Petitioner testified that in 2010, "the City contacted us with notice saying they were cleaning and sealing the property...the next thing that was sent out was a bill stating they cleaned and sealed it." Notes of Testimony, December 11, 2014, page 5.

Conclusions of Law:

The Philadelphia Code Chapter 19-1702(1) provides that “(e)very 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. “

Petitioner testified that he was aware of the bill in 2011. His name was not on the deed at that time and he was not available to address the bill.

However, even though his name was added to the deed in 2012, he did not file the Petition for Appeal that is the basis for this current appeal until November 7, 2013, well beyond even 60 days from when he became a joint owner of the property as well as far beyond the 60 day requirement for filing set forth in The Philadelphia Code.

The TRB Nunc Pro Tunc policy does provide an opportunity for petitions to be accepted beyond the 60 day filing requirement in The Philadelphia Code where the petitioner s “can demonstrate that the untimely filing of their petitions 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 in filing has not prejudiced the ability of the City to present and defend its assessment or bill.”

Petitioner acknowledged that both he and his wife were aware of the bill as early as 2011. Petitioner’s wife even filed an appeal in 2011 to the TRB. Petitioner also acknowledged that the delay in getting to the TRB lay with his wife’s failure to follow through on the petition she filed with the Board in 2011.

Petitioner did not offer extenuating circumstances or errors by the City that caused the filing of an appeal to be delayed beyond the 60 day period set forth in The Philadelphia Code. While Petitioner may have been incarcerated, his wife was the owner of the property in 2011 and demonstrated that she knew of the bill’s existence by her own TRB filing in 2011. And even though incarcerated, Petitioner testified that he was also aware of the bill in 2011. Yet he did not act promptly to appeal the bill, either after his release from incarceration or after his name was added to the deed.

Therefore, the decision of the TRB was to deny this petition for lack of jurisdiction as the appeal was filed beyond the 60 day requirement of The Philadelphia Code Chapter 19-1702(1) and Petitioner did not demonstrate that he met the Nunc Pro Tunc standard in the TRB policy.

Concurred:

Nancy Kammerdeiner, Chair

Joseph Ferla

Christian DiCicco, Esq.